

# The Call for a Special Session on Ethics Reform

**Joint Governmental Affairs Committee  
February 6, 2008**

# Items in the Call

- 1. Require financial disclosure**
- 2. Address conflicts of interest**
- 3. Shine light on lobbyist activities**
- 4. Improve ethics education and enforcement**
- 5. Increase transparency and public access to information**
- 6. Combat fraud and abuse**
- 7. Improve campaign finance laws**

# ITEM NO. 1: Financial Disclosure

## 1. The gubernatorial financial disclosure form will be enhanced to include:

- board affiliations
- the identity of clients
- job titles and descriptions
- value ranges for real property

The current form includes:

- A. employment and officer/director positions
- B. business interests
- C. personal income (in value ranges)
- D. real estate holdings
- E. investment transactions
- F. liabilities

# ITEM NO. 1: Financial Disclosure

(continued)

Existing value ranges in the governor's disclosure form:

- I. Less than \$5,000
- II. \$5,000 to \$24,999
- III. \$25,000 to \$49,999
- IV. \$50,000 to \$99,999
- V. \$100,000 to \$199,999
- VI. \$200,000 or more

# ITEM NO. 1: Financial Disclosure

(continued)

## **2. This revised governor's form will be implemented for a variety of actors in government:**

- all statewide elected officials
- executive branch department heads
- legislators
- all officials elected from voting districts with a population of five thousand or more
- all members of the Board of Elementary and Secondary Education
- all members of the Ethics Board and its administrator
- judges, unless the Judiciary Commission implements equivalent disclosure standards.

# ITEM NO. 1: Financial Disclosure

(continued)

## **3. An alternate form of disclosure will be established for:**

- all officials elected from a voting district with a population of less than five thousand
- all appointees to statewide boards and commissions with authority to administer public funds of at least \$10,000 per fiscal year

## **This form will include:**

- occupation and address
- source and value ranges for income above \$250 derived from the state or political subdivisions and gaming interests
- certification that income taxes have been filed

# ITEM NO. 1: Financial Disclosure

(continued)

- 4. For all of these offices, candidates will make the same disclosures as required for office holders.**

# ITEM NO. 2: Conflicts of Interest

- 1. Legislators, their spouses, and businesses will no longer be allowed to enter any contracts with the state that are authorized or renewed during their term of office and for one year thereafter.**

The exception in current law allows legislators and his/her immediate family to enter into competitively bid or negotiated contracts with state government.

Retail transactions under \$2,500 will be excluded from the definition of contract in the ethics code.

# ITEM NO. 2: Conflicts of Interest

(continued)

- 2. Competitively bid contracts for the parents, children, and siblings of legislators will continue to be allowed.**

Disclosure requirements will be required for all competitively bid contracts between the state and these individuals.

- 3. The governor will have the authority to temporarily waive the prohibition on retail transactions over \$2,500 during disasters.**
- 4. Statewide elected officials, legislators, their spouses, and businesses will be prohibited from receiving recovery-related contracts during their term of office and for one year thereafter.**

# ITEM NO. 2: Conflicts of Interest

(continued)

- 5. Statewide elected officials, heads of executive departments, and legislators will be prohibited from representing clients for compensation before any state agency with an exception for “ministerial matters.”**
  - Ministerial matters are routine, administrative communications with state government that do not involve discretion or judgment by public employees (e.g. filing tax returns).
  
- 6. Legislators cannot be retained as co-counsel after a judgment against the state becomes final.**

# ITEM NO. 2: Conflicts of Interest

(continued)

- 7. Immediate family members of statewide elected officials, executive branch department heads, and legislators will be prohibited from lobbying the official or their staff.**
  
- 8. Legislators will be prohibited from performing lobbying services as a consultant.**

# ITEM NO. 2: Conflicts of Interest

(continued)

- 9. Non-governmental entities will be required to submit a supplemental information form to the Secretary of the Senate and the Clerk of the House, who should make these forms readily available to the public.**

# ITEM NO. 2: Conflicts of Interest

(continued)

- 10. The exception for elected officials that allows them to receive gifts in the form of cultural and sporting events will be repealed.**
  
- 11. The legislature will be required to obtain a two-thirds vote to enact exceptions to the Ethics Code.**
  
- 12. The exception that allows elected officials to prepare a written statement and proceed with casting a vote will be repealed.**

# ITEM NO. 3: Transparency for Lobbyists

## 1. Lobbyists' registration forms will include:

- compensation ranges
  - I. Less than \$5,000
  - II. \$5,000 to \$24,999
  - III. \$25,000 to \$49,999
  - IV. \$50,000 to \$99,999
  - V. \$100,000 to \$199,999
  - VI. \$200,000 or more
- subject matter of lobbying activity
- business relationships with statewide elected officials, executive branch department heads, legislators, and their spouses.

# ITEM NO. 3: Transparency for Lobbyists

(continued)

## 2. Lobbyists' expenditure reports will include:

- spending on spouses and dependent children of statewide elected officials, executive branch department heads, and legislators
- subject matter of lobbying activities
- expenditure totals by category.

