

7-26-2006

## Approved Minutes of the Fourth Meeting of the Governor's Ethics and Campaign Finance Reform Task Force

Governor's Task Force on Ethics Reform

Follow this and additional works at: [https://digitalrepository.unm.edu/law\\_service\\_ethicsreform](https://digitalrepository.unm.edu/law_service_ethicsreform)



Part of the Law Commons

University of New Mexico

UNM Digital Repository

---

### Recommended Citation

on Ethics Reform, Governor's Task Force. "Approved Minutes of the Fourth Meeting of the Governor's Ethics and Campaign Finance Reform Task Force." (2006). [https://digitalrepository.unm.edu/law\\_service\\_ethicsreform/13](https://digitalrepository.unm.edu/law_service_ethicsreform/13)

This Minutes is brought to you for free and open access by the Law Faculty Service at UNM Digital Repository. It has been accepted for inclusion in Governor Richardson's Task Force on Ethics Reform (2006) by an authorized administrator of UNM Digital Repository. For more information, please contact [amywinter@unm.edu](mailto:amywinter@unm.edu), [lsloane@salud.unm.edu](mailto:lsloane@salud.unm.edu), [sarahrk@unm.edu](mailto:sarahrk@unm.edu).



**APPROVED MINUTES  
of the  
FOURTH MEETING  
of the  
GOVERNOR’S ETHICS AND CAMPAIGN FINANCE REFORM TASK FORCE**

**July 26, 2006  
University of New Mexico School of Law**

On July 26, 2006, the fourth meeting of the Governor’s Ethics and Campaign Finance Reform Task Force, hereinafter referred to as the “task force,” was held at the University of New Mexico School of Law in Albuquerque, New Mexico.

**PRESENT**

Gov. Garrey Carruthers, Dean, NMSU College of Business, Co-Chair  
Suellyn Scarnecchia, Dean, UNM School of Law, Co-Chair  
Stuart Bluestone, NM Chief Deputy Attorney General  
Barbara Brazil, President, New Mexico First  
Matt Brix, Executive Director, Common Cause  
Maralyn Budke, Public Member  
Dede Feldman, NM State Senator  
Mary Graña, Public Member  
W. Ken Martinez, NM State Representative  
Kathy McCoy, NM State Representative  
Andrew Montgomery, Public Member  
Jim Noel, Executive Director, NM Judicial Standards Commission  
Leonard Sanchez, CPA, Moss-Adams + Neff, L.L.P.  
Zachary Shandler, NM Assistant Attorney General  
Hilary Tompkins, Chief Counsel, Office of the Governor

**ABSENT**

Doug Brown, NM State Treasurer  
John Carey, President & CEO, Association of Commerce & Industry  
Gay Kernan, NM State Senator  
Ron Solimon, President & CEO, Indian Pueblo Cultural Center  
Stewart Udall, Former U.S. Secretary of the Interior  
Brad Winter, Albuquerque City Councilor

**STAFF**

Justin Miller, Associate General Counsel, Office of the Governor  
Olivia Padilla-Jackson, Director, New Mexico State Board of Finance  
Amy Camille Chavez, Deputy Director, New Mexico State Board of Finance  
Tomás Martinez, New Mexico State Board of Finance

## **Committee Business and Discussion of Task Force Priorities**

Governor Carruthers and Dean Scarnecchia called the meeting to order at approximately 9:00 a.m. The minutes from the last meeting of the task force on June 28-29, 2006 were approved with corrections. Dean Scarnecchia reminded the task force members of the objectives set for the task force in the executive order by which it was established. The executive order requires the task force to develop a broad package of recommendations to the Governor no later than November 1, 2006. The task force is further required to include in its review a comprehensive assessment of current state laws and regulations applicable to ethics and campaign finance reform. The task force members discussed the November 1 deadline and agreed to seek to provide recommendations to the Governor by early October.

Dean Scarnecchia distributed a list of options for reform that were discussed during the previous task force meetings. The list distributed is included below. Additions to the list suggested by the task force members are underlined.

### **Governmental Conduct:**

- Ban gifts to all public officials and employees.
- Require public officials to disclose all gifts of money and other items.
- Place a monetary limit on gifts from donors.
- Lower the threshold for reporting financial interests.
- Require the Secretary of State to investigate a random sample of financial disclosure reports.
- Require electronic reporting for easier and more efficient public access.
- Expand the positions to which nepotism restrictions apply (beyond clerk, deputy and assistant).
- Apply nepotism restrictions to high-level appointed positions.
- Require lobbyists to report contributions electronically.
- Require the Secretary of State to investigate a random sample of reports from lobbyists.
- Improve tracking of indirect contributions of lobbyists.
- Mandate disclosure and disqualification when there is a conflict of interest; avoid all appearance of impropriety.
- Remove the governor's power to exempt a public office from the disqualification provision.
- Add a prohibition against disclosing confidential information (currently only a prohibition against using it for private gain).
- Strengthen prohibition against entering into contracts with public officers or employees and apply prohibition to family members as well, unless there is full disclosure of the financial interest and it is a competitive contracting process.
- Require all public officers, employees and lobbyists to undergo periodic ethical training. (Legislators must do 2 hours every other year).
- Forfeiture of state pensions for violations of ethical or criminal laws.
- Establish a personnel code for exempt employees.

