

Weber State University Student Ethics Committee

***2010 Legislative
Ethics Commission
Study***

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Literature Review of State Ethics Commissions

Most of what we know about how Americans evaluate government concerns politicians and institutions at the national level — presidential approval ratings, the legitimacy of the Supreme Court, low levels of job approval ratings for Congress — but our system is federal, and many important decisions are made at the State government level. Considering this, we know surprisingly little about public confidence at the State level. Scholars emphasize three main catalysts or pushing factors for the purpose of an Ethics Commission within a State: professionalism, institutionalization and unethical conduct or scandals. Ethics Commissions are an important and growing area of public confidence in State government.

Independent Ethics Commissions were mostly first created in States following the Watergate scandal. These Independent Ethics Commissions (or IEC's) were adopted in response to the public's disgust with Washington. 21 States adopted IEC's between 1973 and 1980 alone. Scholars have identified similar causes that have led States to create Ethics Commissions. The media focus on scandals draws focus to the public's desire for immediate action from legislatures to rein in unethical behavior by establishing IEC's to prevent future scandals (Rosen 2003). States that had highly publicized violations of specific ethical areas, such as conflict of interest, nepotism or lobbying, adopted strict ethics laws in those areas (Goodman 1996). For example, Kentucky now has the sixth most restrictive lobbyist regulation in response to the imprisonment of many lobbyists, legislators, and even the House Speaker for corruption in the 1990s (Ensign 1997). The nature of an IEC, their jurisdiction, scope, authority, and activities regulated are dependent upon the conditions and time of their formation.

The growing influence and activity of lobbyists in government has inspired cries for ethics oversight. Regulations for legislatures and lobbyists have increased nationwide since

1990, and “are designed to curtail outright bribery and vote-buying but also to reduce the appearance of impropriety that reduces public trust in government” (Newmark 2005). These laws have been found not to discourage lobbyist activity or the diversity of interest groups while setting reasonable limits on lobbying power (Hunter, Wilson, and Brunk 1991). New lobbyist regulation can include restrictions on gifts or monetary contributions to requiring all gifts or monetary contributions be reported annually and readily available to the public. Scholars recognize public scrutiny upon legislators to be a strong force alongside IEC’s (Newmark 2005). The best predictor of whether any given State has a Commission is whether bordering States have adopted an IEC.

Ethics laws and Ethics Commissions have varying effects upon legislative elections. Scholars have determined financial disclosure requirements lower the likelihood that an open-primary race will be contested. States with financial requirements have a 55.55 percent probability of a contested open seat, while states without have a 42.55 percent (Rosen, Beth A). It is hypothesized that financial disclosure laws discipline individuals whose actions or means of allocating funds for campaigns are contradictory to ethical standards. The existence of an Independent Ethics Commission encouraged a higher number of candidates to run in legislative primaries in comparison to states lacking a Commission (Rosenson, Beth A.). Scholars have determined that IEC’s are not “viewed...as a threat but rather as an incentive to service. Perhaps this is because they are seen as more fair or less partisan than legislative ethics committees” (Rosen,Beth A.).

Ethics Commissions show a geographically diffused pattern. Consider the culture of seven out of the ten States lacking an Independent Ethics Commission that have linking borders: New Mexico, Arizona, Utah, Idaho, Wyoming, South Dakota and North Dakota. Like many

States in the western region of the United States, they are rural, largely conservative in their views and share a preference for local government solutions over federal government regulation.

While Utah reflects these characteristics, it is currently poised for the activation of an IEC.

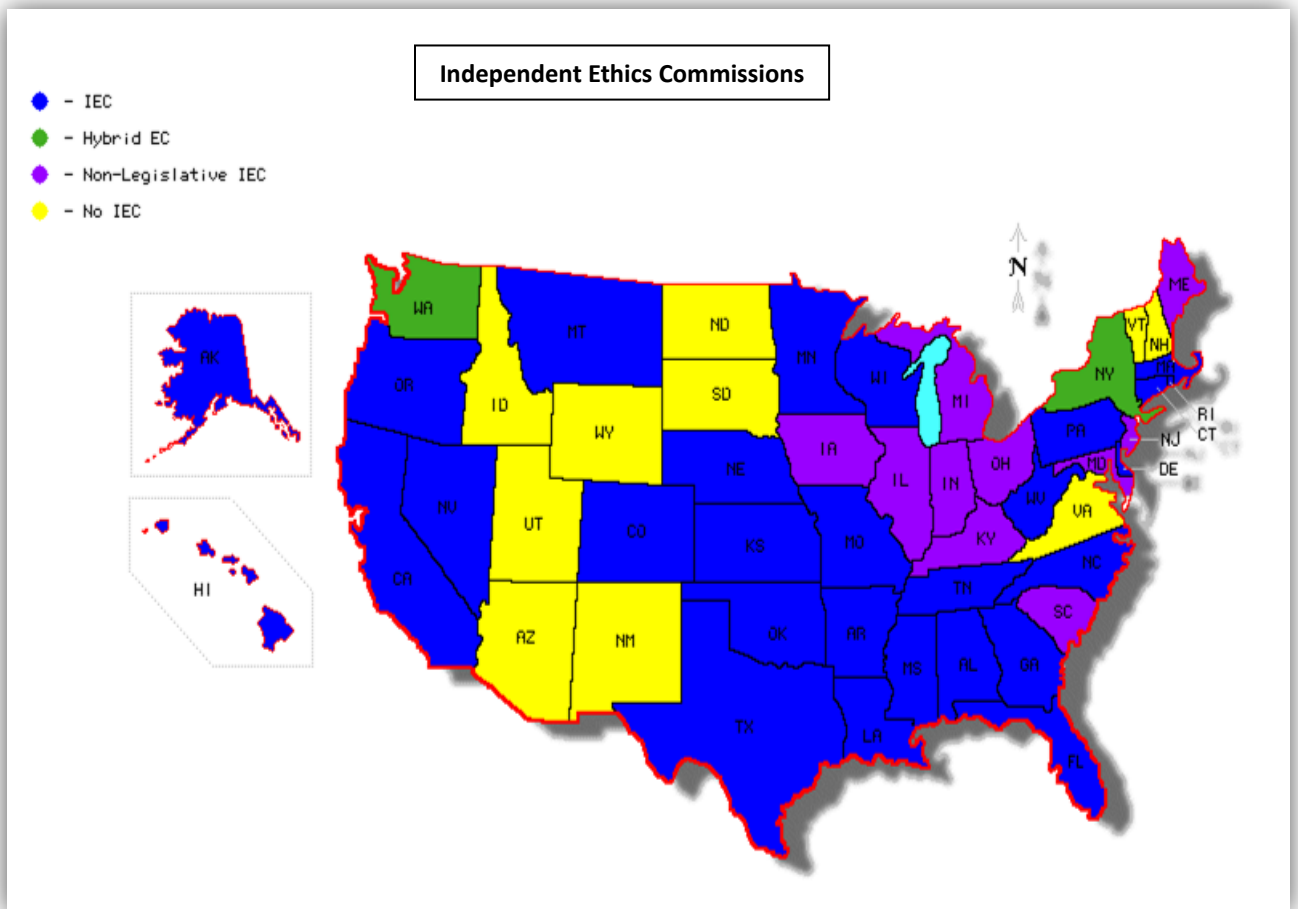


Figure 1 The Status of Commissions Across the U.S.

Utah's History With Ethics Reform

Utah has not been immune to “unethical” political conduct, understood as tolerated and legal behavior that nonetheless undermines democratic legitimacy. The reluctance to enforce or strengthen ethics laws for legislators began to change as “lawmakers had second thoughts about making it harder to discipline one of their own for unethical conduct” (Harrie 2000). Ethics reform was first focused on by the Utah Legislature in 1994 and 1995. Subsequently, Utah improved and enhanced their regulations by 160 percent, yet lagged behind other States which increased their efficiency by 600 to 700 percent (Newmark, 2005). By 1999, only one individual had been investigated and removed from office in the last fifteen years of the legislature’s self-policing system (Harrie 1999). Meanwhile, Utah citizens grew increasingly persuaded of the need for such reforms. According to a Dan Jones & Associates 2006 *Deseret Morning News*/KSL - TV poll, 81% of Utahns favored an Independent Ethics Commission as well as further specific reforms addressing gray areas. (Bob Bernick Jr. and Peter Nagy, *Deseret News*, January 22, 2006).

In 2008, the Better Government Association published an “integrity index” based on transparency in government, accountability for those who violate statutes and transparency laws, and limits on questionable activities of governmental officials. The index also evaluated the presence and effectiveness of certain laws relating to legislative ethics. Overall, Utah ranked thirty-sixth of the fifty States and performed disappointingly when reviewed for campaign finance, open meetings, and conflict of interest laws (Better Government Association, pp. 1-2). Nonetheless, Utah remained one of the ten States without an Independent Ethics Commission.

A spate of political scandals and the failure to pass significant ethics reform bills stimulated the creation of “Utahans for Ethical Government”, a group dedicated to creating an

Independent Ethics Commission via the Initiative process. In 2009, the UEG introduced their proposal for a five person Independent Ethics Commission to monitor several tough, new standards including the following; constraints on campaign contributions (limits of \$250 per person, \$5,000 per political action committee, and a prohibition on contributions from corporations, labor unions, and nonprofit associations); a ban on gifts from paid lobbyists (except for those of negligible value); a two year interim before a former legislator could return as a paid lobbyist; and a prohibition on current legislators being active lobbyists. The IEC's recommendations and findings would be sent to the appropriate legislative body for final determination (www.utahethics.org).

In the face of pressure from public opinion and the momentum of the UEG Initiative, the 2010 Utah Legislature passed an unprecedented package of ethics reform bills (<http://senatesite.com/blog/2010/03/2010-key-ethics-reform-legislation.html>). Its centerpiece is a five member IEC that would oversee: greater campaign financing disclosure requirements; bans on lobbyist gifts over \$10; limits on personal use of campaign monies; and new standards for reporting conflicts of interest. Moreover, this Ethics Commission would be put forward as a constitutional amendment in the Fall 2010 elections.

