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Should the State Treasurer and the State Auditor Be Appointed?

Governor's Task Force on Ethics Reform

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Issue Statement on whether State Treasurer and State Auditor should be appointed rather than elected

The impetus for this issue arises from the difficulty of disciplining or removing an official from elective office in the case of misconduct. Currently, the only provision for enforcement is impeachment. Impeachment is an expensive and burdensome procedure, especially for legislators who must devote great amounts of extra time. Also, voters are wary of any process which overturns their will as expressed at the polls. In part for these reasons, impeachment has been involved in New Mexico only _____ times and has been successful in removing an elected official only ____ [Note: has it ever been successful?]

The practical effect of this situation is to remove accountability from these offices. The checks and balances that are central to successful governance are absent. Below is a discussion of whether making these offices appointive would be an improvement.

Why the focus on the State Treasurer and State Auditor?

These offices involve more specialized expertise than do the more generalized elective positions of Governor, Lieutenant Governor or Secretary of State. An appointed process can establish minimal qualifications and selection criteria that should result in better qualified conditions. For example, why shouldn't the State Auditor be required to be a CPA?

Attorney General is another specialized position, but keeping that office elective is an important safeguard against over-reaching activity on the part of the Governor. Having the PRC be elected is somewhat problematic, but the purview of those Commissioners is more broad than either the State Treasurer or State Auditor.

How would appointment purport to produce better accountability?

An appointive position is subject to removal by the appointing body. In fact, the mere specter of removal is itself a powerful influence on molding conduct. Clearly, a thoughtful process should be established for the removal from office of a high-ranking state official, and channels of appeal should be established. Otherwise, removal of an office holder could be arbitrary or capricious.

Who should be the appointing body?

As such appointments are generally an executive function, the usual patterns in appointive states is for the appointments to be made by the Governor. One state directs this authority to the state legislature. [Check this]

Arguments in favor of appointive office:

- It's broken. The absence of effective checks and balances has contributed to a pattern of corrupt behavior. Over the years, six state treasurers have been indicted for various deeds of misconduct.
- Accountability would be strengthened greatly by the power of removal and by the threat of removal
- Minimal qualification standards could be established.

- A rigorous selection process could be established that should lead to better qualified candidates.

Arguments for keeping these offices elective:

- A Governor could appoint an unqualified officer or political crony and could ignore deeds of misconduct.
- The legislature could be reluctant to add another element of power to the executive office.
- The voters may be reluctant to approve a constitutional change that would eliminate their power to elect these officials. Forty of the fifty states elect their state treasurers.

Next Steps

- Develop the issues further and expose them to the full Ethics Task Force for discussion in an open meeting.
- Do research on whether appointive states have records of less misconduct.
- Explore the various legal and constitutional facets. For example, the State Treasurer is currently eighth in line for succession to the Governor's office in event of a catastrophe. One could argue that an unelected official ought not to be in line for succession to the Governor.