



Ethics & Transparency

2010 legislation in review

Ethics Watch's 2010 Ethics and Transparency Legislation Review

Ethics Watch was founded in 2006 with a mission of using legal tools to promote ethics and accountability in Colorado government. To help keep Colorado elections honest, Ethics Watch has litigated campaign finance cases that have resulted in more than \$15,000 of fines imposed on committees that violated Colorado campaign finance laws. Ethics Watch has also worked hard to ensure that the state's Independent Ethics Commission ("IEC") lives up to its mandate to be the state's foremost ethics enforcement body.

But sometimes just enforcing existing law isn't enough – legislative action is also required to address evolving challenges to ethical and transparent government.

For example, in January the United States Supreme Court broke with precedent when it ruled in the *Citizens United* case¹ that corporations and labor unions could not be prevented from spending their general revenues to influence the outcome of elections. The ruling blew a hole in Colorado campaign finance law, which was based on the long-standing precedent that allowed such bans. As another example, the

increased use of private contractors to conduct government business in Colorado had decreased government transparency because documents about outsourced services are not subject to the Colorado Open Records Act.

These are just two examples of pressing issues the legislature tackled during the 2010 session.

To better understand how Colorado legislators voted on issues of transparency, accountability and campaign integrity, Ethics Watch has compiled this summary of key legislation from the 2010 Regular Session of the Colorado General Assembly.

For this scorecard, Ethics Watch selected the nine most relevant bills that fall into three categories: Transparency, Accountability, and Campaign Integrity. Bills listed in the Transparency category improve Coloradans' access to information about government operations. Bills



in the Accountability category strengthen ethical standards of conduct and/or the mechanisms through which such standards are enforced. Bills in the Campaign Integrity category improve the disclosure system for spending to influence the results of Colorado elections. The attached spreadsheet shows how each legislator voted on the bills and identifies principal sponsors (S) and co-sponsors (C) of each bill. Votes are based on third reading votes recorded in the House and Senate Journals and sponsorships listed on the most current version of each bill posted at the Colorado General Assembly website.²

The 2010 session was a good one for transparency, accountability and campaign integrity bills. Eight of the nine bills listed in this scorecard were passed, and as of the date of this release, none have been vetoed. Most of the bills enjoyed broad bipartisan support.

¹ *Citizens United v. Federal Election Comm'n*, No. 08-205 (U.S., Jan. 21, 2010).
² <http://www.leg.state.co.us/>