Supporters of the legislative IEC believe it provides significant and substantial reforms, and decry the unintended consequences awaiting Utah's citizen-legislators in the Initiative version, and attribute any continued UEG activism to political rivalries.

The UEG Initiative failed to achieve sufficient signatures as required by the mandatory geographic distribution (and the rejection of online signatures) in order to appear on the 2010 ballot. In addition, energized opposition came from the legislative leadership and counter-Initiative groups such as Utahans for Responsible Ethics Reform (www.responsibleethics.com).

UEG advocates see the legislative Ethics Commission as being ethics reform in name only, but do not oppose SJR 15 (Amendment D) which they see as compatible with future efforts to raise the standards upheld by the Independent Ethics Commission.

Hence, the 2010 legislation cited above represents the profile of Utah's current Ethics Commission. Three retired judges and two former legislators were chosen (July 2, 2010, *Deseret News*). Utah voters may embed it in the Utah Constitution in 2010 and it may be amended through the UEG Initiative in 2012.

The Independent Legislative Ethics Commission would oversee greater campaign financing disclosure requirements; a ban on lobbyist gifts over \$10; limits on personal use of campaign monies; and new standards for reporting conflicts of interest. Moreover, this Commission would be put forward as a constitutional amendment in the Fall 2010 Elections.

House Speaker David Clark supported Amendment D to establish an Independent Legislative Ethics Commission through the state constitution. Utahns passed Amendment D in the 2010 elections with a significant 371,601 votes (ballotpedia.org). The amendment also gives the Legislature the authority to determine how the commission members will be selected, commission structure, operations, and powers.

Methodology

Original Research

To conduct a descriptive analysis of all Independent Ethic Commissions in the United States, WSUSEC researchers began by compiling data on each of the fifty States to determine whether or not they had an IEC. The National Council of State Legislatures (NCSL) website provided contact information for each State commission. To avoid sample bias, States without a commission were examined to determine if they had some auxiliary form of ethics oversight. Forty of the fifty States had some form of an Ethics Commission created either statutorily or by an initiative process.

These forty States provide the data set used throughout this report. Of those forty, 38 States have Independent Ethics Commissions and two are a hybrid form with legislators and public members on the commission (New York and Washington). Of these 38, 28 States have jurisdiction over the legislative branch. The 28 States with these characteristics form the framework for the recommendations for Utah's potential Independent Ethics Commission.

In order to test rival explanations for State adoption of an IEC, WSUSEC follow the theoretical framework of policy adoption or diffusion in the American intergovernmental system. Following the seminal work of Walker (1969), a significant body of research has focused on State decisions to adopt policy innovations through the process of policy diffusion. In these analyses, diffusion is typically defined following Rogers explanation (1995) as "the process by which an innovation is communicated through certain channels over time among members of a social system" (p. 5). Innovation in this literature is typically defined as a policy or practice that is new to the adopter, regardless of whether other States have adopted it or whether it exists elsewhere (Berry and Berry, 1990; Gray, 1973; Walker, 1969). It would have been possible to

test for the influence of rival explanations had WSUSEC chosen dichotomous or continuous dependent variables and pool this data over time. However, we rejected these approaches to maintain the integrity of the range of variation across States in designing and selecting the scope of powers and the structure of their IEC's. The findings here provide a basis for the recommendations made to the Utah State Legislature by capturing the structural details of every Independent State Ethics Commission in America.

Interview and Survey Design

In order to assure reliability and validity, only persons directly involved with the administration of Independent Ethics Commissions and those who serve on Commissions were identified as respondents in the research protocol. WSUSEC researchers distributed contacts in the forty States confirmed to have some form of an Independent Ethics Commission. Two primary supplementary data sources, COGEL and NCSL, were used to ensure validity and reliability of the independent data set created by WSUSEC researchers (www.cogel.org, www.ncsl.org). States were assigned and contacted randomly; interviews were set up at the convenience of the IEC members, officers, or staffers that were contacted. Each interviewee was asked the same series of questions (see Appendix A and B). Following consent by the interviewees, WSUSEC researchers took written notes, with no digital recording of the interviews kept on record. The interviewees were guaranteed confidentiality and were told by the interviewees that they could choose not to respond or terminate the interview if ever they felt uncomfortable. A complete list of questions and transcripts from the interviews can be found in the aforementioned Appendix A and B. The first wave of contact through email survey-correspondence provided the majority of quantitative data obtained, while the follow up phone interview contributed most of the qualitative data acquired.

In conducting focused phone interviews with ethics officers, data was collected representing Independent Ethics Commissions in 31 of 40 States with IEC's. Respondents were members of the IEC itself, directors of the commissions, or staffers working for the commissions (as indicated on a State-by-State basis in the Appendix A and B). Prior to interviewing these interviewers, all members of WSUSEC, were certified by the National Institutes of Health (NIH), and the project proposal was certified by the Weber State University Institutional Review Board allowing research using human respondents.

Elite Interviews

Upon contact, WSUSEC members recited a brief script to introduce themselves as members of the Richard Richards Institute at Weber State University along with the project and gained permission to conduct the interview. The interviews were conducted using elite interview techniques (Manheim & Rich, 1995, p. 161). Elite interviewing techniques are used when interviewees have unique knowledge which can best be acquired through an individualized and open-ended interview format. Interviewers encouraged respondents to share anecdotes, their experiences and perceptions, and opinions throughout the interview. Unscheduled questions were used to follow up and clarify important points. To ensure anonymity and confidentiality, all interviewees were given codes using the letters referring to their States. For instance, an interviewee from Utah would be coded as (UT-1). The data that follows is a combination of the quantitative data provided by the surveys and the qualitative data provided by the elite interviews.

Independent State Ethics Commissions across the U.S.

Introduction

States enacted their first major ethics laws in the mid-1950s beginning with New York's statute addressing conflicts of interest and elected officials private interests and their public duties. Hawaii adopted the first Independent Ethics Commission in 1968 (in 2003, Hawaii attempted to mandate ethics training for all legislators, but the bill failed). Chronically, the Watergate scandals of the 1970s followed. Congressional response was to enact an onslaught of laws regulating the behavior of public officials. The centerpiece was the Ethics in Government Act of 1973. States followed the federal lead, and ethics reform in Congress and State legislatures became the rallying cry of the time. Independent Ethics Commissions have continued to expand in the decades following Watergate, including the passage of the first revolving door restrictions that regulate when former legislators and state employees can start lobbying their respective institutions. Some effects of these laws are straightforward: public officials have been thinking twice about hiring their most trusted advisors (family members), and conflict-of-interest restrictions have had a significant effect on post-government employment. In addition, lobbying, gifts and honorariums, representation of clients doing business with state agencies, campaign finance, and personal and business financial disclosure requirements have all been influenced or regulated in recent decades.

During the 1990s one of every three States adopted some form of ethics laws. States actively took enforcement of the ethical behavior of public offices into their own hands by establishing Independent Ethics Commissions and legislative ethics committees. In 2003, Indiana, Maryland, Utah, and Minnesota either passed or considered restrictions on reporting by lobbyists. Kentucky went so far as to create a separate criminal statute for abuse of public trust

and set penalties for violating that trust. The groundwork for ethics awareness in government was cultivated over the last fifty years to construct the ethics alert environment we have today.

Measuring and Analyzing IEC's

Independent State Ethics Commission can be defined in many ways. For our research purposes, an Independent Ethics Commission is defined in two respects; how the commission is comprised, and over whom the commission has jurisdiction. First, to be an Independent State Ethics Commission, the serving commission members themselves must be “independent” or removed from the government offices and branches it oversees; meaning that both appointed and elected officials are ineligible to be on the commission to eliminate conflicts of interest. Second, to narrow the scope of research, the definition of Independent State Ethics Commissions is primarily focused on commissions that have jurisdiction over the legislative branch of State government.

The definition thus adopted includes 28 States that currently comply with the strict definition exactly. For a more precise breakdown:

- ❖ 10 States have no Independent Ethics Commission whatsoever,
- ❖ 10 States have Independent Ethics Commissions that oversee branches or levels of government other than the legislature, and
- ❖ 2 States adopted a hybrid commission composed of both legislators and public members. (see Chart 1, on p. 7 or Appendix D)

In more general terms it may also be understood that 40 States have some form of an Independent Ethics Commission while 10 have no form whatsoever. The research conducted of these 40 IEC's evaluates each individual commission in eight aspects of data and measurement focusing largely on quantitative analysis. The data thus collected analyzes the following:

Research	Measurement
Origin	Year adopted
Formation	Statute through the state legislature or initiative through a ballot measure
Structure	How many members are on the commission and qualifications for commission members
Appointment	Who appoints them (e.g. governor, legislative leaders, other)
Cost and Expense	Most recent annual budget (2008-2010)
Size	Number of employees on the staff
Activity	Number of advisory opinions issued annually
Jurisdiction	Authority over branches and levels of government, elected officials, employees, lobbyists

Table 1 The Eight Aspects of Data and Measurement

The research evaluating these conditions is best understood from a general perspective. No two commissions are exactly alike. The most difficult task of measuring these commissions is categorizing and organizing IEC’s by the features and attributes collected in the data. One of the most revealing discoveries of this research is the unique composition each commission designed in order to address the precise needs of each state. Comparisons across the board give an overview and idea of the culture and function of each commission, but cannot explain every the variation across all 40 States.

Origin

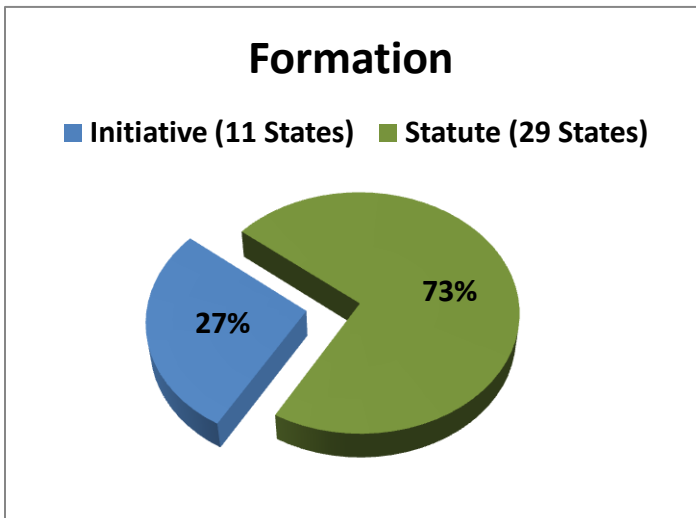
The bulk of IEC’s were created between 1973 and 1980. Hawaii’s Commission is the only commission to precede Watergate. On their website, the Oregon Government Ethics Commission explains the correlation between Watergate and the rise of IEC’s:

“During the Watergate scandal of the early seventies, Americans were confronted with deceit and misuse of power by elected officials. Citizens across the nation began calling for accountability from their governments. In response, Oregon was one of the first States to create laws designed to open government to greater public scrutiny” (www.ok.gov/oec).

