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# LEGISLATIVE DRAFTING SERVICE

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### If You Don't Like It — Re-write It!

by Matt Hilton

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This year a new program was introduced at the law school entitled Legislative Drafting Service. The Service is designed to provide opportunities for second and third year law students to become involved in the practical aspects of the law on local, state and national levels. Presently, with the support of the A B A. Law Student Division, over thirty universities are encouraging this type of program. Already, our school has been given \$200 from the Law Student Division of the A B A. to get the program going.

The program's idea and organization is fairly simple. The idea is to provide national, state and local service as well as giving law students a practical outlet for their academic learning. The ideas for the legislation which will be written and studied come from two sources. First, members of the community, state legislature, and other interested persons can contact the service directly with particular problems or individual needs that they would like to have drafted. Second, individual students with particular expertise in an area of law may initiate proposals on their own and draft the corresponding legislation. Students involved in seminars which require a major paper could choose topics which could also result in a legislative draft.

The proposals submitted for legislation will be initially reviewed and the final work product approved by a Board of Editors. The Board is composed of an Editor-in-Chief, three Executive Editors of national, state and local legislation, and a Managing Editor. Currently, the national, state and local editors are involved in directing major research on various proposals.

The national area will concentrate on two levels. One will be to submit proposed

legislation to the fifty state legislatures. The other deals with legislation which will be submitted to Congressional Committees for review. Patrice Tew, National Editor, is currently supervising two projects which will be submitted to all fifty states upon completion. The first project deals with formulating procedural rights

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and protections for children who, as victims of sexual abuse, are required to testify in criminal trials in behalf of the State. The second project deals with implementing and developing legislation affecting Nurse Practitioners. Currently, certified Nurse Practitioners (who are licensed in only four states) can do many of the routine duties of a doctor including issuing prescriptions. If more states would allow the licensing of practitioners, it could effectively decrease medical costs while at the same time increase the availability of medical service.

State Editor Dennis Judd is establishing a close working relationship with

the Utah legislature for the mutual benefit of both the legislature and the Legislative Drafting Service. Mr. John Memmot, director of legislative drafting for the legislature, is coordinating with Dennis the areas where student input can have the greatest impact. As his office is inundated with requests for legislative proposals — far more than can be handled there — many of these requests, depending upon student interest, will be sent to the Service for review and drafting. Students involved in such work will likely be called upon to testify at the appropriate committee hearings of the legislature when the bill is introduced and considered.

Local Editor, Chuck Hanna, is bringing his experience in the Orem City Attorney's Office to bear as he works both on local legislation and detailed studies of the legislation on a state level which impedes, inhibits, or encourages local action. Laws dealing with Sunday closings, snow removal and county water rights have been subjects requested thus far. The work in the local and state area could possibly overlap on occasion.

Students may become involved in this program and receive academic credit by either the Legislation class or Directed Readings/Research credit for two or more hours a semester. For every fifty-six hours of work invested in a project, a student will receive one hour of credit.

Initially, to get involved, the interested student must comply with two administrative requirements besides signing up for the appropriate class in the appropriate semester. First, the student should meet with one of the editors and indicate a preference for working on a project already begun or propose a new one of personal interest. After the topic is decided upon, the student must become

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familiar with how legislation and statutes are drafted. A simple pass-fail test must be completed before research can begin. The student would then, under the limited supervision of an editor, begin work on the individual project. Then draft and the

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supportive memorandum would be reviewed and revised by the student and by the appropriate editor. The grade for this effort would be a pass/fail grade in the Legislation class.

The second level of involvement is the independent directed research and readings level. Professor James Sabine, the Service's adviser and resident expert on legislation, would be the faculty member sponsoring the credit for directed studies. A student who had completed the Legislation class or demonstrated competence in research and drafting skills would submit a proposal to Mr. Sabine for approval. Upon approval, the student has one year to complete the project. Credit, therefore, could be taken in the fall for non-salaried work done over the summer. Research work done at an earlier time may provide the basis for the legislation worked on as an independent project. An example of this independent work is evidenced in the work of Matt Hilton, Editor-in-Chief.

