Most people know what it means to be ethical, to be an honorable person that behaves according to what they believe is right. Trying to pin down what is right in every situation and what everyone can accept as right becomes a little more difficult. Religion is often the basis of ethics in society, but not everyone is religious and many have different religious beliefs. The law can describe the limits of ethical standards, but the law does not always lead to ethical behavior – more what one ought not to do. A third source of ethical principles is defined by societal acceptance, but this source can also mislead those hoping to be ethical actors.

Ethical Behavior and Personal Integrity

The Markkula Center for Applied Ethics at Santa Clara University describes ethics as standards of right and wrong and as the constant review of those standards. “First, ethics refers to well based standards of right and wrong that prescribe what humans ought to do, usually in terms of rights, obligations, benefits to society, fairness, or specific virtues. Ethics, for example, refers to those standards that impose the reasonable obligations to refrain from rape, stealing, murder, assault, slander, and fraud. Ethical standards also include those that enjoin virtues of honesty, compassion, and loyalty. And, ethical standards include standards relating to rights, such as the right to life, the right to freedom from injury, and the right to privacy. Such standards are adequate standards of ethics because they are supported by consistent and well founded reasons.

Secondly, ethics refers to the study and development of one's ethical standards. As mentioned above, feelings, laws, and social norms can deviate from what is ethical. So it is necessary to constantly examine one's standards to ensure that they are reasonable and well-founded. Ethics also means, then, the continuous effort of studying our own moral beliefs and our moral conduct, and striving to ensure that we, and the institutions we help to shape, live up to standards that are reasonable and solidly-based.”

The International City Managers’ Association describes what ethics is about to capture the broad scope of ethical behavior. In their description, ethics is about:

- Right and wrong
- Good and bad (or good and evil)
- Virtue and vice
- Benefit and harm
- Propriety and impropriety
- Principles – fixed, universal rules of right conduct that are contingent on neither time nor culture nor circumstance
- Character – traits, qualities and established reputation that define who one is and what one stands for in the eyes of others
- Example – an established pattern of conduct worthy of emulation
- Conscience – “the voice of the soul” that is created from social instincts, the approval of others, and one’s own reasoning and experience

The previous definition and description of ethics fall upon the individual's development of what is right and wrong as it relates to society and
the institutions in which that person operates. In other words, ethical conduct depends on one’s integrity. A leading author on ethics, J. Patrick Dobel, writes that every elected, appointed, and career official must exercise judgment and discretion in carrying out the duties and responsibilities of office, and that the key to ethical behavior in exercising judgment and discretion is personal integrity. According to Dobel, personal integrity “demands consistency between inner beliefs and public actions.” Integrity requires that people critically think about their beliefs to make them their own and when individuals make a commitment based on their beliefs they understand what that commitment means and act on it. Integrity means that individuals are unified in their roles and commitments (professional, religious, public, family, private, etc.) and their values. “Personal integrity resembles a network of roles and promises all held together by a central web of values and commitments.”

Ethics Laws

Ethical behavior and personal integrity in public life means that public officials act in ways that they and society have accepted as right conduct and that this behavior is consistent with their personal values and commitments. Most people in public office enter that theater with honorable intentions, but there are enticements in public life that can lead honorable individuals to make ethical misjudgments. To curb the temptations of power and position, ethical laws are created that set limits on public action. Ethics laws are usually created in response to some act that lawmakers feel was of questionable ethical conduct.

Ethics legislation is only one way to set standards of ethical behavior by which public officials should operate. “Ethical government means much more than laws. It is a spirit, an imbued code of conduct, an ethos. It is a climate in which, from the highest to the lowest ranks of policy- and decision-making officials, some conduct is instinctively sensed as correct and other conduct as being beyond acceptance... Laws and rules can never be fully descriptive of what an ethical person should do. They can simply establish minimal standards of conduct.” Official judgment and discretion in the public interest must also be governed by personal responsibility and knowledge of the consequences of their actions. In the end, personal integrity will determine the level of ethical behavior in government. Integrity, like trust, is developed over time through actions that are taken out of personal principles and values.

“Legislators should not rush into reactive behavior by enacting more and more [ethics reform] laws and regulations,” according to Peggy Kerns, Director of the Center for Ethics in Government at the National Conference of State Legislatures (NCSL). “Instead, lawmakers should focus on ethics training and identifying core values.”

