

WSU Student Ethics Committee:
2009 Legislative Ethics Reform Recommendations

June, 2009

Weber State University Student Ethics Committee

Michelle Johnson
Christopher Bentley
Ariana Escalante
Meghan Froerer
Adam Gardiner
Ryan Jessen
Brandon Marsh
S. Shane Woody

Table of Contents

The table of contents is empty because none of the paragraph styles selected in the Document Inspector are used in the document.

Introduction

In tandem with the Richard Richards Institute of Politics, Decency, and Ethical Conduct, the Weber State University Student Ethics Committee (WSUSEC) was formed to evaluate the State Legislature's credibility as a democratic unit and its standards of integrity, accountability, and transparency. There is a demonstrable need for ethics reform in the State Legislature. Outside research, as well as the opinions of Utah residents and government officials, indicate the burgeoning imperative for legislative ethics reform in Utah.

In 2008, the Better Government Association published an integrity index evaluating and comparing ethics standards in state legislatures across the nation based on transparency in government, accountability for those who violate statutes and transparency laws, and limits on the questionable activities of governmental officials. The index also evaluated the presence and effectiveness of certain laws related to legislative ethics (Better Government Association, p. 2). Overall, Utah ranked thirty-sixth of the fifty states (p. 1) and performed disappointingly when reviewed for campaign finance, open meeting, and conflict of interest laws (p. 1). Utah is one of only ten states that have no independent ethics commission (National Conference of State Legislatures, "Ethics," 2009), and in 2001, the *Wall Street Journal* named Utah "one of the most gerrymandered states in the nation" (Fair Boundaries Initiative, 2009, p. 3). Clearly, in establishing laws and organizations that will better ensure ethical conduct in the Legislature, Utah lags compared to other states.

In addition to comparisons between states, public opinion within Utah further demonstrates the present need for ethics reform. A Dan Jones & Associates poll (2009) found that 75 percent of Utahans favor state ethics reform, and among that 75 percent, 84 percent say an independent ethics commission should be established to investigate complaints about unethical behavior in government, and 83% say campaign contributions should be limited (Bernick, 2009). Other responses in the poll show overwhelming public support for ethics reform in Utah on a variety of issues. Indeed, polls demonstrate that the Utah public has lost trust in government due to concerns over the ethical conduct.

Some governmental officials recognize that unethical behavior has besotted the Utah State Legislature. Both before and after the 2009 legislative session, Utah lawmakers vowed to address ethics (Raymond, 2009), and in his last State of the State address, Governor Jon Huntsman, Jr., recognized that there can be no accomplishments in government and no real representation of the people unless Utah “clean[s] house.” Governor Huntsman recently created the Governor’s Commission on Strengthening Utah’s Democracy composed of concerned prominent community members and state legislators to “root out the reasons voters are disenchanted with democracy” (Gehrke, 2009). Despite this push, however, in response to complaints and pressure from legislators, two key items—an independent ethics commission and a redistricting commission—were dropped from its mandate.

Hence, with outside research revealing a need for ethics reform and with the public and a number of government officials affirming a desire for ethics reform, the conditions are apropos for Utah to improve the Legislature’s ethical standing. The WSUSEC’s purpose was to identify which concerns about ethics were among the most important to the Utah State Legislature, evaluate the data, and make recommendations based on a literature review, interviews results, poll data, and the

ethics legislation passed in the 2009 session. Examining relevant topics such as independent ethics commissions, gifts, campaign finance, and redistricting, this report then makes specific recommendations to the Utah State Legislature to ensure that ethical behavior prevails.

Literature Review of State Legislatures and Ethics

Most of what we know about how Americans evaluate government concerns politicians and institutions at the national level—presidential approval ratings, low levels of job approval ratings for Congress—but the U.S. system is federal, wherein a considerable number of important policy decisions fall to state governments. Surprisingly little is known about public confidence in state level governments.

Increasingly, researchers have filliped discussion regarding the effect of perceived legislature violations on public confidence (Menzel, 2005, p. 18). There is evidence suggesting that states that create an independent ethics commission in response to scandals and other perceptions of ethical violations garner greater public confidence (Smith, 2003, p. 292). Edelman (1985) suggests that ethics commissions bode only symbolic value for the public and fail in truly rooting out ethical violations, but Smith (2003) argues that commissions are both “instruments and symbols” (p. 292), effectively reducing ethical violations as well as easing public perception of state legislatures.

Ethics commissions are distinct from ethics committees. The National Conference of State Legislatures (NCSL) (2009) asserts that committee members are members of the state legislature, but commission members are “citizens or public officials appointed by the Governor or other leaders.” Committees carry internal oversight while commissions maintain the benefit of external

oversight. Committees, moreover, are present to some degree in all 50 states, and the NCSL reports that only 40 states have ethics commissions (National Conference of State Legislatures, “Ethics committees,” 2009). Both ethics committees and ethics commissions are “an important way for legislatures to solidify their credibility with the public” (National Conference of State Legislatures, “Ethics committees,” 2009).