2010 Colorado House of Representatives Scorecard

Member (District)	HB1036	HB1178	HB1370	HB1393	HB1404	SB10-87	SB10-099	SB10-114	SB10-203
Cindy Acree (40)	E	Y	Y	Y(C)	Y	Y	Y	N	N
Dennis Apuan (17)	Y(C)	Y	Y(C)	Y	Y	Y(C)	Y	Y	Y
David Balmer (39)	Y	Y	N	Y(C)	Y	Y	Y	Y	N
Randy Baumgardner (57)	Y	Y(C)	N	Y	Y	N	Y	N	N
Debbie Benefield (29)	Y	Y	Y	Y	Y	Y	Y	Y	Y
Laura Bradford (55)	Y	Y	Y	Y(C)	Y	Y	Y	N	N
Terrance Carroll (7)	Y	E	Y(C)	Y	Y	Y	Y	Y	Y
Edward Casso (32)	Y(C)	Y	Y(C)	Y	Y	Y	Y	Y	Y(C)
Lois Court (6)	Y(C)	Y(C)	Y(S)	Y	Y(C)	Y	Y	Y(C)	Y(C)
Kathleen Curry (61)	Y	Y	Y(C)	Y	Y	Y	Y	Y	Y
Brian DelGrosso (51)	Y	Y(C)	Y	Y	Y	Y	Y	N	N
Mark Ferrandino (2)	Y	Y	Y(C)	Y	Y	Y	Y	Y	Y(C)
Randy Fischer (53)	Y	Y	Y(C)	Y	Y	Y	Y	Y	Y
K. Jerry Frangas (4)	Y	Y(C)	E(C)	Y(C)	Y	Y	Y	Y	Y(C)
Sara Gagliardi (27)	Y	Y	Y(C)	Y	Y	Y	Y	Y	Y
Bob Gardner (21)	Y	Y	N	Y	Y	Y	Y	N	N
Cory Gardner (63)	Y	Y(C)	N	Y(C)	Y	N	Y	N	N
Cheri Gerou (25)	Y	Y(C)	Y	Y(C)	Y	Y	Y	N	N
Dickey Lee Hullinghorst (10)	Y	Y	Y(C)	Y	Y	Y	Y	Y	Y(C)
Joel Judd (5)	Y	Y	Y	Y	Y	Y	Y	Y	Y
Daniel Kagan (3)	Y	Y	Y(C)	Y	E	Y	Y	Y	Y
John Kefalas (52)	Y	Y	Y	Y(C)	Y	Y	Y	Y	Y
Andrew Kerr (26)	Y(C)	Y	Y(C)	Y	Y	Y	Y	Y	Y
James E. Kerr (28)	Y	Y(C)	N	Y(C)	Y	Y	Y(C)	N	N
Steve King (54)	Y	Y(C)	Y(C)	Y	Y	Y	E	N	N
Jeanne Labuda (1)	Y(C)	Y	Y(C)	Y	Y(C)	Y	Y(C)	Y(C)	Y(C)
Kent Lambert (14)	Y	Y(C)	N	Y	Y	Y	Y(C)	N	N
Claire Levy (13)	Y	Y	Y(C)	Y	Y	N	Y	N	Y
Larry Liston (16)	Y	Y	Y	Y	Y	Y(S)	Y	N	N
Marsha Looper (19)	Y	Y	Y(C)	Y(C)	Y	Y	Y	N	N
Tom Massey (60)	Y(S)	Y(C)	Y(C)	Y(C)	Y	Y	Y	N	Y
Mike May (44)	Y	Y(C)	N	Y	Y	Y	Y	N	Y
Elizabeth McCann (8)	Y	Y	Y(C)	Y	Y(S)	Y	Y	Y	Y
Liane McFayden (47)	Y	Y	Y(C)	Y	Y	Y	Y	Y	Y
Wes McKinley (64)	Y	N	Y	E	Y	Y	Y	Y	Y
Frank McNulty (43)	Y	Y(C)	N	Y	Y	Y	Y	N	Y
Michael Merrifield (18)	Y(C)	Y	Y(C)	Y	Y	Y	Y	Y	Y
Karen Middleton (42)	Y(C)	Y	Y(C)	Y(C)	Y	Y	E	Y	Y(S)
Joe Miklosi (9)	Y	Y	Y(C)	Y	Y	Y	Y	Y	Y(C)
Carole Murray (45)	Y	Y	Y(C)	Y	Y	Y	Y	N	Y
B.J. Nikkel (49)	Y(C)	Y(C)	Y	Y(S)	Y	N	Y	N	N
Sal Pace (46)	Y	Y(C)	Y(C)	Y	Y	Y	Y	Y	Y
Cherylin Peniston (35)	Y(C)	Y	Y(C)	Y	Y	Y	Y	Y	Y
Jack Pommer (11)	N	Y(C)	Y(C)	Y	Y	Y	Y	Y	Y(C)
Dianne Primavera (33)	Y	Y	Y(C)	Y	Y	Y	Y	Y	Y
Kevin Priola (30)	Y(C)	Y	Y	Y(C)	Y	Y(C)	Y	Y	N
Joe Rice (38)	Y	Y	Y(C)	Y	Y	Y	Y	E	Y(C)
Jim Riesberg (50)	Y	Y	Y(C)	Y	Y	Y	Y	N	Y
Ellen Roberts (59)	Y	Y(C)	Y(C)	Y(C)	Y	Y	Y	N	Y
Su Ryden (36)	Y	Y	Y(C)	Y	Y(C)	Y	Y	Y	Y(C)
Christine Scanlan (56)	Y(S)	Y	Y(C)	Y	Y	Y	Y	Y	Y
Sue Schafer (24)	Y(C)	Y(C)	Y(C)	Y	Y	Y(C)	Y	Y	Y
Judy Solano (31)	Y(C)	Y	Y(C)	Y	Y(C)	N	Y	Y	Y
Jerry Sonnenberg (65)	Y	Y	N	Y	Y	Y	Y	N	N
John Soper (34)	Y	Y	Y(C)	Y	Y	Y	Y	Y	Y

