

Sponsors claims as presented in a flyer they distributed at a Town Hall they held at Provo City Library:

Flyer Claim:

Did you know that under current law:

Legislators can be lobbyists while serving in office. They also can lobby for themselves or a business (if it is not primarily a lobbying organization) as soon as they leave office.

What's the matter with this?

- 1) Utahans do not know whom their legislator is representing while in office—the public or their lobbying organization?
- 2) We do not know whether the serving legislator is tempted to vote a certain way while in office in hopes of securing a job or a lobbying contract after the sessions ends.

No man can serve two masters with equal faith. The master should be the people of Utah, not the lobbying organization.”

Comment: True. However, it is also true that anyone can lobby for themselves or their business at any time they want to take the time to come to the capitol, or contact another legislator. If a legislator wants to lobby for someone else's business, then he/she must register as a lobbyist and wait one year after their legislative service is complete. (passed in the 2009 session.) This initiative changes the time to two years.

While most of us are familiar with the Biblical reference, the truth is that every legislator serves at least “two masters” since our legislature is part-time, meaning all legislators have other jobs and responsibilities. We have attorneys, veterinarians, car dealers, computer programmers, contractors, nurses, teachers, truckers, business owners, administrators, television personalities, social workers, bankers, health care providers, and the list goes on for the 104 individuals who serve there. As long as we have a part-time legislator, you will have people serving, who have personal interests that matter to them. Many believe that the best antidote for that dilemma is full disclosure and the ballot box. Or, we can hire a full-time legislature. Most people prefer the former alternative.

Flyer Claim:

Legislators can accept appointments to corporate boards when the corporation may have matters

to come before the Legislature and when the principal qualification to serve is the legislator's status as a legislator.

Comment: True. Some people believe it is amazing that legislators who already spend considerable time in service to the State are also willing to serve on corporate or non-profit boards. Many legislators serve on the boards of corporate or non-profit entities. Often they are asked to serve to provide input about the legislative process and sometimes help sponsor or shepherd bills through that may address needs of a particular industry or nonprofit mission. This information is public and if voters object, they are free to vote a legislator out of office. Prohibiting this service limits access to information and it is questionable if removing legislators from all corporate and non-profit boards will make government more ethical.

Flyer Claim:

Legislators can sponsor bills that give a specific financial benefit to themselves or their business interests without sufficient disclosure of their conflicts of interest.

Comment: NOT true unless a legislator chooses to violate the current ethics rules. Legislators are required to disclose any conflict of interest at the beginning of each session, and further conflicts are often disclosed on the floor before a vote. This statement is a reference to the Initiative requirement to provide complete financial statements of all assets and debts of every member of a legislator's family, up to their first cousins.

Flyer Claim:

Legislators are not prevented from using their official positions to threaten judges and agency heads & get employees of the executive branch fired for not ruling a certain way.

Comment: The first part of this statement is NOT true. This is a reference to a letter that Senator Buttars wrote, on Senate letterhead, to a judge about a case involving a friend. Senator Buttars was sanctioned by the senate and heavily criticized by the press and the bar. The second part of the statement is true, *sometimes*. A legislator should not use their official position to threaten a state employee for not doing what a legislator wants; however, if a legislator discovers that an employee is engaged in misconduct, that legislator's responsibility is to reveal that conduct and do what can be done to correct the behavior, including encouraging firing, if appropriate or necessary. The Initiative makes no distinctions.

Flyer Claim:

Legislators can spend campaign funds on non-campaign personal expenses.

Comment: NOT true. Campaign funds are to be used for campaigns and legislative expenses. The problem comes in defining, what is a “personal expense.” If a legislator uses his car for driving to numerous legislative meetings, particularly if the legislator lives in a rural area, is it a personal expense to provide maintenance to the car? If a legislator is a blue collar worker and is required to wear a jacket and tie to all legislative meetings, is buying a suit a personal expense? The IRS calls it a business expense. The legislature began addressing this issue last session by passing SB 162, which prohibits use of campaign funds for anything that would count as income under the IRS regulations. [see above]

Flyer Claim:

Legislators can contribute to each other’s campaigns with money that was given to them for expected use in their own campaign. They can acquire a war chest and give money to other legislators or legislative candidates to curry favor with them and influence legislative leadership decisions.

Comment: True. Money is part of the political process. It is a way of showing support and the reality is that it costs money to campaign. Full disclosure provides the best remedy, I believe, and that is required. Again, if voters do not think that is appropriate, they are free to vote that legislator out of office. A seasoned lobbyist will tell you that any time campaign contribution rules pass, they will find a different way to contribute to campaigns; just look at Washington where Congress has very stringent campaign laws. It really comes down to, if you believe your legislator is honest or not. I should point out that legislators can “give money to other legislators” also because they believe the legislator is smart, does good work, or provides a valuable service for their constituents. Buying votes for leadership races may occur, but the legislators I know will not vote for someone to be a party leader if they are not confident in their leadership skills. There is too much at stake to do otherwise. Again, keep in mind that our legislative leadership has helped Utah become the best managed state in the country.

Flyer Claim:

Legislators can accept unlimited donations to their campaigns from individuals, corporations, and

other special interest groups.

Comment: True. Many states have put caps on the amount that can be donated. Some legislators have no objection to campaign caps, though others feel differently. Some races are more expensive than others. Caps tend to level the playing field for those candidates who have limited resources.

Flyer Claim:

This citizen-led initiative will improve the ethical landscape, assuring that legislators do not profit or appear to profit from their positions of trust.

Comment: This above statement, which is at the bottom of the flyer, is what lawyers call a “legal conclusion” not a fact. There are few if any legislators that personally profit from their work in the legislature; however, many lose a significant amount of income by serving there. The few who may be involved in something that would profit them personally will likely never be discovered, by this initiative or other ethical rules, because they are dishonest. Dishonest people do not disclose their conflicts of interest and they rarely admit their faults, unless they are caught. There is no way to know if the provisions of this Initiative will bring about more ethical government, since there is no basis for measurement.

The phrase, “positions of trust” is also a reference to the Initiative language that makes legislators “fiduciaries”. Fiduciaries are bound by certain principles that do not apply to legislators and it is impractical to do so. This will become a legal issue ripe for a court dispute.