# ITEM NO. 3: Transparency for Lobbyists

(continued)

- 3. Lobbyists will be required to file monthly reports.**
- 4. Lobbyist filings will be electronic and posted in an online, search-able database.**
- 5. Contingency fee contracts for lobbyists will be prohibited.**

# ITEM NO. 3: Transparency for Lobbyists

(continued)

- 6. Permissible spending on food and beverage for public servants will be limited to \$50 per instance per public servant.**
- 7. Lobbyists will disclose aggregate monthly expenditures in excess of \$50 per public servant, spouse, and dependent children.**

# ITEM NO. 3: Transparency for Lobbyists

(continued)

- 8. Penalties will be established for inaccurate or incomplete reporting by lobbyists.**
  
- 9. Those lobbyists who file reports “with knowledge of its falsity” will face criminal penalties.**

# ITEM NO. 4: Ethics Education and Enforcement

- 1. Annual ethics training will be provided for all public servants, with testing and certification upon completion.**
- 2. Annual ethics training will be required for all lobbyists.**

# ITEM NO. 4: Ethics Education and Enforcement

(continued)

- 3. Ethics Board members will be required to complete orientation and training prior to performing any function for the Board.**
  
- 4. At least three members of the Ethics Board will be attorneys.**
  
- 5. Greater separation between the Ethics Board's advisory, investigatory and prosecutorial functions will be required.**

# ITEM NO. 4: Ethics Education and Enforcement

(continued)

## **6. A confidential advisory process will be established:**

- Opinions will be sterilized before publication to preserve the confidentiality of public servants requesting them.
- An Advisory Counsel will be distinct from the investigatory and prosecutorial staff.
- A sub-set of three board members will review and adopt advisory opinions and abstain from subsequent deliberations.
- Advisory opinions will serve as a mitigating factor in deliberations.

# ITEM NO. 4: Ethics Education and Enforcement

(continued)

- 7. The Ethics Board will expedite the process for, and maintain confidentiality during, the initial screening of complaints.**
  
- 8. Any complaint not warranting investigation will be summarily dismissed and expunged.**
  
- 9. To expedite compliance, the Ethics Board will offer consent judgments following an investigation, but before charges are filed.**

All final consent judgments will be made public.

# ITEM NO. 4: Ethics Education and Enforcement

(continued)

## **10. The prosecutorial and adjudicatory processes will be made distinct by utilizing independent Administrative Law Judges (ALJs).**

Once formal charges are filed and made public, the case would be heard by an Administrative Law Judge who will make rulings and assign penalties.

Requests for waivers or reductions of fines would be made to the board, while appeals would be made to the First Circuit Court.

# ITEM NO. 4: Ethics Education and Enforcement

(continued)

- 11. Objective criteria will be created for the Ethics Board's current authority to issue waivers and grant penalty reductions.**
  
- 12. The prompt referral of unpaid fines to the Attorney General's office for collection proceedings will be mandated in law.**

# ITEM NO. 4: Ethics Education and Enforcement

(continued)

## **13. The Ethics Board will be required to:**

- maintain certain records for seven years
- file an annual performance report online
- post “as soon as possible” all disclosure forms and reports of candidates, public officials, and lobbyists on the ethics board website in a search-able database

## **14. Criminal penalties will apply for willful and fraudulent violations of the ethics code.**

- Existing criminal penalties for filing false public records will apply to the ethics code, lobbying laws, and campaign finance law.

# ITEM NO. 4: Ethics Education and Enforcement

(continued)

- 15. Public servants charged with a crime related to his or her public office will be suspended from duty.**
  
- 16. Public servants convicted of a crime related to their public office will be required to forfeit the tax-payer portion of their pension.**
  
- 17. Indicted legislators will be prohibited from serving on committees, subject to waiver by either chamber by two-thirds vote.**

# ITEM NO. 5: Transparency and Public Access to Information

- 1. Reports of all state spending by agency and function will be posted online.**
- 2. All legislative floor proceedings and committee hearings will be broadcast free of charge over the internet and archived for at least three years.**
- 3. Legislators will be statutorily prohibited from changing votes after the completion of floor action.**

# ITEM NO. 5: Transparency and Public Access to Information

(continued)

- 4. An expedited and efficient administrative appeals process will be created to resolve disputes over access to public records.**
  
- 5. Public employees who willfully violate the public records law and the open meeting law will be terminated.**
  
- 6. The use of counter letters to circumvent the Ethics Code will be prohibited.**

# ITEM NO. 6: Combat Fraud and Abuse

- 1. The Office of Inspector General will be created in statute.**
- 2. Local inspector generals and ethical governing bodies will be authorized to issue and enforce subpoenas in state court and provided with confidentiality during investigations.**

# ITEM NO. 6: Combat Fraud and Abuse

(continued)

- 3. Whistleblower protection will be expanded to prohibit threats of reprisal to public servants.**
  
- 4. *Qui tam* incentives and standing will be provided to citizens to pursue public fraud cases when the state refuses to act.**

# ITEM NO. 7: Campaign Finance Laws

- 1. Section 527 political groups will be required to disclose all contributors, contributions, and expenditures.**
- 2. Third party political advertisements will be required to disclose the identity of the group sponsoring the advertisement on or within the advertisement itself.**

# ITEM NO. 7: Campaign Finance Laws

(continued)

- 3. Candidates for elected office will be prohibited from using campaign funds to pay family members.**
- 4. Candidates for statewide and legislative offices will be prohibited from fundraising during regular legislative sessions.**

# ITEM NO. 7: Campaign Finance Laws

(continued)

5. **Candidates will be required to commit to completing an ethics training within 30 days of qualifying.**
  
6. **Individuals with outstanding ethics fines will be prohibited from qualifying as a candidate for elected office.**

# ITEM NO. 7: Campaign Finance Laws

(continued)

- 7. Candidates will be required to request that contributors above \$250 disclose the identify of their employers. Candidates will then disclose such information on campaign reports.**
  
- 8. A \$10,000 limit will be established for individuals and entities contributing to gubernatorial transition teams.**

# Comments and Questions