



GENERAL SESSION

October 14, 2009

Program Topic: Government Ethics Reform Initiative

Presented by: National Issues Study Committee

Moderator: Suzanne Merrill – WSLC Past President

Speakers: Dixie Huefner – Utahns for Ethical Government

**Rep. Rebecca Lockhart (R) Dist. 64, Utah County (south-central);
Majority Assist. Whip**

Dixie Huefner began by noting Utah is one of ten states without an independent Ethics Commission. There are five states in the nation that do not limit campaign contributions and Utah is one of them. This puts the state, ethically speaking, “at the back of the pack.”

Citing a statistic indicating 81% of Utah’s campaign contributions come from special interest groups, Ms. Huefner charged that the legislature has been slow to act, with reforms being piecemeal. Statewide polls indicate the public supports ethics reform.

The Government Ethics Reform Initiative would, if passed, become a Statute. It would create an Ethics Commission to establish and oversee a new Code of Conduct for legislators. The Code would include, but not be limited to these imperatives:

1. Campaign contributions could not be used for personal expenses.
2. A legislator’s own campaign funds could not be given to any other candidate.
3. All gifts to legislators (except refreshments) would be prohibited

4. Former legislators would be prohibited from ever becoming lobbyists.

5. There would be a \$2,500 (per individual) limit on campaign contributions.

The Ethics Commission established under the Initiative would be empowered to recommend to the legislature whatever discipline it judges necessary against a complainant. The commission would report to, serve as advisory to, and be subordinate to the legislature.

The legislature would select 20 candidates to serve five-year terms on the Commission. Of these, five would then be selected at random to serve. If legislators cannot agree on the five, sponsors of the Initiative would choose. The selection process would be open to the public.

Ms. Huefner asserted bipartisan support for the Initiative, including former governor Olean Walker, Utah AARP, Utah Education Assoc., Utah League of Women Voters, The Salt Lake Tribune and The Deseret News.

Ms. Huefner believes the Initiative would set necessary standards to the legislature, just as there are in other professional groups. Information from sponsors of the Initiative can be found at www.utahethics.org.

Rep. Lockhart said she is at once in favor of ethics reform and firmly against this Initiative. Referencing recent reforms to the Code of Conduct statute, she said legislators regularly debate ethical and conduct issues.

Reforms in 2009 included new restrictions on meals and gifts, the “revolving door” policy (former legislators to lobbyists), donation discloser, as well as mandatory annual ethics training. (<http://le.utah.gov/session/2009/pdfdoc/2009EthicsChanges.pdf>)

She put aside the topic of campaign contributions and gifts, calling it a legitimate issue worthy of its own debate, which would be best addressed separately.

If we are going to exact law, she said, we should understand what the law actually says. To this end, Rep. Lockhart repeatedly urged voters to read the 20-page Initiative and acquaint themselves with its particulars, saying her concerns regarding it turn on the constitutional and due process violations written into its language. First among these is the presumption of guilt.

Rep. Lockhart disputed the notion of the Ethics Commission being subordinate to the legislature, saying the Initiative’s language would effectively construct a fourth branch of government, unaccountable to the other three (www.unethicalreform.org).

Other concerns raised by Rep. Lockhart include:

1. Allowing a five-member panel (which she dubbed “czars”) to supplant the current Code of Conduct with its own, which violates the constitutional independence of the legislature.

2. Permitting the Initiative sponsors (“super czars”), for the duration of their lives, the “absolute, unconditional right to intervene in any litigation” on the constitutionality of the Initiative.

3. Allowing any three people, in or out of state to bring complaints against a sitting legislator; allowing those complainants to “participate fully” in the subsequent investigation, while mandating the legislator “shall have no formal rights of participation.”

4. Requiring a legislator to hire private legal defense counsel – with the state required to pay the costs of that council.

5. Requiring a legislator to disclose any asset they or their family, including cousins, own over \$3,000.

A vivid & spirited debate ensued, with thought-provoking lines of reasoning offered by both speakers.