Since the 1970s, subsequent commissions have been created sporadically, the most recent two being the Colorado Independent Ethics Commission and the North Carolina State Ethics Commission.

Formation

Initiative and statutory law are the primary methods by which Independent Ethics Commission's formed. Of the 40 current IEC's, 29 were formed by statute and 11 by initiative. In addition, commissions like the Oklahoma Ethics Commission were created by statutory law and later reinstated after modifications by an initiative; which in Oklahoma's case gave the commission more authority and jurisdiction. The research gathered on formation of each commission reflects the most recent approach each state has taken to create an IEC. The method of establishment was not found to have correlative value to any other aspects of a commission's



structure, jurisdiction, appointment process, budget, or activity. How a commission is formed does not directly impact any other attributes of a commission, but remains an isolated feature of a commission. Additionally, commissions often change and adopt their structure.

Figure 2 Commission Formation

Structure Initiative

The most compatible attribute across Independent Ethics Commissions is structure. Structure is defined as the number of commissioners and considers the requirements and restrictions placed on commission members. Commissions range from 1 commissioner in

Montana to 12 in West Virginia. However, 90% of all commissions have between 5 and 9 members. The mean average of 6.97 members per commission demonstrates that most commissions prefer fewer commissioners. In fact, a mode measurement of the commission revealed that a commission of 5

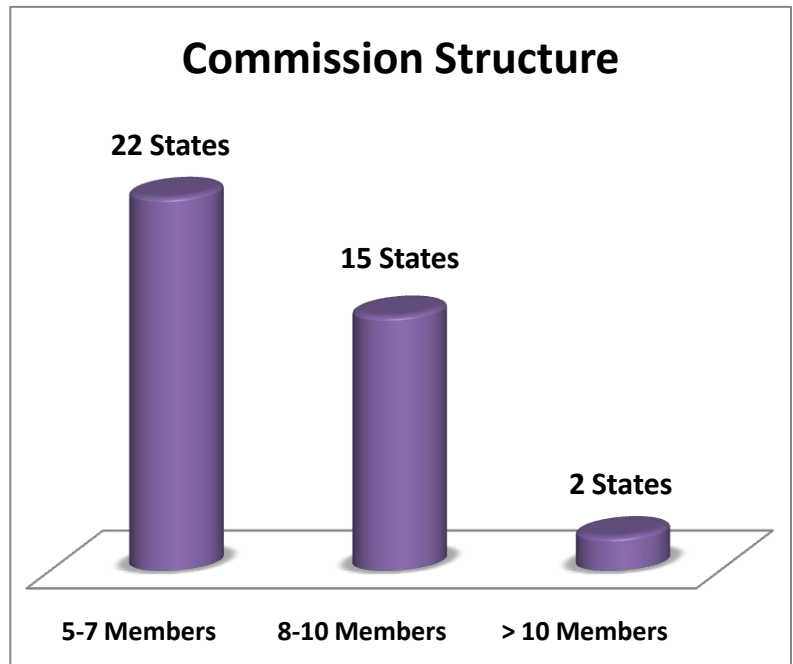


Figure 3 Number of Commissioners Appointed

members has the highest frequency with 12 occurrences constituting 30% of all commission structures (See Figure 3).

The commission structure is also characterized by the requirements and restrictions placed on the commission members. The two States with hybrid commissions in which public members serve alongside legislators on the commission are New York’s Legislative Ethics Committee and Washington’s State Legislative Ethics Board. Having legislators on the commission eliminates the hybrid type of a commission from being considered an “Independent” Ethics Commission, but is still accounted for in the data a measurement of IEC’s. Aside from these two exceptions the remaining 38 States with IEC’s have developed commissions with public members who conform to requirements and restrictions to be on the commission. Requirements to be a commissioner range from narrow requirements, such as being a lawyer, to more broad requirements, such as being a State citizen. Common requirements found in most States include bi-partisan membership in equivalent representation or non-partisan membership, all with staggered terms, term limits, and equal say within the commission.

Common restrictions found in most States prohibit public officials, elected officials, candidates, and lobbyists from being eligible to be on the commission. More rigid restrictions that are not as common prohibit any former employee of the commission, any person with active involvement in a political party, or any officer or employee of a political party from being eligible to be on the commission. The underlying theme in each of these models is the need to remove conflicts of interest, create checks and balances, and attract persons of solid integrity, public uprightness, and honorable character to the commission. In phone interviews, commission officers were asked, “What in your opinion are the major strengths and weaknesses structurally and procedurally in the way in which your state has created and administered your Ethics Commission?” Many commission officers expressed the most distinguishing feature of a successful commission and their greatest strength was the respectable character of their individual commissioners. In contrast, many self identified “struggling” commissions noted the lack of character and refusal to compromise among their commissioners. The foundation of a successful commission is rooted in the individual personalities that cultivate the commission’s identity as a whole. Therefore, requirements and restrictions, along with who appoints members and how they are appointed, all culminate in a selection process designed to produce a successful commission.

Appointment

Almost 40 different approaches to appoint commission members have been created for each of the States with some form of an Independent Ethics Commission. The most common appointment practices involve the governor, the four bipartisan legislative leaders (the Senator and House majority and minority leaders), or a coordinated effort between the governor and the legislature. In addition, commission members are appointed by executive branch leaders like the

Lieutenant Governor, the Attorney General, the Comptroller, or even the Treasurer. On more rare occasions, the judicial branch contributes by having the Chief Justice of the State Supreme Court or Judicial commission appoint commissioners.

Almost half of all IEC's (19 to be exact) have commissioners who are appointed directly by the governor. However, all States which exercise this method have checks and requirements on the governor's selection process such as having the general assembly of the legislature provide a list of candidates for the governor to choose from, or requiring a confirmation from the senate on all nominees of the governor. In these cases, appointments were classified by the position that does the actual appointing. Therefore, the governor would be identified as making the appointment, even though the legislative leaders or others may have a role in creating a list or confirming who the governor appoints. In one unique process of appointment, found in the New Jersey State Ethics Commission, the Governor appoints four public members to the commission, as well as three executive branch employees to work together on the commission.

Only two States have appointments made only by the legislature with similar checks and requirements as the process for which a governor appoints directly. As displayed in Figure 4, 20% of commissions have an appointment system in which the governor appoints a specific number of commissioners

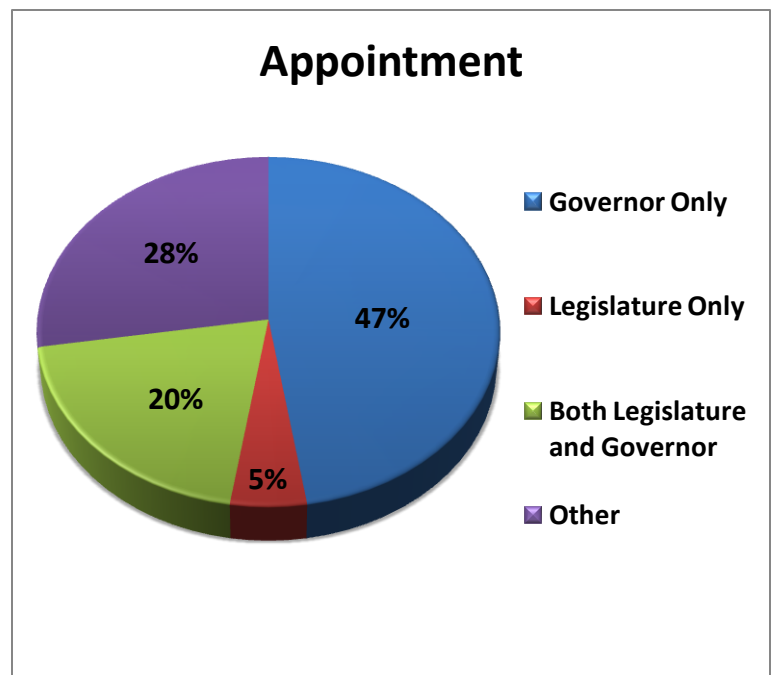


Figure 4 Who Appoints

and legislative leaders select a specific numbers of commissioners. Appointments in which the governor and legislative leaders both appoint commission members creates a compromise and balance of power to ensure that the commission is not a political tool of one branch against another.

In developing categories for the appointment process, it was notable that the “other” category was the second largest of the 4 categories. The “other” 11 States who do not have appointment processes made by the governor or the legislative leaders only, have adopted methods in which one appointee to the commission is made by one position in the various branches of government. The Oklahoma Ethics Commission states on its website that it was one of the first States to draw upon this method in which, “One each is appointed by the Governor, President Pro Tempore of the Senate, Speaker of the House, Chief Justice of the Supreme Court and Attorney General” (www.ok.gov/oec). In contrast to having one official make several appointments, this method uses several officials to each make one appointment. This method has been replicated with slight variations of including the Lieutenant Governor, the Comptroller, or even the Treasurer as officials who each appoint one commissioner. This process also deters the commission from being used as a political by one branch against another.

In the elite phone interviews, officers of IEC’s were asked, “What reforms would you make to your Ethics Commission? Why?” The answers were perceptive and on many occasions addressed the need for those appointing to actually do so. An officer of the South Carolina Ethics Commission expressed that “any lame-duck governor” can halt the progress of the commission by not appointing commissioners in a timely manner or at all. The procedures for appointment must be clear and straightforward because it is a process that will be followed as often as

commissioners are rotated in and out (based on the number of years commissioners are asked to serve).