Ethics reform has been a popular topic within the states for decades, but Maletz and Herbel (2000) suggest that the fervor in discussions of state governance over ethics can be detrimental. As states make ethics reform a primary priority, the enforcement of ethics can necessitate costs on both ethics and other projects. Many states seek to reform ethical practices regarding gifts, lobbying, and campaign finance, but the research of Maletz and Herbel suggests that the resources spent on ethics enforcement might surpass some states’ legislative capacity (2000, p. 19).

Professionalism is a model used prominently in the literature on state legislatures and refers to the development of overall legislative capacity (Hibbing, 1999). A professionalized legislature is one with abundant resources; in particular, Rosenthal (1996, 1998) refers to the five S’s: space, salary, session length, staff, and structure. Pervill Squire (1992) developed a model with three basic resource variables—legislator pay, staff per legislator, and total days in session.

A correlation exists between ethics regulation and legislative professionalism. Rosenson (2006) suggests that “[i]n the states, ethics regulation has been connected to the movement to institutionalize, modernize, and otherwise improve state legislatures” (p. 619). States desire to improve the “tarnished image of political institutions” (Rosenson, 2006, p. 619) by strengthening ethics regulations. This correlation between professionalism, institutionalism, and state legislature ethics regulation has been documented by other researchers (Brace and Ward, 1999; Bowman and Kearney, 1986; Hedge 1998).

Methodology

Interview Approach

The WSUSEC interviewed the members of the legislative standing ethics committee in both the Utah House of Representatives and the Utah Senate. Prior to interviewing the legislators, all members of our interviewing committee were certified by the National Institutes of Health (NIH), and our project proposal was certified by the Weber State University Institutional Review Board, thus allowing research using human respondents. For proof of the researchers' NIH certification, please see the appendix.

The interviewing committee consisted of five people who contacted all 16 members of the Utah Senate and House ethics committees; each respective committee is composed of eight members (four Democrats and four Republicans). Legislators were contacted in no particular order. While all 16 legislators from both committees were contacted for interviews, only 10 legislators responded: five from the House Ethics Committee, five from the Senate Ethics Committee, for a total of 63 percent of possible respondents. Those legislators who did not respond to interview requests were contacted multiple times through phone calls, e-mails, and voice messages. There were five Republicans interviewed in total, three from the Utah Senate, two from the Utah House of Representatives and five Democrats interviewed in total, two from the Utah Senate and three from the Utah House of Representatives. Legislators were contacted by telephone in all but two cases, who had face-to-face interviews.

Because many ethics bills originate in the House Government Operations Committee, the WSUSEC also conducted interviews with three of its members. Their interviews were not included in our research considerations but are included in the appendix.

Elite Interviewing

Our interviews were conducted using elite interviewing techniques (Manheim & Rich, 1995, P. 161). Elite interviewing techniques are used when prospective respondents have unique knowledge and information that must be gained using highly individualized treatment and a largely unscheduled, flexible interview format. It is necessary to note, however, that the interviewers asked the selected Utah legislators the same questions. In most circumstances, unscheduled questions were mainly used to follow up and clarify important points.

Upon contact, interviewers recited a brief script to introduce themselves, the Richard Richards Institute, and the project, and to gain permission to conduct the interview. Respondents were informed that the research data and findings of the institute would eventually be published. A copy of this introductory script is included in the appendix. Once the legislator agreed to the interview, the interviewer emphasized that the information given by the respondent would be anonymous.

Data / Transcript Coding

In order to ensure that all data gained from the respondents was confidential, all legislators, upon transcription of the interviews, were given codes using letters of the alphabet beginning with the letter “A,” continuing alphabetically and ending with the letter “M” (e.g., Representative John Smith= LEG A). Legislators were coded randomly.

Data

The interviews conducted with Utah legislators demonstrated a clear need for political reform. Further analysis of the most recent law-making session makes apparent the growing desire for political reform, but it also shows the difficulty of the task.

Two concerns discourage many legislators from even writing ethics legislation. First, it is unlikely that an ethics bill will pass; and second, if the bill does pass, it is unlikely to actuate

comprehensive reform. As one legislator argued, “The Rules Committee can assign bills to a committee or not. As long as the Chair of the Rules Committee has the ability to hold bills, many will never get anywhere.” Of the 33 bills intended to reform ethics, many were never assigned to committee, thus preventing even the most elementary review of the bill. Indeed, Representative Phil Riesen (D, District 36) proposed several ethics bills, but the Rules Committee never assigned a single one to committee. The Rules Committee is the primary contributor to the failure of ethics legislation. To be sure, the problem is not solely that the Legislature is failing to pass ethics reform legislation; currently, the Rules Committee blocks the majority of reform bills, ensuring that the legislation is not even brought up for discussion by the Legislature.

In the 2009 Legislative Session, 38 bills on ethics were presented, but only five passed. Nonetheless, the 2009 Utah State Legislature made several commendable, though insufficient, changes in ethics reform. Governor Huntsman called the reforms a good first step, indicating both the value of the work accomplished and the need for additional reform (Walsh, 2009). The five successful bills provided seven changes to current ethics practices in the state of Utah.

