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MY TURN

Partisan politics and ethics don't mix

House bill would be recipe for disaster

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For the Monitor

New Hampshire is one of a small minority of states without a statewide commission for the enforcement of ethics rules for the executive branch. Since his election in a campaign that repeatedly called for the highest ethical standards in state government, Gov. John Lynch has sought to address this need with the creation of an executive ethics commission to develop guidance and ensure strong, nonpartisan enforcement of the ethics code.

In the first months, the new administration's efforts met no significant resistance. A bill moved through the Senate in less than two months and passed unanimously. The bill would create a seven-member commission; mandate absolute political balance in its membership (three Republicans, three Democrats, one undeclared member); and allocate membership selection authority between the governor (five nominations) and, jointly, the secretary of state and the state treasurer (two).

Since last March, however, the governor's bill has been mired in a subcommittee of the House Election Law Committee. In that time, it has been amended by the Republican majority to eliminate a meaningful role for all New Hampshire governors in the membership selection process and – perhaps of greater concern – to abolish mandatory political party balance.

Under the amended bill, which the full committee is scheduled to vote on today, five of the seven nominations would originate with the Executive Council. This would place control over the makeup of the commission with the council, historically a Republican body, rather than the governor. In addition, the dual role of both nominating and confirming is unprecedented for the council.

Of greater consequence, the subcommittee has eliminated the legislative mandate for political party balance. Membership could instead comprise four members from one party, no members from the opposing party and three undeclared members.

It is difficult to watch this process without becoming discouraged and cynical. Ethics and integrity in government are one of those nonpartisan issues that all voters agree on. Yet both the

process and the product of this House subcommittee have elevated politics above the state's need for nonpartisan, long-term, effective oversight for those who manage our government.

There is virtually no precedent for the subcommittee's action. Twenty-six of the 35 states with executive ethics commissions – in red states as well as blue – have given most or all of the membership selections to the governor. This recognizes that a meaningful role in shaping committee membership is essential if the governor is to be held accountable for the conduct of the executive branch.

In 23 of 35 states with commissions, political party balance in the membership is mandatory by statute – a clear effort to insulate ethics oversight and enforcement from the vagaries of partisan politics. Under the bill passed unanimously by the Senate, this crucial guarantee existed. The subcommittee's Republican majority has eliminated it and inserted in its place an appointment procedure that can easily result in a commission dominated by one party or the other.

This is a recipe for disaster. Although partisan politics is a healthy component of a vital democracy, it has no legitimate

role in ethics oversight and enforcement. By way of comparison, none of us would tolerate the idea that partisan politics might affect the exercise of investigative or prosecutorial decision-making in our criminal justice system. Ethics investigations and prosecutions should be treated no differently.

New Hampshire will be best served by an executive ethics commission that is removed from partisan politics by law as well as by the wisdom of the authorities who appoint its members.

The legislation now to be considered by the full Election Law Committee is going to operate under Republican and Democratic administrations into the indefinite future. Yet the bill fails in achieving its fundamental goal: the creation of a commission that will operate free of partisan politics to achieve the highest standards in government.

New Hampshire citizens can only hope that the full committee will have the good sense to reject its subcommittee's bill and demand a nonpartisan commission.

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