

Where Political Actions Speak Louder than Words

## **2004 Legislative Performance Report**

(April 2004)

## Introduction

Welcome to the 2004 Legislative Performance Report! We hope this report will assist you in making wise decisions regarding your involvement in government and the representation you choose.

### **Our Mission**

Accountability Utah exists to shed light on the legislative process, to provide citizens with knowledge and tools to effectively hold their government accountable, and to secure—for every man, woman, and child—a future of freedom.

We do this by publishing accountability reports, alerts, and information on critical issues, and by providing training to unleash the power of citizens.

## **Our Philosophy**

Accountability Utah promotes government that is restrained, fair, open, decentralized, and representative; an economy based on free market principles; and strong individuals and families. We affirm the Godgranted rights and protections generally outlined in the United States Constitution, its Bill of Rights, and the Declaration of Independence. The validity and applicability of these documents has not diminished over time.

## **Equal Opportunity**

Accountability Utah attempts to hold all officials, regardless of partisan affiliation, accountable to the same standards. Accountability Utah relies on citizens who volunteer their time, and does not accept membership dues.

#### **Performance Summary**

(On a scale of -100% to +100%)

State Senate	
Overall average:	-36%
Democrat average:	-55%
Republican average:	-30%
Democrat leadership average:	-62%
Republican leadership average:	-32%
State House	
Overall average:	-26%
Democrat average:	-62%
Republican average:	-14%
Democrat leadership average:	-74%
Republican leadership average:	-18%

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#### 2004 Utah State Senate Performance Report

			Property Rights	Taxes, Spending, Regulation				Right to	Bear Arms	Due Process	for Families	Ethics	Ethics Safeguarding Elections			Justice		
Name	Borty	Dist.	SB 175	HB 37	HB 181	SB 1	SB 22	SB 140	SB 48	HB 198	SB 90	SB 85	HB 301	Elect. Voting	SB 55	HB 199	Final Score	Lifetime Score
Allen	D	12	-1	-1	-1	0	-1	140	-1	-1	-1	1	0	-1	-1	-1	-57%	-57%
Arent	D	4	-1	-1	-1	0	0	-1	-1	-1	-1	1	-1	-1	-1	-1	-71%	-71%
Bell	R	22	-1	-1	-1	-1	-1	-1	1	-1	1	1	1	-1	-1	-1	-43%	-54%
Blackham	R	24			 -1	-2		- <u></u>	<u>-</u>	0		0	$\frac{1}{1}$		-2	0	-36%	-61%
Bramble	R	16	-1	-1	-1	-1	-1	-1	0	-1	1	1	1	-1	-1	-1	-50%	-50%
Buttars	R	10	-2	-1	-1	-1	-1	-2	1	0	1	1	1	-1	-1	-1	-50%	-61%
Davis		$-\frac{10}{3}$	-1		- <u>-'</u> -1		- <u>-</u> ' -1	1	<u>'</u> -1		' -1	- <u>'</u>	- <u>'</u>	- <u></u>		-1	-71%	-68%
Dmitrich	D	27	-1	-1	-1	-1	-1	1	-1	-1	-1	1	-1	-1	-1	-1	-57%	-57%
Eastman	R	23	-1	-1	-1	-1	-1	-1	1	-1	1	1	1	-1	-1	-1	-43%	-50%
B. Evans	R	26		0	- <u>'</u>	- <u>-</u>	'		<u>-</u>		<u>'</u>	$-\frac{1}{1}$	$-\frac{1}{1}$	- <u></u> -1	<u>'</u>	-1	-36%	-50%
J. Evans	R	1	0	-1	-1	-1	-1	-1	1	-1	1	1	-1	-1	-1	-1	-50%	-50%
Gladwell	R	19	0	-1	-1	-1	-1	0	0	-1	1	1	1	-1	-1	0	-29%	-50%
Hale	D	7	-1	-1	-1	1	-1	-1	-1	-1	-1	1	-1	-1	-1	-1	-71%	-64%
Hatch	R	28	1	-1	-1	-1	0	1	1	-1	1	1	1	-1	-1	-1	-7%	-29%
Hellewell	R	15	1	-1	-1	-1	-1	-1	1	-1	1	1	0	-1	-1	-1	-36%	-54%
Hickman	R	29	-1	-1	-1	-1	0	1	0	0	1	1	0	-1	-1	-1	-29%	-39%
Hillyard	R	25	0	-1	-1	0	0	-1	0	-1	1	1	0	-1	-1	0	-29%	-46%
Jenkins	R	20	1	-1	-1	-1	-1	1	1	-1	1	1	1	-1	1	-1	0%	-14%
Julander	D	2	0	-1	-1	0	0	-1	0	-1	-1	1	0	-1	0	0	-36%	-50%
Killpack	R	21	-1	-1	-1	-1	-1	-1	1	-1	1	1	1	-1	-1	-1	-43%	-43%
Knudson	R	17		1	-1	1	-1	-1	1	-1	1	0	_1	-1	1	1	-50%	-61%
Mansell	R	9	-1	-1	-1	-1	-1	-1	1	0	1	1	1	-1	-1	-1	-36%	-57%
Mayne	D	5	1	0	-1	1	-1	-1	1	-1	1	1	-1	-1	-1	-1	-21%	-46%
Stephenson	R	11	1	-1	1	-1	-2	1	1	-1	1	1	1	-1	1	-1	-7%	-4%
Thomas	R	18	1	-1	-1	-1	-1	-1	1	-1	2	2	1	-1	-1	-1	-14%	-43%
Valentine	R	14	1	-1	-1	-1	-1	-1	1	-1	1	1	1	-1	-1	0	-21%	-39%
Waddoups	R	6	1	-1	-1	-1	-1	-1	2	-1	1	1	1	-1	-1	-1	-21%	-39%
Walker	R	8	-1	-1	-1	-1	-1	-1	1	-1	1	1	1	-1	-1	-1	-43%	-57%
Wright	R	13	1	0	-1	0	-1	1	1	0	1	1	0	-1	0	0	14%	-14%
Total Votes			16/9/4	26/0/3	0/0/0	22/2/5	24/0/5	19/9/1	20/4/5	24/0/5	23/6/0	27/0/2	17/6/6	0/0/0	25/2/2	23/0/6	-36%	-48%