Also in the phone interviews, IEC officers were asked, “What, in your opinion, are the major strengths and weaknesses structurally and procedurally in the way in which your state has created and administered your Ethics Commission?” The major weakness most identified, overwhelmingly so, was the lack of funding and resources for the commission.

Cost and Expense

The annual budget of each commission further emphasizes the vast differences between these Independent Ethics Commissions. From the modest annual budget of the Delaware State Public Integrity Commission at \$31,600, to the immense annual budget of the California Fair Political Practices Commission at \$7,389,000, the budget indicates important features of each IEC. From a broad perspective, 16 States have an annual budget greater than \$1,000,000; 16 States have an annual budget between \$500,000 and \$1,000,000; and 7 States have an annual budget less than \$500,000. A more in-depth analysis of annual budgets further displays the diversity of the spectrum as seen in Figure 5.

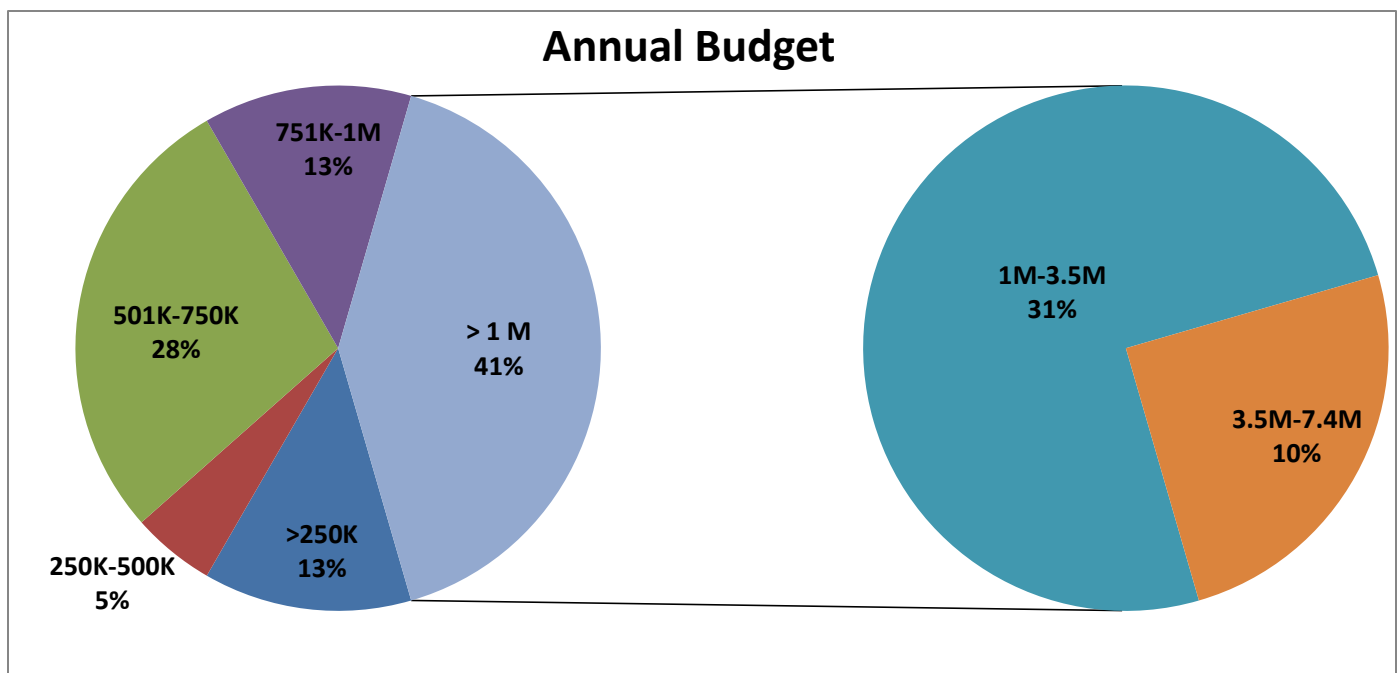


Figure 5 Dual Pie Budget

One of the most common concerns with budgetary matters, identified in phone interviews, was the power exercised by the legislative branch to restrict funding in order to weaken the commission. The Oklahoma Ethics Commission presents an exemplary case for the battle that can arise between IEC's and the legislature. The Oklahoma Historical Society notes that the

“[Oklahoma Ethics Commission] has the constitutional authority to devise ethics rules on its own. Its rules must be presented to each house of the legislature on the second day of each session and may be rejected by joint resolution, but they become effective if not specifically disapproved. The [Ethics Commission] follows the same procedure to repeal and modify rules. The entire initiative in the rules formulation process thus lies with this independent commission.

The most important event in the [Ethics Commission's] brief history came in 1992, when the legislature rejected altogether the first set of proposed ethics rules and then developed an ethics statute of its own. This action, in the view of the commission, undermined the constitutional authority found in Article XXIX. The commission therefore filed suit and achieved vindication in the case *Ethics Commission v. Cullison et al.* (1993). Ruling that the legislature's action unconstitutionally encroached on the Ethics Commission's powers, the Oklahoma Supreme Court confirmed that Article XXIX granted the commission the authority to develop and promulgate ethics rules for the state.”

A conflict of interests is produced when an Independent State Legislative Ethics Commission is weakened by the legislative branch through deprivation of funding. Accordingly, many IEC's are seeking and requesting a dedicated line in the State's annual budget to eliminate this conflict of interests. In the case study of the Nevada Ethics Commission presented later, the consequences for a lack of funding are discussed further.

Staff Size

The cost of an IEC can also be understood in relation to the number of staff employed, the jurisdiction exercised, and enforcement powers granted to each commission. The California Fair Political Practices Commission has the largest staff of any commission with 80 employees and by no coincidence maintains the largest annual budget. In addition, the Delaware State Public Integrity Commission has one of the smallest staffs of any commission with two employees and by no coincidence maintains one of the smallest annual budgets. Although there

is a correlation between the size of the staff and the annual budget, the research does not suggest that one phenomenon causes the other.

IEC's with a large staff often have departments within the commissions. These departments can be divided by jurisdiction or function. Departments that are divided by function often include investigatory, legal, training, and complaint review divisions. Departments can be created to oversee specific issue that are assigned to the commission like campaign finance, conflict of interest, election administration, financial disclosure, gift restrictions, lobbying, or public records. Other commissions may divide employees into departments of jurisdiction over the legislative, judicial, or executive branches. Commissions may also assigned staff to departments that distinguish between state employees and state elected officials, or local employees and local elected officials. States with only two or three full-time staff members are often organized to have one who has legal experience who can identify ethics violations and help the commission interpret and understand the legal ramifications of unethical conduct, one who receives and reviews ethics complaints, and one who investigates ethical concerns.

Activity

The activity of an Independent Ethics Commission is based on the specific needs and purpose of the commission. Powers are granted to the commission to meet these needs, often including the authority to issue written opinions, evaluate ethics complaints, conduct investigations, hold hearings (commonly trial-like adjudication before the Commissioners), and develop ethics training programs and resources. Less frequently, powers are granted to the commission to pursue civil prosecution, refer cases to the attorney general or other prosecutorial enforcement, administer penalties or fines, assess fees, determine settlement, collect restitution, grant dismissal, and issue subpoenas.

Common across all 40 States that have a form of an IEC is the ability to issue a written or advisory opinion and the ability to develop ethics training programs and resources. The definition of an advisory opinion varies from state to state but fulfills similar purposes across the board. Ordinarily, an advisory opinion is issued at the request of a person or group under the jurisdiction of the commission (e.g. elected or public officials, lobbyists, state employees). Requesting and receiving an advisory opinion is a powerful tool that can be used by those under the jurisdiction of the commission to clarify a questionable area, receive advice, and qualify for approval. In turn, receiving an advisory opinion gives credibility, legitimacy, and defense in carrying out the desired objective. Many commission officers expressed in phone interviews that elected officials often appreciate the protection of advisory opinions and found them helpful in performing their duties. The data obtained by WSUSEC provided the number of advisory opinions issued annually for 39 of the 40 IEC's. The practice of issuing written opinions is so common that it naturally provided a favorable approach to measure the activity of a commission. Data provided for the number of advisory opinions issued annually was taken for 2008 or 2009 and also draws upon findings from COGEL's datasets.

Of the 39 Independent Ethics Commissions that reported the number of annual opinions issued:

- 28 States (72%) issued 30 or less advisory opinions annually
- 11 States (28%) issued over 30 advisory opinions annually

Of the 28 States who issued 30 or less advisory opinions annually:

- 23 States (59% of the 39 States) issued 15 or less advisory opinions annually
- 5 States (13% of the 39 States) issued between 15 and 30 advisory opinions

Of the 11 States that issued over 30 advisory opinions annually:

- 4 States (10% of the 39 States) issued between 31 and 100 advisory opinions annually
- 7 States (18% of the 39 States) issued over 100 advisory opinions

The lowest number of advisory opinions issued annually was two, while the highest number of advisory opinions issued was 574. This vast spectrum demonstrates the vast differences in activity levels between commissions.

Similar to the prevalence and practice of advisory opinions is the development of ethics training and resources. Ethics training methods range from classroom setting discussions to individual examination, from one-on-one travel training session to web access training online. Online training is considered the most cost effective and rapidly growing approach, and has increased the scope and number of participants in ethics training and certification. Recorded in COGEL's *Blue Book 2009 Ethics Update*, 18 States Ethics Commissions use web-based training methods (often along with other methods). Although the online training is growing, the most widespread ethics training method is classroom training. COGEL reports that 39 of the 40 IEC's use classroom training methods.

Ethics training is essential in cultivating accountability and reducing instances of unethical behavior. Education is crucial to creating an environment in which ethics can thrive. Many of those who have been accused of unethical conduct claimed that they did not have knowledge that their actions were unethical or had not received training in ethics. In order to develop accountability for ethical conduct and promote ethical behavior, 18 commissions have made ethics training mandatory for those whom the commission has jurisdiction over (public and elected officials, government employees, or lobbyists). Yet 22 IEC's still maintain optional training opportunities according to the COGEL's *Blue Book 2009 Ethics Update*.