- Seek opportunities to reduce conflicts of interest.
- Prohibit the use of state property for political or personal activity.

### **Campaign Finance:**

- More oversight and enforcement of lawful campaign expenditures.
- Training for elected officials and candidates for elected office about what constitutes lawful expenditures.
- Limit the aggregate annual amount a donor and political committee can give to a political candidate.
- Limit or ban campaign contributions from corporations and unions.
- Limit cash contributions.
- Require more frequent campaign reporting, such as quarterly instead of annually, and ensure that random audits of reports are carried out.
- Require electronic filing of campaign reports.
- Require additional information on campaign reports such as the name of the donor's employer and aggregate contribution totals for each donor.
- Expand the Public Regulation Commission clean elections system to additional officers (contested partisan judicial elections and other contested statewide and legislative races).
- Define and regulate third-party expenditures.
- Require out-of-state third party expenditures to be reported in New Mexico.
- Limit or ban legislative campaign contributions from registered lobbyists.

### **Legislative Compensation:**

- Provide legislative salaries.
- Establish a bright line rule that prohibits legislative gifts that exceed a certain monetary value.
- Prohibit use of legislative campaign funds for expenses incurred in the course of legislative activity.
- Provide an expense allowance for legislative expenses.
- Implement 50-day legislative sessions each year.
- Provide for enforcement of and sanctions with respect to legislative expense rules.

### **Prevention and Enforcement:**

- Establish an executive branch independent ethics commission.
- Enact a uniform ethics code, applicable to executive and legislative branch employees and consolidate the state's scattered ethics laws into a single act.
- Implement a plain language ethics guide that can be easily understood by all state employees and the public.
- Implement a business ethics guide that is binding on third parties that conduct business with the state.
- Provide leadership from the top. Ensure that there is no undue influence by former state officials and employees on state law and policy development by adopting rigorous post-employment restrictions and effective follow-up procedures.

- Strengthen anti-nepotism laws.
- Impose ethics laws on administration transition teams.
- Adopt a zero-tolerance policy on gifts.
- Establish an independent commission on campaign practices, financial reporting and lobbyist oversight.
- Establish a legislative branch independent ethics commission.
- Provide ethics training to public officials and lobbyists.
- Strengthen forfeiture laws.

### **Other Options:**

- Continue the work of the task force next year.
- Make the office of the State Treasurer an appointed position.

Dean Scarnecchia presented a list of option evaluation criteria for the task force members to consider in prioritizing the selection of options for reform. The following questions were considered:

- Is the proposed course of action doable? Is the course of action something that the state can implement in a practical manner?
- Is the proposed course of action affordable? Will the course of action cause excessive financial burdens upon the affected stakeholders?
- Does the proposed course of action address perceived problems or problems that actually exist?
- Has the proposed course of action been used or tested in this state or in other states? Has this course of action proven to be successful?
- Will the proposed course of action enhance the ethical conduct of civil servants?
- Is the proposed course of action responsive to current circumstances in New Mexico?

Task force members suggested that a cost-benefit analysis also be included as part of the evaluation criteria analysis.

The task force members prioritized the topics that the task force would address during the remainder of the course of its work. They agreed to address topics including ethics commission formation, campaign contribution limits, public finance, legislative compensation and the receipt of gifts by public officials. Subcommittees were formed with respect to each topic identified. Governor Carruthers and Dean Scarnecchia asked each subcommittee to prepare recommendations with respect to their respective topics.

The task force members discussed the types of recommendations that each subcommittee might consider. Some task force members suggested that the subcommittee responsible for the topic involving gifts discuss the possibility of creating a bright line test for the receipt of gifts by public officials. While some task force members advocated a complete ban on the receipt of gifts by state government officials, others expressed preference to limit the those gifts. Task force members expressed beliefs that such a limitation would be a feasible solution to real and perceived conflicts of interest.

The task force members also discussed possibilities to reduce conflicts of interest in state government. Some task force members indicated that legislation passed during the 2006 legislative session to rectify some conflict of interest issues. Others suggested that the task force explore methods to eliminate nepotism and contract preferences.

With respect to campaign contribution limits, some task force members indicated their preference to explore complete bans on campaign contributions. The role of third-party contributions was additionally discussed as an option for consideration. Some members suggested that contribution limits be explored in conjunction with reporting requirements. Other task force members suggested that the imposition of campaign contribution limits in New Mexico is feasible, since several states have successfully imposed such limits.