Several years ago, out of personal interest, Matt began a detailed study of the effectiveness of the Army R.O.T.C. program in the West. With non-funded encouragement from local Army commanders, cadets from the ten schools that commissioned the most lieutenants from 1974-1976 were sampled over a three-year period. Nearly 500 samples provided specific data which, with a 95% certainty, indicated serious problems with the R.O.T.C. program. However, upon close examination, some of the problems encountered, concerning both training and active duty, were caused by legislation which required the awarding of a significant number of four-year scholarships. Last year \$14,000,000 was spent by the

Army in achieving the award of 6,500 scholarships. However, the study indicated that (1) cadets on scholarship had not distinguished themselves enough in either training, active duty or career plans to justify such an award; (2) the significant statutory required limitation on the number of scholarships available to veterans was counter-productive as two-year program veterans had a seven to one advantage in favoring career status in the Army when compared to non-veteran two-year program members; and (3) the cadets who were trained in the four-year program did not perform any different than those in the two-year program.

Even though national military leaders were approached with this information, they discouraged any further investigation of these major problems and indicated they did not want any additional non-Army personnel involvement in such research. Therefore, as there were no other realistic alternatives but to proceed as an individual, Matt submitted the study with suggested legislation to correct the most glaring problems to the Senate Armed Forces Committee where it is currently under review. Had the study been taken seriously when it was first proffered to Army leaders, the Army R.O.T.C. could have profited from the proposed legislation and saved over \$5,000,000 during the fiscal year 1979-80. Further implementation of the study's conclusions in the areas of active duty and recruiting could also result in significant savings. While not all independent projects need to go to this level to be valuable, it serves as an example of what those involved in the service can accomplish.

The Legislative Drafting Service is here to stay. While it does not compete with any co-curricular program, it does offer a practical outlet for student creativity and input as well as provide a major service to the public by providing well-reasoned and well-written alternatives and options for those in legislative positions. Such a service is indicative of what we as future attorneys should be very cognizant of—serving others through the law so as to create a more stable and sound society. The cooperation of Dean Rex Lee and Professor James Sabine, in conjunction with the funding and encouragement from A.B.A./L.S.D., have combined to offer students at the J. Reuben Clark Law School a real opportunity to put into effect, through service, that which they are presently learning.

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## Was It All Worth It?

by Travis Lyle Bowen

During the last month or so, Utah newspapers, including the *Daily Universe*, have run a story on a 79-year-old B.Y.U. freshman, a retired Salt Lake City lawyer. Law students might be interested to learn how Ferris S. Jensen obtained his law degree.

Brother Jensen did not finish high school. There were debts. "Job followed job. Then came a mission to Holland; then marriage; then family. The elusive goal of freedom from debt and further education seemed farther and farther away."

He went to work at Walker Bank, in Salt Lake City, where, using skills acquired from his father, he began to prepare deeds, mortgages, contracts, and other legal documents. This was moonlighting, so to speak, since he used lunch hours and time at home to do this type of quasi-legal work.

"Then came the depression. . . . One day, one of the officers of the bank came to my window, with a delegation of lawyers. They sternly informed me that my 'practice of law,' as they put it, had to stop. There were too many hungry lawyers, and a law passed by the 1927 legislature, but not theretofore enforced, made it unlawful for those not members of the bar, to practice law, prepare legal documents, or give legal advice."

Upset at his loss of income, Brother Jensen enrolled in the *Liberal Extension University* law course.

For a year, he submitted lessons on schedule. Then a good friend of his, president of the Utah State Bar Association, paid him a visit. After March, 1934, no person could take the Utah State bar exam without having graduated from a university before commencing law study.

So Brother Jensen, a high school dropout, made a dramatic decision: He talked the problem over with his wife, left his job at the bank (September, 1934), and, accelerating his course of study, began a six-month cram for the bar exam.

"Oh, how I crammed! Each day I would study for two hours before breakfast, then two hours after breakfast; then a break, then two more hours before lunch. After lunch it was more of the same—two hours study; then a break; then two more hours; then dinner; then two more hours. And I would fall exhausted into bed. . . . There was no study on Sunday. That was the one day for family and church."

"The examination was tough. It lasted all day, every day, for a week. To pass, we were required to attain a passing grade in every exam. . . . All I could do was give it the best I had, and hope and pray. Twenty-three hopeful applicants took the exam—the others being from the University of Utah, Stanford, George Washington, and even Oxford, all university graduates."

Not long afterwards, friends from the bar association began to leak news to Brother Jensen, only he had passed the tough Tuesday exam, on mortgages, only one examinee had passed the bar exam—Ferris S. Jensen, the high school dropout.

The examiners faced a problem. They could not admit to the practice of law the only applicant with no university education. The solution? Admit Jensen, plus those with the next seven highest scores.

That's how Ferris S. Jensen became a lawyer. Now he is back to begin his college education.