Although not as common as advisory opinions or ethics training, most IEC's across the U.S. have the ability to conduct investigations. Commissions with large budgets and substantial staff often go beyond the simple approaches of ethics training, advisory opinions, or

investigation, to take on a more advanced role in the enforcement and regulation of ethical concerns. A Commission can enforce and regulate ethical concerns by holding hearings, pursuing civil prosecution, referring serious cases to prosecutorial authorities like the State Attorney General, administering penalties or fines, assessing fees, determining settlements, collecting restitution, granting dismissal, and issuing subpoenas.

Jurisdiction

The purpose and identity of an Independent Ethics Commission is primarily shaped by the jurisdiction and authority of the commission. Jurisdiction can be categorized by levels of government, branches of government, persons under the jurisdiction, or jurisdiction over specific issues and areas. Research was undertaken by WSUSEC to measure jurisdiction in several aspects.

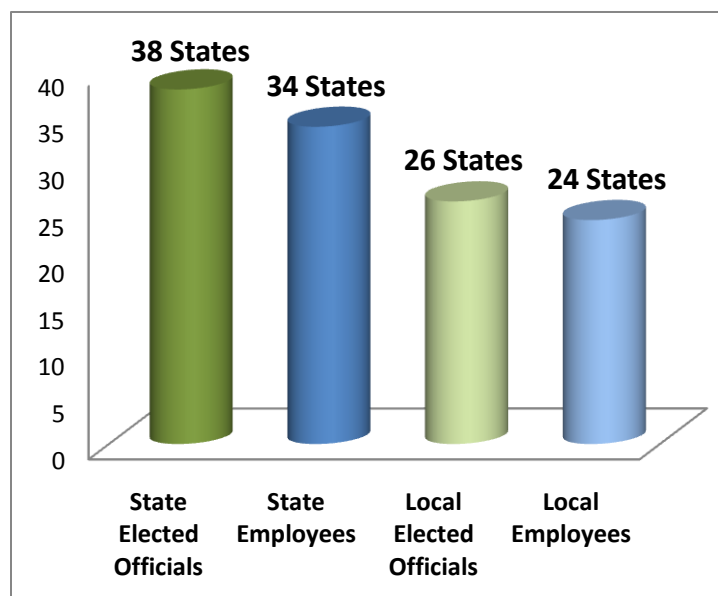


Figure 6 Jurisdictions by Level of Government

Measuring the jurisdiction of commissions by levels of governments creates two main divisions, jurisdiction on a state level and jurisdiction on a local level. In addition, these two divisions can be further categorized in a differentiation between elected officials and employees as displayed in Figure 6. Nearly all IEC's exercise jurisdiction over state elected officials, 95% to be precise. Trailing 10% behind jurisdiction over state elected officials is jurisdiction over state employees at a frequency of 85% among IEC's. The next two categories, jurisdiction over local elected officials and local employees, experience a 20% lag behind the state jurisdiction categories. With 65% of

commissions exercising jurisdiction over local elected officials and 60% exercising jurisdiction over local employees, a gap of jurisdiction between the state level and local level can be identified. Commission jurisdiction is more readily found at the state level than at the local level. The implications of the perceived need for ethics education and regulation at a state level can be inferred. In addition, a smaller gap between jurisdictions over elected officials in contrast to employees can also be seen. At both a state and local levels, more commissions exercise jurisdiction over elected officials than employees. The implication of the perceived need for ethics training and regulation for elected officials is slightly above the perceived need for ethics training for employees.

Jurisdiction can also be observed in terms of jurisdiction over specific issues and areas of politics. True to their name, commissions like the Indiana Lobby Registration Commission focus primarily on lobbying issues. Commissions like the Minnesota Campaign Finance and Public Disclosure Board focus primarily

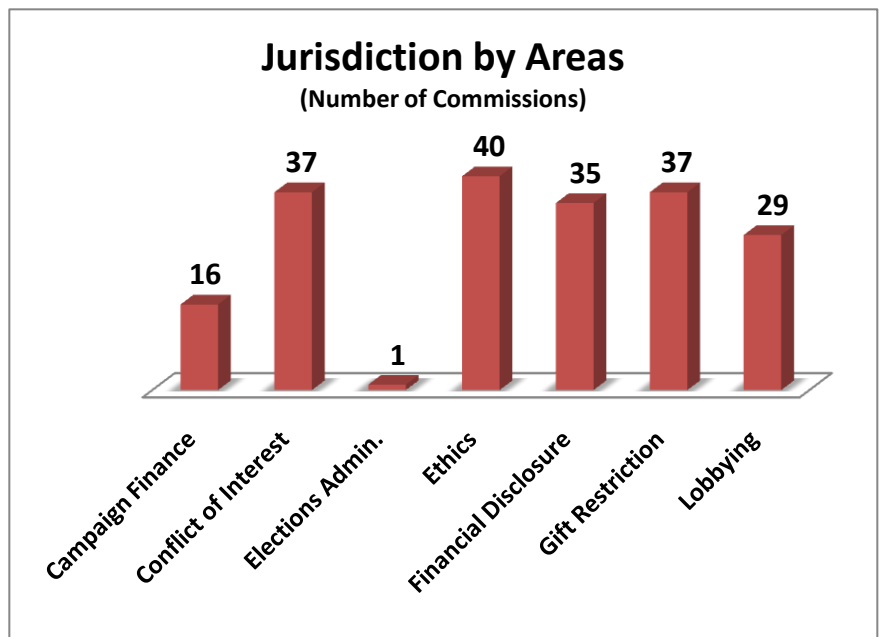
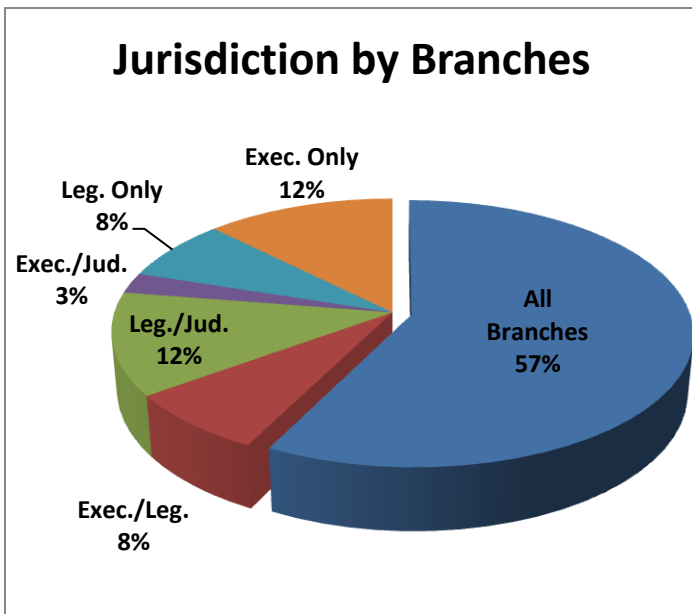


Figure 6 Issues of Jurisdiction

on campaign finance and public disclosure issues. Some States like California, New York, or Washington, create separate Ethics Commissions that deal with separate ethical issues or jurisdictions. For example, Washington State has four commission or boards which include the Washington State Commission on Judicial Conduct, the Washington State Executive Ethics

Board, the Washington State Legislative Ethics Board, and the Washington State Public Disclosure Commission. COGEL records in the *Blue Book 2009 Ethics Update* several issues and areas of politics in which jurisdiction can be established, including campaign finance, conflict of interest, election administration, ethics, financial disclosure, freedom of information, gift restriction, lobbying, and public records. COGEL also reports that the majority of IEC's have jurisdiction in the areas of conflict of interest, ethics, financial disclosure, gift restriction,



and lobbying. Fewer IEC's have jurisdiction in the areas of campaign finance, election administration, freedom of information, and public records, as displayed in Figure 6.

Jurisdiction of an IEC can also be measured by comparing jurisdiction across the three branches of government, executive, legislative, and judicial. Depending on the purpose and design of the commission,

Figure 7 Pie Divisions by Branches

jurisdiction may be limited to one or two branches of government; however, a majority of commissions have jurisdiction over all three branches as seen in Figure 7. The 23 States with IEC's that have jurisdiction over all three branches constitute the largest trend in jurisdiction by branches of government. IEC's that focus jurisdiction on only one branch tend to focus most on the executive branch most; five States have singular jurisdiction over the executive branch. Only three States have jurisdiction solely on the legislative, and no commission has singular jurisdiction over the judicial branch.

The lack of jurisdiction over any branch of government does not signal that the branch does not need the supervision of an IEC. For example, as shown in Figure 7, few States have jurisdiction over the judicial branch, but this does not mean that the judicial branch does not experience ethics violations or concerns less than other branches. A simple explanation could be the fact that the judicial branch already exercises many checks within the judicial system and among appointees and employees within the judicial system. In fact, the executive branch often places significant checks upon the judicial branch through the appointment process. Similarly, the executive branch may also demonstrate checks on ethics concerns for employees within the executive branch, such as ethics training, contracted ethical behavior, and the ability to remove employees. It is important to note the checks that already exist to promote ethical conduct within these branches of government. The concern is not only whether there are checks, but also that the checks work and are implemented properly to address ethical concerns. IEC's often represent an important check to the branch or branches to which they are employed. The jurisdiction of an IEC is based on where the perceived need for these checks may exist. The legislative branch is regularly cited as a branch that does not have any proper or effective checks against unethical behavior, primarily because the current checks against unethical behavior relies on an internal legislative committee, which arguably poses a conflict of interest.

The quantitative data thus presented analyzes the nature and function of 40 Independent Ethics Commissions across the U.S, evaluating each individual commission in the eight aspects of data and measurement: origin, formation, structure, appointment, cost and expense, size, activity, and jurisdiction. Further understanding of the IEC's was gained through the insightful qualitative data obtained through elite interviewing. These interviews specifically analyzed concerns of the commission, namely addressing conflicts of interest.