Ethics laws are, however, important because all are not angels and there must be some basic standard for ethical conduct – and consequent penalties for unethical behavior. For the same reason the legislature makes other laws – to regulate behavior public officials should be subject to laws regarding ethical conduct. Ethics reform has been called for by the local media because, as Peggy Kerns noted above, there have been questions raised about the ethical conduct of public officials. Unfortunately, Utah is not alone in facing ethical issues. In many states across the country, ethics reform is one of the top issues for state legislatures. The National Conference for State Legislatures has assembled an impressive clearinghouse of information on ethics reform and provides this information to legislatures across the nation. The NCSL Center for Ethics in Government covers topics from conflicts of interest to ethics training. Their database includes information gathered from each state so inquisitive lawmakers can take a “best practices” approach to crafting ethics reform legislation in their own state that applies to their particular circumstances. This paper will primarily draw on the resources of the NCSL Center for Ethics in Government as well as other materials on ethics reform to provide information for policymakers interested in developing meaningful ethics reform legislation.

Ethics Reform Legislation

Ethics reform legislation has had a difficult time passing in the Utah Legislature, but recent charges of ethics violations has stimulated renewed discussion. There are problems defining many of the concepts of ethics such as conflict of interest or ethics oversight and it is not easy setting
what could be called arbitrary limits on gifts or who should oversee ethical conduct in the Legislature. Utah is not alone in grappling with ethics issues. The now infamous case of Senator Ted Stevens of Alaska being convicted of violating federal ethics laws for not reporting thousands of dollars in gifts is the most well-known incident. Officials in Hawaii are investigating ethics violation of the State’s procurement law by a state agency, and in Pennsylvania, 12 people have been charged with felonies for using public funds for conducting campaign work. In these and other states, the answer to ethics violations is the introduction of new ethics reform laws. These laws can be placed in four main categories: conflicts of interest, gifts, financial disclosure, and ethics oversight. This paper will examine these four categories (gifts and financial disclosure are subcategories of conflicts of interest), although there are many other areas of concern regarding ethical reform laws. The NCSL Center for Ethics in Government lists the following categories:

- **Conflict of Interest**
- **Contracting with Government**
- **Dual Employment**
- **Dual Officeholding**
- **Ethics Committees & Ethics Commissions**
- **Financial Disclosure**
  - Income Requirements
  - Client Identification Requirements
  - Creditor and Debtor Requirements
  - Gift and Honorarium Requirements
  - State Connections
  - Lobbyist Connections
  - Household Member Requirements
- **Gifts**
- **Honorariums**
- **Lobbyist Regulation Home**
  - Registration Requirements and Fees
  - Activity Report Requirements
  - Contingency Fee Prohibitions
  - Definitions of "lobbying" and "lobbyist"
  - Prohibitions Against False Statements
  - Name Badges for Lobbyists
- **Nepotism**
- **Penalties for Public Corruption & Violations of State Ethics Laws**
- **Representing Others Before Government**
- **Revolving Door**
- **State Ethics Oversight Agencies**
- **Training Resources**
- **Voting Recusal**
  - To Vote or Not to Vote
  - Voting Recusal Provisions

**Conflicts of Interest**
Individuals serving in public office, whether elected, appointed or civil servants, all have histories that may include other interests. In the case of a part-time legislature, most are employed elsewhere while they concurrently serve as legislators. This situation can sometimes create difficult choices between an individual’s personal interest and the interest of the public. Examples can include ranchers voting on water or rural issues, educators serving on public education committees and even lawyers writing legislation that they will use in future cases. Conflicts of interest are often defined in terms of receiving a personal benefit as a result of one’s position or decision, particularly a financial benefit. Conflicts may arise as a policymaker receives gifts or honorariums, in representing clients, or in doing business with the state in which they make decisions on public policy.

States have recognized the inevitable dilemmas created when potential conflicts of interest arise and defined how policymakers should behave in these circumstances. Most states require that an individual legislator not vote in situations where a potential conflict of interest exists (see NCSL State Comparison Table: To Vote or Not to Vote). Often lawmakers must state the conflict prior to a vote and ask to recuse themselves.

The State of Colorado is typical of states prohibiting votes in cases of conflict of interest as defined in their Senate rules:

**Senate Rule 17, 41:** Senators can't vote on bills in which they have personal or private interests. If this is the case, they must disclose those interests before being excused. A senator is considered to have personal or private interests in measures if he:
- Has substantial economic interests in the measure distinct from those held generally by members of the same occupation or business, or if a close relative has such an interest,
- Has an interest in an enterprise that would be affected by the proposed legislation differently from like enterprises,
- With someone who has a financial interest in an enterprise that would be affected differently from others,
- Has a close economic association with, or has a relative who is, a lobbyist or lobbyist employer who is influencing legislation on which the legislator would be expected to vote,
- Accepts a gift, loan, service or other economic opportunity from someone who would be affected by or has interest in an enterprise that would be affected by the legislation.

