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Subcommittee Report on Legislative Compensation

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GOVERNOR'S ETHICS AND CAMPAIGN FINANCE REFORM TASK FORCE

Subcommittee on Legislative Compensation

Issue Identification: Currently, under Section 1-19-29.1 NMSA 1978 legislators may use campaign funds for “expenditures ... reasonably related to performing the duties of office held, including mail, telephone, and travel expenditures to serve constituents, but excluding personal and legislative session living expenses”. An unintended consequence of allowing campaign funds for performance of duties of the office may be that a legislator(s) may be dependent in some measures on funds given to them by third parties who have specific interests they are promoting or supporting.

In addition to the perception that legislators may be receiving contributions for political consideration, there is an even greater issue of fairness to those who have chosen to serve the public in our “citizen legislatures”. There is no reason for legislators to spend their own funds and/or receive funds from special interest just to perform their duties. County Commissions and City Councils are essentially “citizen legislatures” for their jurisdictions and we have authorized both staff support and compensation for those who serve in these jurisdictions. In Dona Ana County, the Commissioners receive an annual compensation of \$25,708.80 plus some expenses and the Las Cruces City Council members currently receive \$22,368.00 but new members of the Council will receive \$25,712.00 plus some expenses.

New Mexico Town Hall 14 on “The Structure of Government in New Mexico” opined that “the manner of setting legislators’ compensation is archaic, awkward and difficult to appraise. The Town Hall believes that the manner should be changed to provide sufficient compensation for time and expense”.

Options:

The resolution to the issue is to: (1) repeal Section 1-19-29.1 NMSA 1978 which allows legislators to use campaign funds for legislative purpose (2) limit the value of gifts that may be received by any public official and (3) send to the voters a constitutional amendment to Article 4, Section 10 of the Constitution which would permit legislative compensation and/or expenses.

Option A: Amend the Constitution to allow a stipend of \$24,000 per year for members of the House of Representatives and the Senate.

Pros:

- 40 of the 50 States provide some compensation for legislators, ranging from \$7,200 in Texas to \$110,880 in California.
- In the surrounding states, Oklahoma legislators receive \$38,400; Colorado \$30,000; Utah no salary; Arizona \$24,000; Texas \$7,200.
- We currently permit cities and counties in New Mexico to pay a salary to elected County Commissioners and City Council members and they are deemed “citizen legislative bodies”.
- An appropriate salary may encourage a greater citizen interest in seeking legislative office.
- A salary would help defray part of the expense of being away from a person’s business or profession during legislative sessions.
- The provision of some salary should reduce the need for individual, lobbyist or corporate contribution to sustain one’s public service.

Cons:

- The good folks of New Mexico have, on at least 10 occasions, voted down even a hint of offering salaries to legislators. Some of the votes, early on, were close but more recent votes, no matter how cleverly disguised, have been overwhelmingly turned down.
- It would cost \$2,688,000 per year to fund salaries at \$24,000 per year per legislator.

Option Evaluation Criteria:

- Would be a real stretch to say this is doable.
- It is definitely affordable as the \$2,688,000 is a fraction of the overall State budget.
- It eliminates the perception, if not the reality, that campaign contributions are necessary to support legislative activities.
- The best cultural change may be to recruit a deeper pool of candidates.
- 40 of 50 States have salaries for their legislators.
- It removes the loophole that “I took this large contribution so I could support my legislative activities”.
- In an environment where both federal and state officials are under investigation or indictment, this would seem to fit the circumstances but, in reality, it is just plain fair to compensate those who are willing to serve and who do a good job with little other support.

Option B: Provide either by amendment to the Constitution or statutorily, after the abolition of Article 4, Section 10, an expense allowance of up

to \$1,000 per month for legislative expenses with the requirement that these funds cannot be used for campaign purposes.

Pros:

- It appears that over 30 States have some form of expense allowance and, in some cases, provide for staff salaries.
- It would provide for the expenses incurred by legislators as they serve their constituents. This is especially critical in a rural state where travel distances are great and mileage reimbursement is not authorized.
- The funds cannot be used for campaign purposes.
- This would be a much easier Constitutional amendment to pass.
- The level of reimbursement could be established statutorily, once the constitutional prohibition was removed.
- It would alleviate the need for campaign funds to be used for legislative purpose and would remove the personal burden of funding legislative activities.

Cons:

- It would cost the State up to \$1,344,000 per year to fund.
- It is still not easy to pass the requisite constitutional amendment but this proposal probably has the best prospects of passage if properly stated and marketed.

Option Evaluation Criteria:

- See all above or Option A.
- This option is less expensive.

Option C: A combination of A and B in which the legislators would receive both a salary and an expense account.

Pros:

- Over 30 states now offer both salary and expenses with expense accounts starting as low as \$350 plus seven rolls of stamps up to \$260,000 for each assemblyman in California.
- Of the surrounding states, Colorado, Oklahoma, and Texas have expense accounts and salaries but Utah and Arizona do not provide for expense accounts.
- Does address the expansion of the legislative and takes care of current concerns of legislators.
- The prohibitions for both A and B would apply.

- Perhaps would appeal to a larger number of legislators because some like the salary proposal and some prefer the expense proposal.

Cons:

- This could be the most difficult option to explain to the voters.
- The expense could be higher depending upon levels set for salaries and expenses.

RECOMMENDATIONS:

1. Repeal Section 1-19-29.1 of the New Mexico code.
2. Replace with a strict prohibition for the use of campaign funds for anything but campaign expenditures and include, as a penalty for violation, disqualification as a candidate, removal from office and/or forfeiture of legislative or governmental retirement, or treble damages.
3. Submit a constitutional amendment to the voters permitting legislators to receive up to \$1,000 per month for expenses to support their legislative service but with the restriction that these funds cannot be used for campaign purposes. (see attached proposal)

ISSUES TO BE SETTLED BY THE TASK FORCE:

1. Should there be a strict limitation on the use of campaign funds for support of legislative duties?
2. Should legislators receive (1) a salary, (2) expenses, or (3) both a salary and expenses.
3. If any compensation or expense accounts are proposed, what would be the appropriate levels of each?
4. If any compensation or expense accounts are proposed, what would be the task force recommendation for the consequences of violating laws, rules or regulations governing the same?
5. What is the preferred strategy for achieving the task force recommendation?