In addition, the task force members discussed whether the implementation of publicly funded campaigns would be a feasible option for reform. Some members expressed concern about the potential difficulty in implementing publicly funded campaigns. Others stated beliefs that implementing publicly funded campaigns would constitute bold reform and promote a purer election process and major cultural reform. Some task force members suggested an incremental approach to implementing such public funding.

The task force members discussed issues that might be relevant with respect to legislative compensation. Others discussed the necessity for constitutional amendment if legislative compensation is pursued. Some task force members mentioned that it might be possible to hold a constitutional convention to implement the necessary constitutional reforms. The task force members additionally discussed the possibility of creating separate legislative expense accounts to eliminate the need for the use of legislative campaign funds for legislative business expenses.

The task force members also identified the formation of ethics commissions as a discussion priority. They addressed separation of powers issues that might arise and the different standards to which officials that work within different branches of government are held. They further discussed the possibility of revising all state ethics laws and compiling them into a comprehensive statutory act. Some members suggested that a pamphlet of ethics standards be printed and distributed to government officials. Other suggestions included the creation of an “ethics clearinghouse” that would receive complaints with respect to ethics violations and refer those complaints to proper authorities for investigation.

## **Public Comment**

Dean Scarnecchia opened the discussion to comment from the members of the public present at the meeting. Gail Prideke, of Common Cause New Mexico and the League of Women Voters, stated her belief that gifts from lobbyists should be limited. Jack Taylor, chair of Common Cause New Mexico, expressed support of compensation for legislators and indicated his belief that it would be a feasible means of promoting good government practices. Terry Riley of Democracy for New Mexico also expressed support of legislative compensation. Mr. Riley stated that conflicts of interest minimization should continue to be a part of task force discussions. Marty Melsher asked the task force members to discuss issues that address behavior, access, impact, influence and accountability of government officials. Chad MacQuiggy stated that the task force should recommend stronger measures to promote accountability and to prevent abuses of power.

Milton Bock stated his belief that parties that provide gifts to legislators often derive some influence or otherwise benefit from that action. He thus stated that gifts to legislators should be banned altogether.

Paul Biderman, director of the Institute of Public Law, stated his belief that the strict standards of the judicial code of conduct should remain separate from codes of conduct applied to other government officials.

Eliot Gould discussed his views on campaign contributions made by corporations and special interest groups and the potential for undue influence. Jeff Armijo, a candidate for State Auditor, stated that the task force might consider the possibility of the provision of assurance services by the state auditor in cases in which audits are not necessary. Mr. Armijo also suggested that electronic means be used to report the results.

Clifford Reese stated that ethics laws should be clarified so that attorneys can provide good advice to clients with respect to what constitutes ethical behavior. He also indicated that some statutory conflicts might exist between the Governmental Conduct Act and the Procurement Code.

Marilyn Morgan, president of the New Mexico League of Women Voters, expressed support of campaign finance reform to encourage citizens to run for office. She stated that a clear legal structure should be provided to average citizens to aid them in the process of raising campaign funds and running for office.

Terry Riley, stated that government employees that conduct ethics investigations in Bolivia are appointed for six-year terms. They take complaints from citizens and have subpoena power. He suggested that a similar mechanism might be studied for use in New Mexico.

Homer Robinson asked the task force to consider options to minimize conflicts of interest. Bob Johnson suggested that legislative conference committees be held open to

demonstrate that all decisions are made in the public interest. Amy McIlvaine of LRN Corporation discussed that corporation's role in assisting organizations to form corporate cultures that work within ethical laws and other requirements. Victor Williams stated that stiff penalties should be enacted to punish government workers that violate ethics laws. He suggested government employees that commit ethics violations should cease to receive government employee pension benefits. Alice Overst expressed her support of the enactment of campaign contribution limits.

### **Work Plan Development**

The task force members unanimously voted upon and finalized the topics for study by the task force subcommittees. The task force members discussed the manner in which the subcommittee topics would be approached. They agreed that each subcommittee would address: (1) how the issues relate to ethics or campaign finance reform; (2) options for reform; and (3) the pros and cons of each option. The task force members also agreed to consider the option evaluation criteria presented earlier. Each subcommittee agreed to make recommendations to the task force with respect to the options studied.

### **Additional Public Comment**

The task force members heard additional comments from public participants at the meeting. Eunice Crane expressed concerns regarding past events at the State Treasurer's Office. Geno Zamora stated that any ethics commission that is created should have the power to recommend removal of public officers for ethics violations. He also indicated that the commission should have investigatory powers.

The task force adjourned at approximately 2:15 p.m. Because the task force adjourned earlier than planned, Dean Scarnecchia reported back to the meeting room to receive public comment from individuals who had planned on providing their comments at a later time during the day. Attached is a memorandum provided to the task force members concerning those comments.