The State of Ohio requires legislators to recuse themselves if legislation is being advocated by lobbyists who are associated with the legislator:

**Legislative Code of Ethics/Ohio Revised Code 102.031:** No member of the General Assembly shall vote on any legislation that is then being actively advocated by a lobbyist who is (1) an employee, (2) a business associate, or (3) a person, other than an employee who is hired under contract to perform certain services and such position involves a substantial and material exercise of administrative discretion in the formulation of public policy.

Utah requires that legislators file a Declaration of Conflict of Interest form with the Secretary of the Senate or Chief Clerk of the House of Representatives declaring general legislative areas in which a legislator may have a conflict of interest. State law allows legislators to vote even when they believe they may have a conflict of interest as long as they orally declare their conflict before the vote.

**Legislator Gift Restrictions**

The category of gifts received from lobbyists to legislators is one of the most common areas restricted in ethics laws. Most states allow some level of giving gifts, recognizing the difficulty of defining what is a gift and trying to assess the value of such gifts. Some “zero tolerance” states strictly prohibit gifts of any kind or value. Other “bright line” states place a specific monetary value on gifts received (usually $50 - $100) or total amount from a lobbyist in a given year. Other states restrict gifts only if they are viewed as “influencing official action.” (see NCSL State Comparison Table: Giving, Receiving, and Reporting Coffee). Alaska, for example, is a “zero tolerance” state of lobbyist gifts except for tickets for a charitable event. Florida allows gifts up to $100 except for honoraria and food consumed immediately at certain events. Virginia provides for no restriction of gifts except “to giving something of value for the explicit purpose of influencing legislation, usually interpreted to be a
An NCSL briefing paper, *Gift Restriction Laws for Legislators – It’s Not a Physics Lesson*, describes the differences between state gift restrictions. Ginger Sampson and Peggy Kerns note in this paper, “an advocate of zero tolerance laws says they eliminate the ambiguity created by any level of monetary restrictions. Opponents of those laws say a de minimus policy, mechanisms for independent third party review, and disclosure are more reasonable approaches. Both sides agree that the goal is creation of a policy that prevents the appearance of impropriety.”

Utah prohibits a public officer, public employee, or legislator from receiving gifts of substantial value that would tend to improperly influence official action.

**Exceptions:**
- An occasional non pecuniary gift, having a value of not in excess of $50;
- An award publicly presented in recognition of public services;
- Any bona fide loan made in the ordinary course of business; or
- A political campaign contribution.

**Ethics Committees and Commissions**

There are two basic mechanisms for overseeing ethical conduct in state legislatures: committees and commissions. (see NCSL table: Ethics Committees and Commissions) Ethics committees are generally self-regulating bodies whose members are state legislators. This means of internal oversight provides for other legislators who determine compliance with ethics laws and rules. These committees deliberate on accusations of ethical violations of its members and prepare codes of ethics for their legislative chambers. Every state has some form of an ethics committee.

Ethics commissions are composed of citizen or public officials appointed by the governor or other public leaders who oversee public employee and legislators’ compliance with ethics laws and rules. Commissions investigate ethics complaints and determine penalties or give advisory opinions. They may also adopt regulations to administer ethics laws, provide ethics training, and receive financial disclosure and lobbyist reporting documents. Thirty-three states have ethics commissions with jurisdiction over the legislature.

States have both committees and commissions in most cases because the public is uncomfortable with a government that regulates itself in matters of ethical conduct. Obviously, other professions, notably lawyers and doctors, have internal regulation of its members, but are not involved with the public interest to the same extent as state legislators and public employees.

A former Chair of the Center for Ethics in Government Executive Board commented on the necessity of internal ethics committees and external ethics commissions. "Both state ethics committees and commissions play essential and consistent roles in ensuring that our public servants behave ethically. Let's justly punish the bad apples. But let us not forget that the basis of effective government is public confidence. Media and others choose, at times, to create an appearance of unethical behavior when the vast majority of legislators are ethical public servants who operate with integrity and who take their jobs seriously." A list and description of state ethics commissions can be found at the following website: [Comprehensive List of State Ethics Oversight Agencies](#).

Utah does not have an external oversight commission. Ethics committees function in the State Senate and State House as standing committees of eight members, four from each party appointed by the leaders of both parties. Procedures for the Senate and House Ethics Committees are the same (Joint Rule 6-2-101):
- A complaint is submitted in writing to the chair of each respective committee.
- Following a preliminary investigation, if necessary, there is a formal hearing.
- The committee can then make a recommendation to resolve the conflict.
- The recommendation is then sent to the legislative body for a vote. The legislative body can accept, dismiss, or alter the recommendation. If the recommendation is for expulsion, it requires a 2/3 vote.