The first change resulted from S.B. 162, introduced by Senator John Valentine (R, 14). This bill prohibits the personal use of campaign and officeholder funds and regulates the proper use and spending of funds that may potentially remain at the end of a representative’s term. The significant changes are stipulated in 4a and 4b (“Ethics and campaign finance,” 2009, p. 1).

Second, S.B. 156 “Gifts and Meal Provisions for Public Officials” introduced by Senator Gregory Bell (R, 22) modulates gifts to legislators. This bill introduces a change to the definition of gifts, expanding the definition to include “admission to a sporting, recreational, or artistic event whether as a spectator or a participant” among others (“Ethics and campaign finance,” 2009, p. 1).

Especially considering the fact that Utah Jazz tickets are one of the most common gifts to legislators, this bill provides a valuable clarification on what is to be considered a gift.

Senator Bell's S.B. 156 also established the third significant change this legislative session. The bill adjusts the monetary amount of reportable expenditures from \$50 to \$25 unless every legislator is invited or an entire committee ("Ethics and campaign finance," 2009, p. 1). This provides for greater transparency and accountability.

A fourth change to ethics reform was introduced by Representative Brad Dee's (R, 11) H.B. 345 Elected Official—Restrictions on Lobbying. The bill limits the "revolving door" that occurs between legislators and lobbyists. Occasionally, after retiring or losing a campaign, legislators will promptly begin to work as lobbyists. Because they were previously working as partners with those they are now lobbying, the public perceives the former representatives as having undue influence with the Legislature. This bill prohibits elected officials who leave office from lobbying for one year. The individuals included in this provision are legislators, the Governor, the Lieutenant Governor, the state auditor, the state treasurer, and the attorney general. The bill allows one exception: former state officials may lobby on behalf of themselves or a business with which they are associated unless the business' primary activity is lobbying ("Ethics and campaign finance," 2009, p. 2).

The fifth issue, campaign funding, was also introduced by Representative Brad Dee (R, 11) in H.B. 346s3. To ensure accountability and transparency, representatives must report campaign funds. Prior to this legislation, some candidates would postpone reporting campaign funds until after the campaign finished. Such practices undermine the purpose of reporting campaign funds, for citizens have the right to know who is donating money to legislators before an election. The change requires campaign contributions to be reported within thirty days after being received ("Ethics and

campaign finance,” 2009, p. 2). H.B. 346 also wrought the sixth change of the 2009 legislative session: If monies are given within five days of a report, then the monies will be negotiated and dealt with in the interim period (“Ethics and campaign finance,” 2009, p. 2).

The seventh change made during the 2009 Utah State Legislature General Session was enacted by H.J.R. 14 Joint Rules Resolution—Ethics Training Course Provisions, introduced by Representative Lori Fowlke (R, 59). H.J.R 14 calls for an extensive training program for legislators and lobbyists. This training course will be developed by the Office of Legislative Research and General Counsel and will be available on the internet. Completed yearly, this training will provide equal accountability for each lobbyist and legislator and attempt to educate each on proper decorum (“Ethics and campaign finance,” 2009, p. 3).

Despite the passage of these five bills, the past legislative session failed to instigate comprehensive ethics reform. With the public eager for change, this report provides the following recommendations based on the interviews with the members of the House and Senate Ethics Committee, the examples of other states’ successful reforms, and recommendations from the public. The WSUSEC looks forward with confidence to these reforms being implemented in future legislative sessions.

Recommendations

The WSU Ethics Reform Committee makes the following recommendations to our state legislators:

Independent Ethics Commission

The Utah Citizens’ Counsel has called for an independent ethics commission to “investigate and hear complaints of misconduct by

States with an Independent Commission:	States without an independent commission:
40	10

legislators” (Utah Citizens’ Counsel, 2009). Moreover,

the Dan Jones poll reported 84 percent of Utahans agree that “an independent ethics commission should be adopted to look into complaints about a legislator or top member of the executive branch” (Bernick, 2009). Such an independent ethics commission is a vital step for ethical reform in the Utah State Legislature because without independent oversight, the perception of unethical behavior will not dissipate.

Legislatures can be hostile to the creation of independent ethics commissions, viewing it as unnecessary oversight, but in the interviews, three representatives stated the need for an independent commission on ethics. Most states created such a commission years ago, some as early as the 1970’s. It is time for Utah do likewise. While the WSUSEC believes that most legislators in Utah are ethical most of the time, this independent commission is a means for easing public suspicion regarding legislative ethics and dealing with those cases in which ethics are violated.

After reviewing ethics commissions throughout the nation, the WSUSEC selected four as potential models for Utah: Georgia’s State Ethics Commission, Kansas’ Commission on Governmental Standards and Conduct, Kentucky’s Legislative Ethics Commission, and Nevada’s Ethics Commission. Along with a concise analysis, brief summaries are provided below of each commission from the National Conference of State Legislators (2009).

GEORGIA: State Ethics Commission, created 1974. Members: five members. Three (no more than two from same party) appointed by the Governor for a four-year term; one appointed by the Lieutenant Governor for a four-year term; one appointed by the Speaker of the House for a four-year term. Persons who have run for or held federal, state or local office in the previous five years are ineligible. Officers of political parties are ineligible.