Ms. Huefner said Utah has reached a “tipping point” of ethical need in government, and disagreed with the charge that the Ethics Commission would not be properly subordinate to the legislature. She said the Initiative would hold legislators to the same fiduciary standard as businesses (anti-fraud practices etc.).

We should focus on the intent behind the language of the Initiative, rather than the literal interpretation of the language. For example, holding legislators to the “fiduciary” standards that apply to businesses was meant to mean a “trust relationship” with the public. The Initiative was drafted with the help of attorneys and in consultation with the Commissions of several other states.

Responding to questions, Ms. Huefner maintained the Ethics Commission would exercise good judgment, using “reasonable

standards” to determine if complaints against legislators had merit. She also rebuffed the suggestion that the Initiative sponsors would be granted a potential lifetime influence over the panel. It was not the intent of the sponsors to control the process, although they may step in and choose candidates if the legislators cannot agree on names by a specified date. Also, the fact that five-year panel members could be re-chosen does not necessarily amount to permanent status.

Rep. Lockhart countered that in enacting law, the language is critical. Moreover, Utah legislators are currently examining the outcomes of these Commissions in other states. Where unintended consequences have arisen and true reform impeded, it can usually be traced back to the actual language that empowered the Commissions and established the Codes of Conduct.

Raising the fiduciary issue as a case in point, Rep. Lockhart stated that a legislator who supports a bill that is subsequently voted down by the public could, under the fiduciary standard set by by this Initiative, actually be charged with an ethical violation.

Reading directly from the Initiative, Rep. Lockhart challenged several specific items as problematic. These included:

1. Presumed guilt of the accused.
2. Restricted rights of legislators as opposed to enhanced rights of complainants.
3. Non-accountability of the established Ethics Commission.
4. Flawed, unsound definitions.
5. Tax dollars to hire private attorneys.

Reported by: Pam Grange

General Session II

Program Topic: Utah Web Site Training

Presented by: Kitty Kaplan – WSLC Past President

Speaker: Chelsea Barrett – Office of Legislative Research

Chelsea Barrett introduced the Utah Legislature’s website (<http://le.utah.gov/>) by pronouncing it one of the best in the nation for its wealth of information and user-friendly features. Using an overhead computer screen, she took the WSLC membership on a virtual tour of the site.

The attractive Utah State Legislature homepage, which boasts lovely interior color

photos of the Capitol, offers quick access to a myriad of sub-links presenting a wide range

of items for both casual user and serious researcher alike. Ms. Barrett particularly recommended the *Citizen’s Guide* as a good beginner’s guide to understanding the legislature. A click on this button brings up 17 options, including *Frequently Asked Questions*, *Bill to Law*, *Getting Involved*, and *Glossary of Legislative Terms*.

A similar array of options may be found under such headings as:

Legislators
Bills

Committees
Utah Code/Constitution
Publications
Legislative Histories
Staff Offices
Links of Interest.

Ms. Barrett said the *Links of Interest* site is a particularly popular one, as it accesses the *Utah Library*, *State of Utah*, and the wide-reaching *Links to the World* site.

A click on the *2010 General Session* button takes the user to a sub-link for bill tracking.

The *2010 Key Issues* button accesses a page featuring a compilation of some of the key issues that the Utah State Legislature may address during the upcoming session.

If you want to know when & where a particular meeting is scheduled, a click on the Calendar icon next to *What's Happening Today* will take you there.

There is also a Google-like window where you can do a *Quick Search* for a particular bill by subject, sponsor or number.

Another area on the homepage, called *Quick Links*, features both audio and video recordings of House debates, as well as live audio streams of committee meetings (look for the RSS Feeds icon).

Quick Links also offers the educational and very popular *Kid's Page*. Once there, it's great fun to enter the big yellow beehive, which invites you to either "Buzz on inside," or choose from among the honeycomb options:

Be Informed
Be Active
Teacher's Colony
Sweet Links

NOTE: You can also spend an embarrassing amount of time trying to catch one of the fast-moving little bees with your cursor – which yields only the message "You just clicked on a bee," but is pretty cool, nonetheless.

Reported by: Pam Grange

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