In phone interviews with officers of Independent Ethics Commissions, the question was asked, “What is the most common ethical concern or complaint that your office receives?” The most common answer was “conflicts of interest.” The input provided by commission officers revealed not only concerns of the commission, but also conveyed the likeminded concerns that citizens express in the need for checks against unethical conduct in government. The elite interview led into specific case studies that portray the most effective and least effect approaches to operating an IEC. Three states were selected, two because they closely model Utah government in many respects (Nevada and Colorado) and one to demonstrate a stark difference (California).

Nevada Case Study

The Nevada Ethics Commission operates with a staff of five, and a budget under \$700,000 (Appendix D). The Commission’s eight members resolve nearly half of the complaints submitted through a process of investigations to decipher politically spurious complaints from legitimate ethical concerns. An Ethics Officer from the Commission revealed ethics complaints increase by 10% on election years, and are often identified as politically motivated (Appendix 3). Education about ethics laws is emphasized, and a traveling Ethics Officer teaches seminars. Education is important, because it prevents future ethics violations, whether they are purposeful or accidents. Upon completion of the ethics training, a document stating one’s understanding of ethics laws is signed. A recent legislation has weakened the Commission by stating one must “intentionally and knowingly violate state ethics laws” to be investigated by the body, regardless of the signed document. The Ethics Officer also feels penalties have also been altered and dulled so they are “not sufficient to deter unethical conduct.”

The legislature has also cut the funding for the Commission, thus restricting their capacity to continue education, conduct thorough investigations, and answer questions from a state hotline. Underfunding and restricting the Commission through legal loop holes has restrained the body from fulfilling their duties. As a result, the public are frustrated and disappointed. “They laugh at us,” stated one Ethics Officer, when asked how the public views the Commission.

Colorado Case Study

One very helpful case study was done with Jane a respondent from the Colorado Independent Ethics Commission, who participated in the phone interview portion of our research.

The Colorado Ethics Commission was created by a voter-initiated constitutional amendment in November 2006. The Commission is composed of five members chosen by various leaders in the State Government and does not include more than two members of the same party. The Commission has jurisdiction over the Legislative branch of the government as well as registered lobbyists. In 2009, The Commission was appropriated \$227,934 of which \$144,285 was designated for personal services, \$15,639 was for operating expenses and the remainder, \$68,000 is for legal services.

The respondent shared that although the Colorado Ethics Commission is in its infancy, there are many people that don’t even know it exists. “Having the Governor on board,” the respondent says, “is a huge help in getting recognition for the commission and its necessity.” Furthermore she noted, “Mandatory ethics training is... well, mandatory if you want to have a successful commission that plays an effective role in state government.”

California Case Study

The California Ethics Commission (California Fair Political Practices Commission) has a model we would not recommend for Utah. This commission seems small, with only five public members performing the job. In all other aspects, however, the Californian Ethics Commission is much too large a commission for Utah to model. The commission has some 80 full time employees and a yearly budget of over 7 million dollars. Though reasonable for a state as large as California, a commission of this size would simply be too bulky and impractical for the State of Utah. This bulky and costly model would not address the more subtle needs of Utah's Government and demonstrates a commission that heavily involved in the enforcement of ethical behavior.

Recommendations

The culmination of research has led WSUSEC to the following guidelines and recommendations for the creation of an Independent Ethics Commission for the State of Utah. As a prerequisite for the general recommendation it is important to discuss the forum and evaluation of complaints. Complaints may be generated by any three citizens (legislators included). This recommendation is founded on the need to prevent spurious complaints, while making the process highly accessible to the public. To further accommodate this balance, no complaint may be filed within 30 days of a primary or general election. In addition, to ensure the commission is not used as a political tool, complaints shall be screened in private by the Independent Ethics Commission, so spurious complaints or those lacking in a factual or legal basis will be dismissed. The Commissions deliberations are private without staff present. The business and any action of the Independent Ethics Commission shall be determined by a majority vote of three of five commissioners. The advisory opinions and recommendations made to the legislature will be made public.

Currently in Utah little is done to promote ethics education and prevent unethical behavior when compared to the efforts which deal with the behavior once it has occurred. Preventative measures like mandatory ethics training and advisory opinions, generate education and accountability.

After researching and examining the information gathered from the 40 states included in the methodology, the WSUSEC researchers arrived at the following recommendations for creating an Independent Ethics Commission for the State of Utah.

Purpose: To Promote Ethics in Government through Accountability, Education, and Transparency.

<p>Commission Structure with Five Commissioners</p>	<p>The Four Commission Members: (four year terms)</p> <ul style="list-style-type: none"> • Four of the Commission members will be selected by consensus by the Senate Majority and Minority leaders, the Speaker of the House, and the Minority Leader of the House; having no more than two from the same party. • Each Commission member must be a resident of Utah and have maintained residency for at least five years, and hold a reputation of character and public service. • Consistent with common restrictions nationwide, the WSUSEC team recommends that at least a ten year gap since running for or holding any partisan political office. All current and former registered lobbyists are ineligible to serve. <p>The Commission Chair: (four year terms)</p> <ul style="list-style-type: none"> • The fifth Commission member, who will assume the position of Chair, will be selected by the Governor from a list of names proposed by the presidents of the five state Universities. • The Chair shall also hire and appoint the staff. • The above requirements apply to the ethics commission chair person.
<p>Estimated Budget</p>	<ul style="list-style-type: none"> • The Commission will have an estimated budget between \$250,000 - \$400,000. This figure was derived from fiscal data examined from numerous Independent Ethics Commissions of states relevant and similar to Utah. • The Commission will have a dedicated line in the State’s annual budget.
<p>Staff</p>	<ul style="list-style-type: none"> • Two Fulltime Employees: This will provide availability of information, investigations, education, and assistance to the public and Legislative branch. Staff responsibilities will include, but are not limited to: receiving and recording complaints, preparing and making available needed forms, and conduct ethics training. • The staff will reside in an office in the State Capitol.
<p>Jurisdiction and Activity</p>	<ul style="list-style-type: none"> • The Commission will have jurisdiction over the Legislative branch, specifically Legislators and Lobbyists. The Commission will not assume jurisdiction over state bureaucracies, the Judicial or Executive branches. • It is essential that all those under the jurisdiction of the commission complete mandatory training (online). • The Commission shall issue advisory opinions, conduct investigations, hold hearings and evaluate ethics complaints. • The Commission shall regulate ethics standards and codes.
<p>Meetings</p>	<ul style="list-style-type: none"> • The Commission will hold closed meetings with a quorum bimonthly or when called by the chair, to consider complaints, cases, and recommendations. • The Commission will then hold regularly scheduled open meetings to issue reports and recommendations.

Table 2 Recommendations List

The Weber State University Student Ethics Committee

In tandem with the Richard Richards Institute of “Politics, Decency, and Ethical Conduct,” the Weber State University Student Ethics Committee was formed to evaluate state ethics commissions’ ability to uphold state legislatures’ credibility as a democratic unit and their standards of integrity, accountability, and transparency across The United States. The WSU Student Ethics Committee of 2010 consists of four Weber State University students and two Weber State University professors. Selaina Brinkerhoff is a Political Science major and participates in Model U.N. and Amnesty International. Klay Bingham is a Sophomore at WSU majoring in Political Science and is pursuing an education in law. Klay is on the Mock Trial team, a member of Amnesty International, The College Republicans, and is highly involved in local politics and activities. Zachary Stickney is a Senior and Political Science major at Weber State University. He currently serves as President of STAND (a student anti-genocide coalition) and Amnesty International. Zach also tutors part-time and provides research and other work for Omid for Iran, a Salt Lake City based human rights organization. Shane Woody is a Junior and Political Science major. Shane is also currently the President of the College Republicans Weber State University chapter, President of the WSU 2nd Amendment Rights Club, and also serves as a Weber County delegate. Dr. Nancy Haanstad and Dr. Gary Johnson offer instruction and oversight to the Committee. Dr. Haanstad is the Chair of the Department of Political Science and Philosophy, and the Campus Advisor for Amnesty International at Weber State University. She also serves as a Board Member on the Barbara and Norman Tanner Center for Non-Violent Human Rights Advocacy based in the University of Utah. Dr. Johnson supervises the state and local government interns at WSU, and is the coordinator for the Minor in Public Administration. His research has been published in *Public Administration Review*, *Municipal Finance Review*, and *State and Local Government Review*.



WSUSEC may be contacted through email: rriethics@weber.edu

You can also view the entire report with comprehensive interviews and previous reports at: www.weber.edu/polsc/Richards_Institute/default.html

Bibliography

“Attorney Seeks Bar People of Enid’s Ethical Conduct.” Salt Lake Tribune. 22 December 1995

Berry, Francis Stokes, and William D. Berry. 1990. “State Lottery Policy Adoptions as Policy Innovation: An Event History Analysis of Living-Will Laws.” *American Political Science Review* 84 (2): 395-415.

Burr, Thomas. “Rep. Curtis won’t face charges” Salt Lake Tribune. 31 August 2004

“Breaking the Code” Salt Lake Tribune. 7 January 2005

Council on Governmental Ethics Laws, The. January 2000. Web May 2010. <<http://cogel.org/>>

Ensign, David. 1997. “Reforming Public Integrity Laws in an Era of Declining Trust.” *The Book of the States* 1996-97. Lexington, KY: Council of State Governments.

Fording, Richard C., Penny M. Miller, Dana J. Patton. “Reform or Resistance? Local Government Responses to State-Mandated Ethics Reform in Kentucky”. *Oxford Journals* 2003. Vol. 33 No. 2 pp 1-15

Goodman, Marshall R., 1996. “Understanding State Legislative Ethics Reform: The Importance of Political and Institutional Culture.” *Public Integrity Annual*. James S. Brown. Lexington, KY.

Gray, Virginia, A. 1973. “Innovation in the States: A diffusion Study.” *American Political Science Review* 67 (4): 1174-85.