Georgia’s commission effectively eliminates those who have been involved with a political office recently, and this is a feature Utah should model. Further, the WSUSEC believes that four years is a reasonable term limit.

KANSAS: Commission on Governmental Standards and Conduct, created 1974. Members: nine, comprised of prominent community leaders and business professionals from around the state. Two appointed by the Governor, one by president of the senate, one by speaker of the house, one by the minority leader of the house, one by the minority leader of the senate, one by the Chief Justice of the Supreme Court, one by the attorney general, and one by the secretary of state. Not more than five members shall be of the same political party, and the two members appointed by the Governor may not be members of the same party.

Kansas' commission has a detailed description of who should be on the commission, which is a beneficial feature. Further, the specifications of who is appointed to serve on the committee offer a variety of voices that should provide for a balanced commission. The WSUSEC especially commends the voices of the supreme court and the attorney general, seeing as these features were absent in many of the commissions the WSUSEC reviewed. Kansas also specifies the political parties of the people chosen in fair manner.

KENTUCKY: Legislative Ethics Commission, created 1993. Members: Nine citizens (members of General Assembly not eligible), not less than three must be members of the state's largest minority party. Speaker of the House and President of the Senate each appoint four members; Legislative Research Commission appoints one member. Each member must be a resident of the Commonwealth and may not be a public servant, a candidate for public office, a legislative agent or an employer of a legislative agent, or a spouse or child of any of these individuals while serving on the commission. In the two years immediately preceding the date of his appointment, a member may not have served as a fundraiser for a candidate for Governor or the General Assembly.

A valuable feature of Kentucky's commission is the elimination of family members of those involved in politics for the commission. This provides added security against conflicts of interest. Kentucky also forbids those who have fundraised for the Governor or General Assembly, which helps prevent a person from "buying his way" onto the commission. The WSUSEC admires the precautions Kentucky has put into place.

NEVADA: Nevada Ethics Commission. Members: eight. Four appointed by a legislative commission; four appointed by the Governor. All must be residents of the state. Of the four appointed by the Legislature and the Governor, two must be former public officers and one must be an attorney licensed to practice law in Nevada. Not more than four members of the commission may be members of the same political party, and not more than four members may be residents of the

same county. None of the members may hold another public office, be actively involved in the work of any political party or political campaign, or lobby. Four-year terms; not more than two consecutive terms.

The WSUSEC advises against the number of members on Nevada's commission and wishes to see Utah employ an odd number on its commission. However, Nevada has limited the terms of the commissions members to two, which is a valuable feature. Further, the requirement for a licensed attorney to be on the commission is a feature the WSUSEC strongly recommends.

These examples of other ethics commissions are only a brief summary of what the forty states with ethics commissions have implemented. Utah remains one of the few states resistant to an ethics commission despite a wealth of such examples. Using these examples, and especially those listed above, the WSUSEC recommends the following for Utah's Independent Ethics Commission.

Membership: seven members, two appointed by the Governor, one member appointed each by the Majority and Minority leaders in both houses of the legislator, and one member appointed by the Chief Justice of the Supreme Court. Members should be prominent community leaders, with at least one attorney licensed to practice law in the State of Utah. Members must be unassociated with the Legislature. No more than four members from any political party should be present at any time on the commission. Each member will be appointed to a four year term, with a limit of two consecutive terms.

An odd number of members appointed by diverse offices will provide balance on the commission. A licensed attorney will better ensure that the commission maintains knowledge of the law in its dealings. Terms and term limits will help prevent members from becoming entrenched on the commission, and new members can bring fresh perspective to the review of the Legislature. The commission must be transparent. Meetings should be open to the public, and the commission should take and review suggestions and complaints of ethics violations from the public, which could be given through a website or hotline. A small staff should be allotted to sort through the public comments and research into the need for action. University students could maintain the commission's website so as to cut down costs.

Utah's ethics commission should assume the following roles: 1) It should respond to "ethical emergencies," or gross violations of ethics, in the Utah State Legislature by reviewing carefully the circumstance and providing recommendations to the Legislature, Governor, and attorney general if appropriate. 2) It should be aware of past ethical concerns and be aware of new unethical developments. 3) It should promote ethical behavior by educating citizens, legislators, and the media on current issues and offering examples and suggestions of ethical behavior.

The WSUSEC stresses the fact that most of the time the vast majority of state legislators follow strict personal ethical standards. Our goal is to prevent future concerns so that, when the larger ethical issues that threaten democratic principles arise, a system will already be in place to address them. The WSUSEC recognizes that although the Utah Constitution requires the Legislature to manage its own issues, but the independent ethics commission will be making its recommendations to the Legislature, which can then act upon them. In the past, opponents of an independent ethics commission have argued that the Utah Constitution would prevent such a body, but this argument is fallacious. The examples of states nationwide, coupled with the public desire to see the formation of an independent ethics commission, validates the imperative need to establish such a commission.

