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New Hampshire gets D-grade in 2015 State Integrity Investigation

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By most accounts, New Hampshire is known for taking democracy pretty seriously. The state's credo, "Live Free or Die," is inscribed on its license plates. The state is proudly home to the nation's first presidential primary, and residents are known for asking hard questions of the candidates who become fixtures at parades, fairgrounds and diners across the state every four years.

But beyond the lofty reputation, not all is well at the Greek Revival capitol in Concord. In fact, the Granite State scored a 61, or D-, in the State Integrity Investigation, a study of transparency and accountability done by the Center for Public Integrity and Global Integrity. The score is even worse than the 66 the state got in the inaugural 2012 study, although the two scores are not directly comparable due to changes made to improve and update the project and methodology. No state scored above a C+ in the latest study, although New Hampshire is firmly in the lower tier; it was tied for 34th among the states, nearly the same ranking it had three years ago.

It isn't that New Hampshire lacks noble principles and high-minded laws aimed at ensuring an accountable government. A citizen's right to access government records is written into the state constitution; the state's venerable Executive Council is charged with overseeing the governor and reviewing all major state contracts in the light of day.

But the state's accountability rests heavily on the honor system; there are few entities within state government dedicated to ensuring that public officials and agencies behave themselves.

Free spending

These weaknesses are manifested clearly in the state's political finance system, which received a category score of 51, a solid F. The state's political finance law, Chapter 664, sets limits for political contributions and lays out disclosure requirements for candidates and political committees. But there's almost no review to make sure they comply with the rules, let alone sanctions applied when they fail to do so. A limited inspection of the records revealed multiple apparent violations and other eyebrow-raising practices.

For example, former Senate President Peter Bragdon was able to empty out his campaign account in 2014 by paying himself nearly \$32,000 in two separate payments. The Republican senator announced in mid-2014 that he would not seek re-election after taking the top job a year earlier with a quasi-public health insurance organization. (Bragdon's participation as a senator in matters that could affect his new employer was the subject of an ethics investigation.) In his state filings, Bragdon described the first payment as a "reimbursement/loan repayment" and the final payment as a "reimbursement."

Bragdon said in an interview that he mislabeled the first payment as a loan repayment; both, he stated, were reimbursements for "expenses I had incurred related to my role as state senator and/or Senate (president) and paid out of my pocket." None of those expenses were documented in the reports.

Bragdon's use of campaign funds was not flagged for review by officials, nor was it reported on by the New Hampshire press, which has had a diminished presence at the Statehouse in recent years. In any case, Chapter 664 is strangely ambiguous about what expenses are allowed during election season. A top official with the attorney general's office conceded that the way the statute is written, "there isn't that much that prohibits what a campaign spends its funds on."

The law is explicit that any surplus campaign funds cannot be used outside of election periods for "personal purposes." However, a review of campaign records raised questions about lawmakers' compliance with this part of the law as well. For example, a longtime executive councilor received monthly payments of approximately \$1,000 to \$3,000 on a year-round basis from his political committee for catch-all expenses that included gas, rooms, meals, car maintenance and casual labor, according to his state filings.

A reliance on public scrutiny

New Hampshire prides itself on a citizen legislature; the 424 lawmakers are paid all of \$100 a year and are regarded as civic-minded volunteers. This may help explain why there is little appetite among legislators for tougher enforcement of campaign rules that many already regard as onerous.

Deputy Secretary of State David Scanlan said the requirement that candidates' finances be disclosed, but without any accompanying audits, was in keeping with New Hampshire's approach to accountability. "The review of reports are subject to the general public when they decide they want to look up information," he said.

The office of the attorney general, which is responsible for enforcing campaign and election laws, has almost never sanctioned a candidate or political committee in recent years; the exception was in 2014, when it ruled that the two candidates for governor had circumvented the rules. The challenger filed an amended report, while the incumbent was ordered to return some cash. Officials with the attorney general's office, which is also responsible for prosecuting major criminal cases, have said their resources are limited when it comes to enforcing campaign and election laws.

Under-resourcing

New Hampshire's low marks for campaign finance came as no surprise to reform advocates. "Time and again we ran into the issue of a complete under-resourcing of the infrastructure to properly enforce the laws," said Daniel Weeks, the executive director of Open Democracy, a state-based group that advocates limiting the flow of money in politics, particularly from super-PACs and other third party groups.

Open Democracy lodged a complaint in October 2014 with the state attorney general's office charging that the state branch of Americans for Prosperity did not register or disclose spending on the 2014 election under a newly enacted rule governing "political advocacy organizations." Nearly a year later, the office had yet to officially respond to the complaint.

Tracking how candidates spend their money and who contributes to them is further complicated by the state's antiquated campaign finance website. Separate reports for each candidate and committee are simply scanned and posted as PDFs.

The posting of original documents online, as opposed to putting them in searchable form, is a common complaint across state government websites in New Hampshire; as a result, the state received low scores in several categories of the State Integrity Investigation for not adhering to modern "open data" standards.

New Hampshire also scored poorly on "access to information." The right of citizens to access government records and meetings is enshrined in the state constitution and is clearly defined in Chapter 91-A, commonly known as the "right to know" law. But in practice, this right is circumscribed both by legal exemptions (the governor's office is not subject to the law), and the lack of any formal mechanism for appealing when agencies rebuff information requests. In such cases, a citizen's only recourse is the court system. And the bar for recovering attorney fees and other costs is dauntingly high — only when an agency "knew or should have known" that materials were wrongfully withheld.

Many of New Hampshire's other low scores stem from a lack of formal oversight entities: there's no central office responsible for fielding right-to-know requests and no statewide ethics agency with sanctioning authority.

But this is a badge of honor for some officials; the Granite State has an historical belief in limited government and an aversion to bureaucracy. And more than a few noted that New Hampshire has had far fewer corruption scandals than states with robust oversight bodies.

A common sentiment is that the political culture of the state is small and collegial enough that folks would take note of funny business. "The expectations of one's peers is one of the greatest checks on human behavior," said Charles Arlinghaus, the president of the Josiah Bartlett Center for Public Policy, a venerable conservative think tank.

This may be, but New Hampshire is changing. The number of lobbyists in the state has grown every year over the past decade: there are now more than 500 of them registered with the state. And while races for the 400 seats in the House of Representatives remain small-scale affairs, the amount spent on other state races rose to a new high of nearly \$20 million in 2014. All of this raises the question whether New Hampshire's deep-rooted system of accountability, with its heavy reliance on trust, is up to the task in the modern political era.

This story is from the Center for Public Integrity, a nonprofit, nonpartisan investigative news organization in Washington, D.C. It is part of State Integrity 2015 (https://www.publicintegrity.org/accountability/state-integrity-investigation/state-integrity-2015?utm_campaign=syndication&utm_source=yahoo-news&utm_medium=taxonomy-link). How do each state's laws and practices deter corruption, promote transparency and enforce accountability? Click [here to read more stories in this investigation.](#) (/csp/mediapool/)

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