Harrie, Dan. “Lawmaker Ethics Rules May Change” Salt Lake Tribune. 30 November 1999

Harrie, Dan. “Short Sessions” Salt Lake Tribune. 11 February 2000

Hunt, Stephen. “Killpack Driver License Trial Bumped to Sept. 17” Salt Lake Tribune. 25 August 2010

Hunter, Kenneth G., Laura Ann Wilson, and Gregory G. Brunk. 1991. “Social Complexity and Interest-Group Lobbying in the American States.” *Journal of Politics* 53:488-fifty3

Jensen, Derek P. “Group Says Ethics Code Will be on Ballot”. Salt Lake Tribune. 13 August 2010

“Lawmaker Ethics Rules May Change” Salt Lake Tribune. 30 November 1999

Maltez, Donald. "Oklahoma Ethics Commission." *Encyclopedia of Oklahoma History and Culture*. Oklahoma Historical Society, Mar. 2000. Web. 12 Oct 2010. <<http://digital.library.okstate.edu/encyclopedia/entries>>

Moulten, Kristen. "Job or campaign: Feds Say Top Cop to Choose" Salt Lake Tribune. 21 October 2006

National Conference of State Legislatures. 1975. Web May 2010. <<http://ncsl.org/Home/tabid/118/default.aspx>>

Newark, Adam J. "Measuring State Legislative Lobbying Regulation 1990-2003." *State Politics and Policy Quarterly* 5.2 (2005): 182-191

"Olympic Ingratitude" Salt Lake Tribune. 5 December 2001

Rosenson, Beth A. "The Impact of Ethics Laws on Legislative Recruitment and the Occupational Composition of State Legislatures". *Political Research Quarterly*, Vol. 59, No. 4 (Dec.,2006) pp. 619-927

"Utah Independent Ethics Commission, Amendment D(2010)". *Ballotpedia*. 8 November 2010. Web 9 November 2010. <[http://ballotpedia.org/wiki/index.php/Utah_Independent_Ethics_Commission,_Amendment_D_\(2010\)](http://ballotpedia.org/wiki/index.php/Utah_Independent_Ethics_Commission,_Amendment_D_(2010))>

Walker, Jack. 1969. "The Diffusion of Innovation Among the American States." *American Political Science Review* 63 (3): 880-99.

Appendix

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Appendix A: Email Survey Format and Questions

Dear Ethics Administrative Officers:

In order to gain more knowledge about the (INSERT STATE NAME & COMMISSION NAME IF NECESSARY) State Ethics Commission we are implementing a university-based student research study for which your expertise and experience is invaluable. We would prefer that Ethics Commission Officers complete this brief 12 question survey; however, we understand the time constraints and a staff member who is knowledgeable about Ethics Commission processes in your state would also be appropriate.

We are gathering data on state-by-state basis for an undergraduate student research group sponsored by the Richard Richards Institute of Ethics at Weber State University (rriethics@weber.edu) for an academic research. The information you provide is important to the state of Utah because it does not currently have a State Ethics Commission. This research will be used for a comparison of existing State Ethics Commissions in other states with the Legislative Ethics Commission proposed as a state constitutional amendment by the 2010 Utah Legislature. If you have questions about the survey methodology, you may contact (INSERT YOUR FIRST & LAST NAME) at the email previously provided.

A note for research methodology and informed consent:

Responses to the following 10-12 questions, which will take approximately 15 minutes, will be recorded (unless you specifically request otherwise). The survey recorder will use your responses as they are given to both confirm information from the Commission's Annual Report and to ask questions not answered by the Annual Report. Although we request your name and job title, only your state name will be used in reference to the data provided. All responses will be reported anonymously as to the individual identity of the respondent. All comments will be identified only as "(State Name) Respondent A" for example. The purpose of the data for the Richard Richards Institute of Ethics is to determine patterns of success and/or failure, identify trends of State Ethics Commissions' structure, and make evaluations and recommendations regarding the issue which may be illustrated with the data you provide.

If you feel uncomfortable with the survey as it proceeds, you may withdraw at any time. Your prompt reply to this email is greatly appreciated. We thank you ahead of time for contributing to our research.

In a reply email to rriethics@weber.edu please confirm or correct the following information and answer the following questions:

Please enter your State, name, and job title for research accuracy. Also include a note that your participation is voluntary.

1. In what year did the (State Name) adopt an independent Ethics Commission?
2. How was the Ethics Commission created? (e.g. by statute, initiative, or other)

3. How many members currently serve on the Ethics Commission?
4. How and by whom are these members appointed?
5. How many serve on the staff of the Ethics Commission?
6. How many cases, on an average annual basis, has the Ethics Commission administrated over in the last five years?
7. What is the Ethics Commission's annual budget? (most recent and please include the year of the budget)
8. What are the specific enforcement powers of the Ethics Commission? (e.g. can the Ethics Commission issue written opinions, conduct investigations, or serve as an advisory board to the state legislature)
9. Whom does the Ethics Commission have jurisdiction over? (e.g. state elected officials, state employees, lobbyist, or other)
10. How often does the Ethics Commission meet?
11. What vote ratio is needed to make decisions within the Ethics Commission? (e.g. simple majority, super majority, unanimous, or other)
12. Will you attach the most recent Ethics Commission annual report in your response email?

Appendix B: Phone Interview Format and Questions

State: _____ Phone #: _____ Date: _____ Interviewer: _____

Hello I am (INSERT FIRST AND LAST NAME) with the Richard Richards Institute of Ethics at Weber State University. We are gathering data on state-by-state basis for an undergraduate student research project. In order to gain more knowledge about the (STATE COMMISSION NAME) I would like to ask 12 questions which will take about 15 minutes.

We would prefer that Ethics Commission Officers participate in this brief interview. Is there an Ethics Commission Officer available?

What is your name (RECORD BELOW)? And what is your position on the Ethics Commission (RECORD BELOW)? Thank you for speaking with me I appreciate your time. Before I begin let me explain the purpose and procedure of this interview.

Interviewee Name:

Interviewee Position:

Your responses to the following 12 questions will take approximately 15 minutes, and will not be recorded. I will be taking notes and use your responses as they are given. Although I will request your name and job title, only your state name will be used in reference to the data provided, keeping your personal identity anonymous. All comments will be identified only as “(State Name) Respondent A” for example. The purpose of the data for the Richard Richards Institute of Ethics is to determine patterns of success and/or failure, identify trends of State Ethics Commissions’ structure, and make evaluations and recommendations regarding the issue; which may be illustrated with the data you provide.

If you feel uncomfortable with the interview as it proceeds, you may withdraw at any time.

I would now like to ask your opinion about your experience as an ethics administrator. We are very interested in your frank experiences and impressions of the effectiveness and efficiency of your ethics commission.

1. What is the most common ethical concern or complaint that your office receives?
2. On an average annual basis, how many complaints were **received** and how many complaints were **evaluated** by the Ethics Commission in the last few year?
3. In your opinion how effective is your ethics commission in addressing ethical complaints? Why?
4. In your opinion, what percentage of complaints received are politically motivated or spurious?

5. In your opinion, what percentage of ethics complaints are appropriate and for which your Commission is well-suited to resolve?
6. Whom does the Ethics Commission have jurisdiction over? (Explain and ask specifically about state elected officials, state employees, lobbyist, or other).
7. How effective is your commission in the public's eye?
8. Can you give an example of the most important, or severe, ethical issue that your commission has encountered?
9. How was this case resolved?
10. What, in your opinion are the major strengths and weaknesses structurally and procedurally in the way in which your state has created and administered your Ethics Commission?
11. What reforms would you make to your Ethics Commission?
Why?
12. Are there any other issues or concerns that you would like to discuss that you think are important which I have not covered?

Appendix C: Utah Ethics Bills 2010

1st Sub H.B. 267 Lobbyist Disclosure and Regulation Act Amendments (Rep. K. Garn)

This bill amends the Lobbyist Disclosure and Regulation Act related to expenditure by a lobbyist, principal, or government officer for the benefit of a public official.

This bill:

- requires the disclosure of an expenditure or aggregate daily expenditure greater than \$10;
- prohibits a lobbyist, principal, or government officer from making an expenditure greater than \$10, except for food, a beverage, travel, lodging, or attendance at a meeting or activity;
- amends the definition of “expenditure” to exclude certain items or items under certain circumstances

H.J.R. Joint Resolution on Legislation Ethics Commission (Rep. D. Clark)

This joint resolution of the Legislature proposes to amend the Utah Constitution to establish a legislative ethics commission. Other provisions in the resolution include:

- the legislative ethics commission will have authority to conduct an independent review of complaints against legislators alleging unethical behavior; the purpose of the review is to determine whether the complaint merits further consideration by the house of the member against whom the complaint is made;
- the commission will make recommendations to the Legislature about how to handle complaints
- the House and Senate will continue to have ultimate authority to determine whether one of their members has engaged in unethical behavior and, if so, any appropriate sanction;
- the Legislature is authorized to adopt rules to govern how the commission operates

2nd Sub. S.B. 136 Open and Public Meetings Revisions Related to Review of Ethics Complaints (Senator J.Valentine)

This bill modifies provisions of the Open and Public Meetings Act. This bill:

- authorizes the Independent Ethics Commission to convene a closed meeting without first commencing an open meeting and voting to close the meeting
- Provides that an ethics committee of the Legislature may close a meeting by a majority ethics complaint and the meeting is closed

Appendix D: Spreadsheet of Data Collected

STATE	Alabama Ethics Commission	Alaska Ethics Commission	Arizona	Arkansas Ethics Commission	California Fair Political Practices Commission/ Senate Committee on Legislative Ethics
Year Adopted	1974	1974		1991	1975
How Formed: Statute or Initiative	Statute	Initiative		Initiative	Initiative
Number of Commissioners	5	5		5	5
Appointment By: Governor, Legislature, Both, or Other	Governor	Governor		Other	Other
Staff by number of Employees	14	12		9	80
Annual Budget	\$1,607,898	\$214,800		\$668, 249	\$7,389,000
Number of Advisory Opinions Issued Annually	25	8		9	250
Jurisdiction over State: Employees, Elected Officials, Both, or Neither	Both	Both	No Commission	Both	Both
Jurisdiction over Local: Employees, Elected Officials, Both, or Neither	Both	Neither		Both	Both
Jurisdiction by Branches for Employees or Elected Officials	All Branches	Leg.		All Branches	All Branches
Jurisdiction by Area: Campaign Finance, Conflict of Interest, Election Admin., Ethics, Gift Restriction, and Lobbying	Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction, Lobbying	Conflict of Interest, Ethics, Gift Restriction		Campaign Finance, Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction, Lobbying	Campaign Finance, Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction, Lobbying
Ethics Training Methods: Classroom or Online	Classroom, Online	Classroom, Online		Classroom	Classroom, Online