Campaign Finance

The 2009 General Session instituted several key changes regarding campaign finance. The WSUSEC commends the Legislature for prohibiting the personal use of campaign and officeholder funds and for requiring campaign contributions to be reported 30 days after being received. Considering that campaign finances have been a subject of significant dispute, it is heartening to note both the recent reform and the willingness of the interviewed legislators to discuss future reforms. The majority of the interviewed legislators agreed that there needs to be some reform;

reporting of campaign contributions and caps on campaign contributions are clearly the principal areas of concern.

In the interview transcripts, the legislators frequently recommend changing the campaign contributions reporting policy from 30 days to five days. Indeed, Legislator L stated that he would even “be very comfortable with automatic reporting. The second I deposit a check, I should go back to the computer and report it. That way, campaigns are more apparent.” To be sure, though an improvement, thirty days is an excessive amount of time, and while automatic reporting remains a good goal, the WSUSEC recommends that a stringent policy requiring the reporting of campaign contributions within five business days be enacted. This policy will not be an undue burden on the legislators and will provide constituencies with a more transparent understanding of how and by whom legislators are financed.

Regarding campaign contributions, 83 percent of Utahans polled agreed that “there should be limits on the size of contributions made to state office candidates” (Bernick, 2009). Research suggests that there is a strong correlation between the amount of money a candidate raises and their likelihood of winning the election. Dixon (2006) found that “In the 2002 cycle, 86.1 percent of winners raised the most money or were unchallenged in their races; in 2004, it was 87 percent” (p. 2). In Utah, the numbers were even higher: 89.3 percent in 2002 and 85.3 percent in 2004 (Dixon, 2006, p. 3). Thus, those candidates with superior fundraising abilities have a dramatically higher chance of winning an election (Dixon, 2006, p. 2). In point of fact, less than seven percent of state-level candidates “are able to win a legislative seat without having either a fund-raising advantage or already holding office” (Dixon, 2006, p. 2).

Currently, just five states—Illinois, New Mexico, Oregon, Virginia, and Utah—place no limits on contributions as all (National Conference of State Legislatures, “Campaign,” 2009). Thirty

states limit cash contributions to individual candidates; thirty seven states limit how much money can be contributed to a political party, and as many as 20 states have wholly banned corporations from contributing to candidates, including Utah neighbors Arizona, Wyoming, and Colorado (National Conference of State Legislatures, “Campaign,” 2009). Legislator support for caps on campaign contributions was, predictably, less pervasive throughout the interviews than support for other issues. In the transcripts, legislators appeal to the right of free speech and several offered assurances that large donations do not yield compliant votes. Yet, several representatives did recommend limiting campaign contributions to either \$500 or \$1000. The WSUSEC recommends, following the advice of interviewed legislators, opinion polls, and national comparisons with other states, that a limit on single contributions be established for both corporations and individuals.¹

Lobbying, Gifts, and Meals

Lobbying is a complex issue because while lobbyists are often demonized in the media, they do provide information on specific issues to legislators that non-professional legislatures may be unable to obtain any other way. The WSUSEC commends the 2009 Utah State Legislature for taking steps to reform lobbying. The changes instituted are valuable and in accordance with public opinion: according to the Dan Jones poll, 84 percent of Utahans believe that, for at least one year after leaving office, state officeholders should not be lobbyists. Utah’s policies regarding lobbyists are also in accordance with national standards (National Conference of State Legislature,

¹ The WSUSEC did not reach consensus on an acceptable amount for campaign contributions. Providing examples from other states, this report offers instead a range of dollar amounts. Massachusetts limited individual contributions to \$500 per candidate, and prohibited corporate contributions. Colorado restricts individual donations to \$525 for gubernatorial candidates, \$525 for other statewide candidates, and \$200 for legislative candidates and also bans corporate contributions. The maximum limits by any state with limits—there were only thirteen states without any limits on contributions—are in Nevada and New York. Nevada limits both individuals and corporations to \$5,000 per candidate per election. New York, for the general election, allows up to \$9,500 for senate candidates and \$3,800 for house candidates. Corporations are limited to \$5,000 per year in aggregate contributions. Most states fell between these extremes: individual contributions are typically between \$1,000 and \$2,000 for legislative candidates and \$1,000-\$3,000 for statewide candidates. Corporate donations, where regulated, often mirror individual contributions or are set at \$5,000. We recommend Utah follow the example of moderate states regarding campaign contributions.

“Revolving,” 2009). Nonetheless, the WSUSEC recommends that a period of two years be imposed on legislators who desire to register as a lobbyist.

A central concern with lobbying is that lobbyists may hold undue influence over legislators via gifts, meals, and other perks. Utah’s current policy is that gifts of \$10 or more must be documented. While such inconsequential gifts may appear insignificant, the WSUSEC recommends, in order to avoid the appearance or possibility of bribery, establishing a policy that forbids the acceptance of any gift over \$10, with the exception of expenditures properly reported for food, travel, lodging, and registration fees for conferences and educational seminars. Indeed, several representatives were even more severe in their attitudes towards gifts, such as Legislator H, who stated, “No gifts. Period.” A Dan Jones poll reports that 87% percent of those polled say “all gifts to legislators should be banned, except for small items like a soft drink or a pen” (Bernick, 2009, p. 1). With this in mind, the WSUSEC recommends that all gifts over \$5 in value be reported.