Member (District)	HB1036	HB1178	HB1370	HB1393	HB1404	SB10-87	SB10-099	SB10-114	SB10-203
Amy Stephens (20)	Y(C)	Y(S)	E	Y(C)	E	N	Y	N	Y
Kent Summers (22)	Y(C)	Y(C)	Y	Y(C)	Y	Y	Y	N	Y
Spencer Swalm (37)	Y	Y	N	Y	Y	Y	Y	N	N
Scott Tipton (58)	Y	Y(C)	E	Y	Y	N	Y	N	N
Nancy Todd (41)	Y(C)	Y(C)	Y(C)	Y	E	Y	Y(C)	Y	Y
Max Tyler (23)	Y	Y	Y(C)	Y	Y	Y	Y	Y	Y(C)
Glenn Vaad (48)	Y	Y	E(C)	E	Y	Y	Y	N	N
Edward Vigil (62)	Y(C)	Y	Y(C)	Y	Y(C)	Y	Y	Y	Y(C)
Mark Waller (15)	Y	Y(C)	Y	Y	Y	Y	Y	N	N
Paul Weissmann (12)	Y	Y	Y(C)	Y	Y	Y	Y(S)	Y(S)	Y(S)

2010 Colorado Senate Scorecard

Member (District)	HB1036	HB1178	HB1370	HB1393	HB1404	SB10-87	SB10-099	SB10-114	SB10-203
Bob Bacon (14)	Y(C)	Y	Y	Y	Y	Y(C)	Y	Y	Y(C)
Betty Boyd (21)	Y(C)	Y(C)	Y	Y	Y	Y(C)	Y	Y	Y(C)
Greg Brophy (1)	Y	Y	N	Y	Y	N	Y	Y	N
Bill Cadman (10)	Y(C)	Y	N	Y(C)	Y	N	Y(S)	Y	N
Morgan Carroll (29)	Y	Y	Y	Y	Y	Y(C)	Y	Y(S)	Y(S)
Joyce Foster (35)	Y(C)	Y	Y	Y	Y	Y	Y	Y	Y
Dan Gibbs (16)	Y(C)	E	Y	Y	Y	Y	Y	Y	Y
Ted Harvey (30)	Y	Y	Y	Y	Y	N	Y	Y	N
Rollie Heath (18)	Y	Y(C)	Y	Y	Y	Y	Y	Y	Y
Mary Hodge (25)	Y(C)	Y	Y	Y	Y	Y(C)	Y	Y	Y
Evie Hudak (19)	Y(C)	Y(C)	Y	Y	Y	Y	Y	Y	Y
Michael Johnston (33)	Y(C)	Y	Y	Y	Y	Y	Y	E	Y
Maryanne Keller (20)	Y(C)	Y	Y	Y	Y	Y	Y	Y	Y
Ken Kester (2)	Y	Y	N	Y	Y	N	Y	Y	N
Keith King (12)	Y(C)	Y	N	Y	Y	N	Y	Y	N
Mike Kopp (22)	Y(C)	Y	N	Y(S)	Y	N	Y	Y(C)	N
Kevin Lundberg (15)	E	Y	N	Y	Y	N	Y	Y	N
Shawn Mitchell (23)	E	Y	Y	Y	Y	N	Y	Y	N
John P. Morse (11)	Y	Y	Y	Y	Y	Y	Y(C)	Y	Y(C)
Linda Newell (26)	Y(C)	Y(C)	Y(C)	Y(C)	Y	Y	Y	Y	Y(C)
Joshua P. Penry (7)	Y	Y	N	Y	Y	N	Y(C)	Y	N
Scott W. Renfroe (13)	E	Y	N	Y	Y	N	Y	Y	N
Chris Romer (32)	Y(S)	Y(C)	Y	Y	Y	E	Y	Y	Y
Paula E. Sandoval (34)	Y	Y	Y	Y	Y	Y	Y	Y	Y
Mark Scheffel (4)	Y	Y(S)	N	Y	Y	N	Y	Y	N
David C. Schultheis (9)	Y(C)	Y(C)	N	Y(C)	Y	N	Y	Y	N
Brandon C. Shaffer (17)	Y	Y	Y	Y	Y	Y	Y	Y	Y(C)
Gail Schwartz (5)	Y	Y	Y	Y	Y	Y	Y	Y	Y
Nancy Spence (27)	Y(C)	Y	Y	Y	Y	N	Y	Y	N
Pat Steadman (31)	Y(C)	Y(C)	Y(S)	Y	Y(S)	Y(S)	Y	Y	Y
Abel Tapia (3)	Y	Y	Y	Y	Y	E	E	Y	Y
Lois Tochtrop (24)	Y	Y	Y	Y	Y	Y	Y	Y	Y
Al White (8)	Y	Y	Y	Y	Y	Y	Y	Y	N
Bruce Whitehead (6)	Y	Y	Y	Y	Y	Y	Y	Y	Y
Suzanne Williams (28)	Y	Y(C)	Y	Y(C)	Y	Y	Y	Y	Y