Colorado Independent State Ethics Commission 2006	Connecticut Office of State Ethics 1997	Delaware State Public Integrity Commission	Florida Commission on Ethics	Georgia State Ethics Commission	Hawaii State Ethics Commission
2006	1997	1991	1974	1974	1968
Initiative	Initiative	Initiative	Statute	Statute	Initiative
5	9	7	9	5	5
Both	Both	Governor	Both	Other	Other
2	18	2	22	10	8
\$227,934	\$2,607,034	\$31,600	\$2,411,216	\$1,000,000	\$813,170
15	12	66	30	6	5
Both	Both	Both	Both	Elected Officials	Both
Both	Neither	Both	Both	Elected Officials	Neither
Exec./Leg.	All Branches	All Branches	All Branches	Leg./Jud.	All Branches
Conflict of Interest, Ethics, Gift Restriction	Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction, Lobbying	Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction, Lobbying	Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction, Lobbying	Campaign Finance, Ethics, Financial Disclosure, Gift Restriction, Lobbying	Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction, Lobbying
Classroom	Classroom, Online	Classroom	Classroom, Online	Classroom	Classroom

* 10 States that only have an Independent Ethics Commission for judicial or executive branches.

** 2 States with a hybrid commission composed of both legislators and public members.

STATE	Idaho	Illinois Executive Ethics Commission*	Indiana Office of Inspector General*	Iowa Ethics and Campaign Disclosure Board*	Kansas Governmental Ethics Commission
Year Adopted		Not Available	1974	1973	1974
How Formed: Statute or Initiative		Statute	Statute	Statute	Statute
Number of Commissioners		9	5	6	9
Appointment By: Governor, Legislature, Both, or Other		Other	Governor	Governor	Other
Staff by number of Employees		2	15	4	9
Annual Budget		\$344,000	\$6,028,842	\$523,000	\$667,993
Number of Advisory Opinions Issued Annually		Not Available	13	10	20
Jurisdiction over State: Employees, Elected Officials, Both, or Neither	No Commission	Elected Officials	Both	Both	Both
Jurisdiction over Local: Employees, Elected Officials, Both, or Neither		Neither	Neither	Neither	Elected Officials
Jurisdiction by Branches for Employees or Elected Officials		Exec.	Exec.	Exec.	All Branches
Jurisdiction by Area: Campaign Finance, Conflict of Interest, Election Admin., Ethics, Gift Restriction, and Lobbying		Ethics, Gift Restriction	Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction, Lobbying	Campaign Finance, Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction, Lobbying	Campaign Finance, Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction, Lobbying
Ethics Training Methods: Classroom or Online		Classroom	Online	Classroom	Classroom

Kentucky Executive Branch Ethics Commission*	Louisiana Board of Ethics	Maine Commission on Governmental Ethics and Election Practices*	Maryland State Ethics Commission*	Massachusetts State Ethics Commission	Michigan Civil Service Commission/ State Board of Ethics*
1993	1996	1976	1979	1978	1978
Statute	Statute	Statute	Statute	Statute	Statute
9	11	5	5	5	8
Legislature	Both	Both	Governor	Other	Governor
4	41	8	10	22	6
\$520,141	\$3,840,517	\$6,565,708	\$869,673	\$1,782,433.00	\$10,000
40	360	5	6	2	2
Both	Both	Both	Both	Both	Elected Officials
Neither	Both	Employees	Neither	Both	Neither
Exec.	All Branches	All Branches	All Branches	All Branches	Leg./Jud.
Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction, Lobbying	Campaign Finance, Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction, Lobbying	Campaign Finance, Ethics, Financial Disclosure, Lobbying	Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction, Lobbying	Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction	Conflict of Interest, Ethics, Gift Restriction
Classroom	Classroom	None	Classroom	Classroom, Online	None

* 10 States that only have an Independent Ethics Commission for judicial or executive branches.

** 2 States with a hybrid commission composed of both legislators and public members.

STATE	Minnesota Campaign Finance and Public Disclosure Board	Mississippi Ethics Commission	Missouri Ethics Commission	Montana Ethics Commission
Year Adopted	1974	1979	1991	1975
How Formed: Statute or Initiative	Statute	Statute	Statute	Statute
Number of Commissioners	6	8	6	1
Appointment By: Governor, Legislature, Both, or Other	Governor	Other	Governor	Governor
Staff by number of Employees	8	7	20	2
Annual Budget	\$741,850	\$618,385	\$1,200,000	\$567,000
Number of Advisory Opinions Issued Annually	8	145	15	4
Jurisdiction over State: Employees, Elected Officials, Both, or Neither	Neither	Both	Both	Both
Jurisdiction over Local: Employees, Elected Officials, Both, or Neither	Both	Both	Both	Elected Officials
Jurisdiction by Branches for Employees or Elected Officials	All Branches	All Branches	All Branches	Leg./Jud.
Jurisdiction by Area: Campaign Finance, Conflict of Interest, Election Admin., Ethics, Gift Restriction, and Lobbying	Campaign Finance, Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction, Lobbying	Conflict of Interest, Ethics, Financial Disclosure	Campaign Finance, Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction, Lobbying	Campaign Finance, Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction, Lobbying
Ethics Training Methods: Classroom or Online	Classroom	Classroom, Online	Classroom, Online	Classroom

Nebraska Accountability and Disclosure Commission	Nevada Ethics Commission	New Hampshire	New Jersey State Ethics Commission*	New Mexico	New York State Legislative Ethics**
1976	1975		1973		2007
Statute	Statute		Statute		Statute
8	8		7		9
Governor	Both		Governor		Legislature
8	5		12		4
\$650,000	\$684,898		\$994,000		\$4,900,00
5	15		10		574
Both	Both	No Commission	Employees	No Commission	Both
Both	Both		Neither		Both
Leg./Jud.	Leg./Jud.		Exec.		Leg.
Campaign Finance, Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction, Lobbying	Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction		Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction		Conflict of Interest ,Ethics ,Financial Disclosure, Gift Restriction, Lobbying
Classroom	Classroom		Classroom, Online		Classroom, Online

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STATE	North Carolina State Ethics Commission	North Dakota	Ohio Ethics Commission*	Oklahoma Ethics Commission	Oregon Government Ethics Commission
Year Adopted	2006		1973	1990	1974
How Formed: Statute or Initiative	Statute		Statute	Initiative	Initiative
Number of Commissioners	10		6	5	7
Appointment By: Governor, Legislature, Both, or Other	Governor		Governor	Other	Governor
Staff by number of Employees	10		21	6	8
Annual Budget	\$967,000		\$2,100,000	\$647,354	\$3,100,000
Number of Advisory Opinions Issued Annually	200		193	2	30
Jurisdiction over State: Employees, Elected Officials, Both, or Neither	Elected Officials	No Commission	Both	Both	Both
Jurisdiction over Local: Employees, Elected Officials, Both, or Neither	Neither		Both	Both	Both
Jurisdiction by Branches for Employees or Elected Officials	All Branches		Exec./Leg.	All Branches	All Branches
Jurisdiction by Area: Campaign Finance, Conflict of Interest, Election Admin., Ethics, Gift Restriction, and Lobbying	Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction, Lobbying		Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction	Campaign Finance, Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction, Lobbying	Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction, Lobbying
Ethics Training Methods: Classroom or Online	Classroom		Classroom	Classroom, Online	Classroom

Pennsylvania State Ethics Commission	Rhode Island Ethics Commission	South Carolina Ethics Commission*	South Dakota	Tennessee Bureau of Ethics and Campaign Finance	Texas Ethics Commission
1979	1986	1991		2006	1991
Statute	Initiative	Statute		Statute	Initiative
7	9	9		6	8
Both	Governor	Governor		Other	Other
21	12	9		10	33
\$1,980,000	\$1,437,730	\$320,000		\$1,100,000	\$2,072,514
200	100	5		12	3
Both	Both	Both	No Commission	Both	Both
Both	Both	Both		Both	Both
Exec./Leg.	All Branches	Exec. / Jud.		All Branches	All Branches
Conflict of Interest, Ethics, Financial Disclosure, Lobbying	Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction	Campaign Finance, Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction, Lobbying		Campaign Finance, Ethics, Financial Disclosure, Gift Restriction, Lobbying	Campaign Finance, Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction, Lobbying
Classroom	Classroom, Online	Classroom		Classroom, Online	Classroom, Online

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STATE	Utah	Vermont	Virginia	Washington State Legislative Ethics Board**	West Virginia Ethics Commission
Year Adopted				Not Available	1989
How Formed: Statute or Initiative				Statute	Statute
Number of Commissioners				9	12
Appointment By: Governor, Legislature, Both, or Other				Both	Governor
Staff by number of Employees				1	7
Annual Budget				\$187,645	\$659,193
Number of Advisory Opinions Issued Annually				8	30
Jurisdiction over State: Employees, Elected Officials, Both, or Neither	No Commission	No Commission	No Commission	Elected Officials	Both
Jurisdiction over Local: Employees, Elected Officials, Both, or Neither				Neither	Both
Jurisdiction by Branches for Employees or Elected Officials				Leg.	All Branches
Jurisdiction by Area: Campaign Finance, Conflict of Interest, Election Admin., Ethics, Gift Restriction, and Lobbying				Conflict of Interest, Ethics, Gift Restriction	Conflict of Interest, Ethics, Financial Disclosure, Gift Restriction, Lobbying
Ethics Training Methods: Classroom or Online				Classroom, Online	Classroom, Online

Wisconsin Government Accountability Board	Wyoming
1974	
Statute	
6	
Governor	
42	
Not Available	
40	
Both	No Commission
Neither	
All Branches	
Campaign Finance, Conflict of Interest, Election Admin., Ethics, Financial Disclosure, Gift Restriction, Lobbying	
Classroom, Online	

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