Meals are a controversial issue in the eyes of the public. The current policy is that meals costing less than \$25 require no documentation. Meals may influence a legislator’s opinion, but given the non-professional status of our State Legislature, such meals should not be forbidden. Meals allow lobbyists an opportunity to meet with legislators, and as Leg L stated, “for a lot of us, the only time we can do a meeting is over lunch.” Nonetheless, reporting all meals would provide greater transparency within the Legislature. The WSUSEC recommends that any meal provided by an established lobbyist or a constituent be documented by both lobbyists and the legislator receiving the meal, regardless the amount spent on the meal. The information should be made available on the Lieutenant Governor’s website. Paramount to easing the public perception of lobbying is making relevant information easy to access and free of charge.

Redistricting

The 2010 census will be taken within a year, and Utah's legislative districts are gerrymandered to unfairly advantage incumbents and the majority party. With national sources ranking Utah as one of the most gerrymandered states (Fair Boundaries, 2009) and 73 percent of those polled saying that an independent commission should be adopted to recommend a redistricting map, Utah should earnestly prepare for the redistricting process by creating an independent redistricting commission. The legislators who mentioned redistricting in the interviews agree that the Legislature should not define districts.

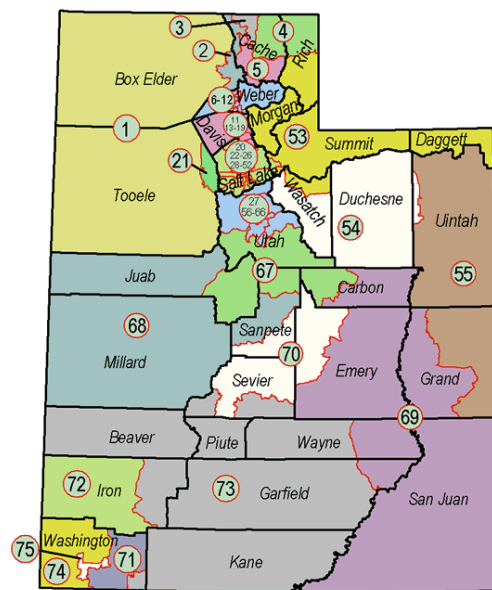


Figure 1. Map of Current Legislative Districts

Note. From the Fair Boundaries website. Retrieved May 27, 2009, from <http://www.fairboundaries.org/>

There are immense benefits to creating an independent redistricting commission. These commissions remove perceived conflicts of interest, remove previously manipulated districting maps, and add accountability and transparency to the elections process. Additionally, the WSUSEC suggests the following parameters modeled after other, successful state redistricting commissions and the Fair Boundaries Initiative in Utah. The Legislature should create an independent, non-partisan redistricting commission with eleven members appointed thusly:

1. Three members appointed by the president of the Utah Association of Counties with no more than two members registered as the same major political party;
2. Three appointed by Utah League of Cities and Towns with no more than two members registered as the same major political party;
3. One appointed by the chair of the Utah Board of Education;
4. Four appointed from among the number of qualified applicants by the other seven members already appointed;
5. No more than four can be identified with any one party;
6. And no more than three can be from any one county.

The duties of the committee would be to

1. Design a redistricting plan taking into account the following:
 - a. Geographical location and major landmarks
 - b. Anti-gerrymandering standards (see criteria listed below)
2. Draw a redistricting map
3. Design a neutral scoring matrix
 - a. Each commissioner's plan scored by the other 10 commissioners
 - b. The highest scored plan presented to the Legislature

Any plan proposed by the committee must fulfill fair criteria for congressional and legislative districts including the Supreme Court's interpretation of the Equal Protections Clause of the Fourteenth Amendment, the United States Constitution, and the Voting Rights Act. Further,

1. District boundaries shall be geographically compact and contiguous;
2. Competitive districts shall be favored where reasonably practical;
3. And the redistricting process shall be incumbent blind, therefore not taking into account the address of any individual, including current officeholders.

Conclusion

As this report has shown, compared to other states, Utah fares poorly in ethics regulations. The public, government officials, and many of the interviewed legislators perceive specific areas in which Utah needs to improve. Mistrust in government comes when the public perceives that the government lacks integrity, accountability, or transparency, and such feelings may have severe consequences for the legitimacy of government. For example, if the government is perceived as corrupt, there may be fewer quality challengers to pursue a political career, and it may even encourage non-compliance with state law. With three-fourths of Utahans supporting ethics reform (Bernick, 2009, p. 1), the Utah State Legislature is in danger of losing its legitimacy.

The public has shown its support for ethics reform through polls. Indeed, as demonstrated in this report, on each issue, between 70-80 percent of those polled voiced support for reform (Bernick, 2009, p. 1). Further, citizen initiatives have burgeoned because the Legislature, year after year, has failed to implement necessary changes, even when such important issues, such as an

independent ethics commission for the 2009 session, were placed on the agenda. Other venues of public support for reform include the Utah Citizens' Counsel and the Fair Boundaries Initiative, public initiatives both discussed within this report. Clearly, there is durable public support for legislative reform. The WSUSEC's research indicates that the Legislature can improve its standing in four areas: the creation of an independent ethics commission, and reforming lobbying, gifts, and meals, campaign finance, and redistricting. Through so doing, the Legislature will improve its transparency and accountability.