**Personal Financial Disclosure**

Most states require state legislators to disclose their personal financial interests. Generally, legislators must state their occupation, any financial interest in businesses or other sources of income, any leadership or board positions with corporations or properties they hold. This information is to help determine whether a conflict of interest might exist if these interests come into conflict with decisions made in the public trust. Most states require similar information about the legislator’s spouse and dependent children. (see NCSL State Comparison Table: Personal Financial Disclosure Statements for State Legislators: Income Requirements).

Forty-five states require personal financial disclosure statements be filed annually; two, North Carolina and North Dakota, require disclosure every election year, and three states, Idaho, Michigan and Vermont, do not require state legislators to file personal financial disclosures. Eighteen states require disclosure of associations with lobbyists.

Utah’s financial disclosure rules have far fewer requirements than most other states.

**Joint Rules 16.05A**

A legislator shall file an annual Declaration of Conflict of Interest form including:

- Businesses having fair market value of $10,000+ in which a legislator holds a position such as director, officer, owner, member, partner or employer.

**Ethics Training**

Experts in the field of ethics emphasize the importance of training to educate public officials, and in some cases lobbyists, on the rules and laws established in their state and the basic principles of ethical conduct. Nearly every state (including Utah) includes ethics training in newly elected legislator orientation. More extensive training for new legislators is required in 16 states, and ethics training is available for all legislators in 17 states. Ethics training is offered to legislative staff in 22 states and an increasing number of states offer ethics training to lobbyists. (see NCSL Eyes on Ethics Brief: Ethics Training)

Several state ethics training programs go beyond a simple explanation of ethics laws and rules and include value-based principles of personal integrity. The Ethics Resources Center emphasizes training on “the right questions to ask and the tools to prepare them for situations that laws do not cover.”[8] Probably the “Cadillac” version of public official training programs is the Biennial Institute for Georgia Legislators conducted by the Carl Vinson Institute at the University of Georgia. The Institute provides training that includes state laws and rules as well as training on the underlying values that govern ethical conduct. Several states provide online ethics training, although several simply post their ethics manual online. (see NCSL comparison table: Links to States’ Online Ethics Training Programs, Training Manuals, and Slide Presentations) Some states, including Ohio and Kentucky, invite recognized ethicists to assist in the training of state legislators.
Alan Rosenthal stresses the importance of leadership in encouraging ethics training among public officials, "A move in this direction [training] will require the leadership of people who appreciate the increasing connection between ethics and the health of their institution."[9] Rosenthal sites the benefits of conducting live ethics training where public officials can discuss their experience with ethical dilemmas:

- Discussions can raise the ethical consciousness of legislators.
- Structured conversations will give legislators an opportunity to compare and comment on what they believe to be proper and improper under various circumstances.
- Discussing ethics may bring legislators closer to consensus on certain issues.
- In time, legislators may increase their ability to reason morally.

Conclusion

Ethics reform legislation is generated as much for reassuring citizens that ethics is an important concern of public policymakers as it is to establish standards of ethical conduct. Accusations of ethical misconduct harm the reputation of the member being charged with the offense, but it also does damage to the political institution as a whole. The public wants to be confident that the people they elect and who represent their interests are doing so with integrity. Establishing clear and understandable standards of ethical behavior for public officials and lobbyists and creating mechanisms that impartially oversee ethical behavior improve confidence and transparency in the institution.

When public officials consider ethics reform they should look at a variety of components of ethical standards including those described here but also important issues not discussed such as the use of campaign funds, campaign finance, lobbyist interactions, dual employment and the revolving door issues. As important as developing a more defined standard is the need for ethics training. Newly elected legislators and other officials should learn about the laws and values associated with ethical conduct and other public officials should have ethics training available to them as well. Possibly the most helpful training on ethics would be a discussion among public officials to review the dilemmas and issues experienced by long-time officials and the issues new officials might expect.

Ethics reform probably deserves some serious thought and should be addressed in a comprehensive way rather than a quick response to an isolated accusation of ethical misconduct. Reform should include a concise description of ethical standards, provisions for training and impartial oversight. Where possible, standards are more helpful if they are broadly described and cover multiple situations. Training is most effective when leaders participate in both development and implementation and the trainings are offered in a variety of formats, including written manuals, online and classroom formats. Face-to-face discussion might be the most effective approach given the situational nature of ethical dilemmas and the value-based decisions that are made in problematic ethical circumstances. Finally, public confidence, transparency and basic fairness are enhanced when there is impartial oversight of ethical behavior.