Transparency

Taxpayer Transparency Act of 2010 (SB 10-114)

The Colorado Open Records Act (CORA) sets the terms for how a person can access and review government records. Generally speaking, CORA allows anyone to review public documents maintained by government agencies. However, private companies are exempt from CORA, even when the private company is a contractor providing goods or services to the state. This bill provides that contracts between state agencies and private companies, and records about cost and performance measures under such contracts, are subject to disclosure under CORA through requests made to the state agency that entered into the contract. The bill died after the House and Senate could not reconcile their two versions.

Public School Financial Transparency Act (HB 1036)

This bill gives much-needed public access to financial information about school financing. Specifically, it requires that public school districts, district charter schools, boards of cooperative education, the state charter school institute, and charter schools post financial information on-line, in a downloadable format, for free public access.

Transparency in the use of grant moneys (HB 1178)

This bill requires each state agency that receives grant moneys from the federal government or from nongovernmental sources to submit a report to the joint budget committee of the general assembly specifying information about the grant, including the source, amount, and duration of the grant and the specific program for which the grant money is intended to be used. With this information, the public can see who is behind government programs funded by private sources.

Transparency Online Project Information (HB 1393)

This bill refined the law governing the posting of data to the state's on-line database of financial information by harmonizing the definition of "public record" in this law with the definition found in CORA and by providing a legal procedure for challenging the exclusion of information from the public database.



Accountability

Concerning the administration of the Independent Ethics Commission (HB 1404)

This bill removes the Independent Ethics Commission (IEC) and its staff from the Department of Personnel and administratively transfers them to the Judicial Department. Because Judicial Department employees, unlike Department of Personnel employees, are not subject to IEC jurisdiction, the transfer removes a potential source of conflict for the IEC and its staff and should help make the IEC more independent.

Concerning the authority of the SOS in connection to the regulation of lobbyists (SB 10-87)

This bill makes important changes to the regulation of lobbyists by the Secretary of State (Secretary) by giving the Secretary more power to impose penalties and regulate conduct. Specifically, the bill increases the penalties for late or missed filings while giving the Secretary authority to reduce or waive a fine upon a showing of a bona fide emergency. The bill also moves registration of volunteer lobbyists from the General Assembly to the Secretary, ensuring that all lobbyist registration and disclosure will be available in one central location. The Secretary is authorized to increase fees charged to professional lobbyists to pay for the cost of maintaining volunteer lobbyist data. The bill also significantly expands the list of prohibited practices for lobbyists, prohibiting by statute various forms of misrepresentation, improper influence, and certain political activities, and grants the Secretary concurrent jurisdiction with the General Assembly to process complaints against lobbyists.

Legislator Acceptance of Reimbursement (SB 10-99)

This bill clarifies the application of the Amendment 41 gift ban to payments for legislative travel made by interstate governmental organizations such as the National Conference of State Legislatures that were designated as "joint governmental agencies" in a statute that predated Amendment 41. The statute effectively codifies the approach taken by the IEC in its Position Statement 10-01 as it applies to these groups and establishes a legally enforceable standard of conduct. The bill is consistent with the IEC's interpretation of the gift ban and Amendment 41's goal of providing "specific standards" to guide the ethical conduct of public officials.



Campaign Integrity

Ballot Measure Disclosure Requirements (HB 1370)

This bill sets in place mandatory registration, disclosure and disclaimer requirements for committees formed to support or oppose ballot measures. Ballot issues have become prevalent on recent election ballots. This bill empowers voters by strengthening committee registration and transparency requirements.

Concerning Independent Expenditures in Colorado Elections After *Citizens United* (SB 10-203)

In response to the Supreme Court's decision in *Citizens United v. Federal Election Commission*, which struck down bans on direct election spending by corporations and labor unions, this bill establishes registration and disclosure requirements for groups that make independent expenditures. The bill also clarifies that Colorado continues to ban non-United States corporations from spending to influence state elections.