An independent ethics commission is the first recommendation, and indeed, one of the more controversial, contained within this report. The WSUSEC understands that such a commission will not solve the myriad problems that beset any legislature, and further, that such a commission can only make recommendations to the Legislature, and thus, it cannot resolve itself ethical concerns. Even so, it is the firm opinion of the WSUSEC that the Utah State Legislature should back the creation of such a body. Without such oversight, the accountability of a legislature is jeopardized.

Campaign finance reform is politically very difficult, but, clearly, Utah is far behind the national standard of regulating the fundraising of politicians. Due to the well supported link between the amount of money candidates raise and their likelihood of winning, it is vital for a healthy democracy to reasonably regulate campaign finance. This report elucidates where Utah stands in comparison to similar states and recommends that the Utah State Legislature implement policies that incorporate public opinion by reforming campaign contribution reporting and caps.

The issue of lobbying is controversial, and the WSUSEC recognizes that this is, in part, because lobbying is often overblown in the media and resulting public perceptions are inaccurate. Nonetheless, transparency is paramount to regaining the public's trust, and by making information about all gifts, meals, and contributions available for the public online, lobbyists can ease the

perception that they are buying votes. And while the WSUSEC commends the Legislature for putting a one year moratorium on legislators' so called "revolving door," the WSUSEC recommends that the interim be lengthened to at least two years. More stringent regulation of gifts and meals will provide an important avenue for the public to build trust in the Legislature.

Finally, although one of the interviewed legislators was surprised that this ethics report was including redistricting in its scope, the WSUSEC feels strongly that ethics in a democracy include taking measures to protect a person's right to have an equal vote. As one of the most gerrymandered states in the nation, Utah would do well to create an independent redistricting commission to recommend to the Legislature a fair redistricting plan.

The WSUSEC feels strongly that by incorporating the suggestions made in this report, the Utah State Legislature will enjoy much greater support and trust from its citizen base. Such a system of support and trust will not only help Utah as a democratic unit to garner greater citizen credibility and respect from neighboring states, but it will also encourage greater citizen participation in state government. Moreover, as the Utah state government relies on more citizen participation, citizens will nourish a more representative system.

Summary of Recommendations Contained within Report		
Issue	Recommendation	Reasoning
Independent Ethics Commission	7 members appointed by the Governor, minority and majority leader of each house, and the Supreme Court chief justice	Follows pattern established by successful commissions in other states around the nation
	Membership consisting of citizens sufficiently detached from politics, including at least one licensed attorney	The commission members should be free from political intrigue. An attorney would provide legal advice
	No more than four members of either political party present on the committee	Maintains a more bipartisan approach to ethics
	The commission duties include responding to ethical emergencies and making recommendations to the Governor and Legislature	The commission should not be a watchdog for the Legislature, but should be capable of responding to unethical behavior
Campaign Finance	The public have access to reports of campaign contributions through the legislative website	A simple step that conveniences those striving to access information about the Legislature's campaign finances
	The Legislature reduce the time required for reporting campaign contributions from 30 to 5 days	Five business days allows the legislators sufficient time to report and creates a greater atmosphere of transparency than thirty days
	The Legislature should establish a limit on single contributions to campaigns for both individuals and corporations.	Utah is one of only five states lacking any caps on campaign contributions, and there is discernable public desire for such a cap.
	State officers and state employees shall not accept a gift of over \$10 in value.	Preventing the acceptance of large gifts prevents legislators from being swayed by them and alleviates the public's perception of legislators being bought with such gifts

References

- Bernick, B. (2009, January 23). Huntsman appoints ethics reform panel. *Deseret News*. Retrieved January 26, 2009 from <http://deseretnews.com/article/content/mobile/1,5143,70527968,00.html/>
- Better Government Association. (2008) The BGA-Alpher integrity index. *Alpher Services*, 1-41.
- Blake, R., J. A. Grob, D. H. Potenski, P. Reed, and P. Walsh. The nature and scope of state government ethics codes. *Public Productivity & Management Review*, 21.4, 453-459.
- Chubb, John E. 1988. Institutions, the economy, and the dynamics of state elections. *American Political Science Review*, 82:133-54.
- Ethics and campaign finance: Summary of 7 key changes from the 2009 general session. (2009). *Office of Legislative Research and General Counsel*. Retrieved May 24, 2009 from <http://le.utah.gov/session/2009/pdfdoc/2009EthicsChanges.pdf>
- Ethics: Table of states and territories - state ethics committees. (2009). *National Conference of State Legislatures: The Forum for America's Ideas*. Retrieved May 12, 2009 from http://www.ncsl.org/programs/ethics/ethics_committees.htm
- Fair Boundaries Initiative. (2009). Fair boundaries: Because your vote should count. Retrieved May 14, 2009 from <http://fairboundaires.org/>
- Gehrke, R. (2009, April 23). Guv says pared-back commission still worthwhile. *The Salt Lake Tribune*. Retrieved April 24, 2009 from http://www.sltrib.com/News/ci_12211364

Hibbing, John R. Legislative careers: Why and how we should study them. *Legislative Studies Quarterly*. 24: No. 2 (May, 1999), pp. 149-171.

Governor Huntsman's 2009 State of the State Address. (2009, January 27). Retrieved May 24, 2009, from http://www.utah.gov/governor/news_media/article.html?article=2301

International City/County Management Association. (2009). ICMA code of ethics with guidelines. Retrieved May 27, 2009 from http://icma.org/documents/ICMA_CODE_OF_ETHICS_Amended_7-2004.pdf

King, J. (2000). Changes in professionalism in U.S. state legislatures. *Legislative Studies Quarterly*, 25.2, 327-343.

Maletz, D. and J. Herbel. (2000). Beyond idealism: Democracy and ethics reform. *The American Review of Public Administration*, 30.1, 19-45.

Manheim, Jarol B, and Richard C. Rich. (1995). *Empirical Political Analysis: Research Methods in Political Science*. 4th Ed., Longman Publishers, p. 161.

Menzel, D. (2005) State of the art of empirical research on ethics and integrity in governance. *Ethics in Public Management*. M.E. Sharpe.

National Conference of State Legislatures. (2009). Campaign contributions: An overview. Retrieved May 27, 2009 from <http://www.ncsl.org/programs/legismgt/about/ContribLimits.htm>

National Conference of State Legislatures. (2009). Ethics committees and ethics commissions: What's the difference? Retrieved April 18, 2009 from http://www.ncsl.org/programs/ethics/whats_the_difference.htm

National Conference of State Legislatures. (2009). Ethics: State ethics commissions. Retrieved May 24, 2009 from http://www.ncsl.org/programs/ethics/ethics_commissions.htm

- National Conference of State Legislatures. (2009). Revolving door bans. Retrieved May 21, 2009 from www.ncsl.org/programs/ethics/e_revolving.htm
- Opheim, C. (1991). Explaining the difference in state lobby regulation. *The Western Political Quarterly*, 44.2, 405-421.
- Rosenthal, Alan. (1989). The legislative institution: Transformed and at risk. In *The State of the States*. Carl Horn, Ed. Washington D.C.: CQ Press.
- Rosenthal, Alan. (1996). *Drawing the Line: Legislative Ethics in the States*. New York: Twentieth Century Fund.
- Rosenthal, Alan. (1998). *The Decline of Representative Democracy*. Washington D.C. CQ Press.
- Squire, Peverill. (1988). Career opportunities and membership stability in legislatures. *Legislative Studies Quarterly* 13:65-82.
- Squire, Peverill. (1992). Legislative professionalism and membership in state legislatures. *Legislative Studies Quarterly* 17:69-79.
- Squire, Peverill. (1992B). The theory of legislative institutionalization and the California assembly. *Journal of Politics* 54: 1026-54.
- Squire, Peverill. (1993). Professionalism and public opinion of state legislatures. *Journal of Politics* 55:479-91.
- Smith, R. (2003). Enforcement or ethical capacity: Considering the role of state ethics commissions in the millennium. *Public Administration Review*, 63, 283-285.
- Utah Citizens' Counsel. (2009) Section three: Independent ethics commission. Retrieved April 24, 2009 from http://www.utahcitizenscounsel.org/?page_id=39
- Walsh, R. (2009, April 4). Legislature enacted ethics reform: Is it enough? *Salt Lake Tribune*. Retrieved April 4, 2009 from http://www.sltrib.com/News/ci_12067173

Weber, Ronald E., and Harvey J. Tucker, and Paul Brace. (1991). Vanishing marginals in state legislative elections. *Legislative Studies Quarterly* 16:29-47.\

ACKNOWLEDGMENTS

The Richard Richards Institute for Politics, Decency, and Ethical Conduct, established in April, 2009 at Weber State University, provided the energy, idealism, and resources for this project. Equally divided between self-identified Republicans and self-identified Democrats, the WSU Ethics Committee consisted of eight politically active undergraduate students: Christopher Bentley (co-chair), Ariana Escalante, Meghan Froerer, Adam Gardiner (co-chair), Ryan Jessen, Brandon Marsh, Michelle A. Johnson, and Steven (Shane) Woody. Five students carried out interviews (Bentley, Froerer, Gardiner, Jessen, and Woody) as well as other research and writing tasks. Marsh helped monitor the 2009 Utah legislative bills on ethics, Escalante prepared the appendix, and Johnson compiled and edited the final product. All joined in the recommendations. In addition, two Political Science faculty, Dr. Nancy Haanstad and Dr. Gary Johnson, facilitated and oversaw the project. WSU student Michael Madson served as the editorial advisor. (A full appendix for this document is available upon request to Nancy Haanstad <nhaanstad@weber.edu>.) The students involved as well as the Department of Political Science and Philosophy express their grateful

appreciation to the Richard Richards Institute, and anticipate that the 2009 WSU Ethics Committee Report provides the cornerstone upon which future initiatives on politics and ethics will be researched and addressed by WSU students under the auspices of the Richard Richards Institute.