#### 2004 Utah Governor Performance Report

		Property Rights Taxes, Spending, Regulation					Right to	Bear Arms	Due Process for Families		Ethics	Safeguarding Elections			Justice		
Name	Party	SB 175	HB 37	HB 181	SB 1	SB 22		SB 48	HB 198		SB 85	HB 301	Elect. Voting	SB 55	HB 199	Final Score	Lifetime Score
Walker	R	-1	-1	n/a	-1	-1		1	-1		1	1	-1	-1	-1	-45%	-45%

1 = Correct Vote	<b>Bold</b> = Indicates original sponsor of that bill. Each sponsor receives an additional merit of +1 for
-1 = Incorrect Vote	a good bill or a demerit of -1 for a bad bill.
0 = Absent (or abstained)	Total Points: Sum total of all votes plus any merits (+1) or demerits (-1) for any bills sponsored.
SB = Senate Bill	Absences (0) are not counted toward the Total Points.
HB = House Bill	Final Score: Total Points divided by the total number of tracked bills for which that legislator
Dist. = Legislative District	was eligible to vote, multiplied by 100%.
· · · · · · · · · · · · · · · · · · ·	Senator A voted correctly on 9 bills (+9), voted incorrectly on 4 bills (-4), and was absent on 1 vote (0). II (+1). His Total Points is 9 - 4 + 1, or 6. His Final Score is 6 / 14 (the total senate votes tracked) x 100%, for a Final

If you are unsure who your senator or representative is, call your county clerk.

# SUMMARIES OF REPORTED BILLS

#### **PROPERTY RIGHTS**

House Bill 311, Substitute 1 (Rep. Adams): Expands the power of government redevelopment agencies to abuse property owners via "economic development projects" that now include: "...affordable housing, attached housing, housing that is included in a building with other uses, retail, hotel, infrastructure improvements, [and] transit..."

In other words, redevelopment agencies would have had the green light to condemn private property and do whatever they wanted with it. HB 311 passed the house (46-26-3) and did not receive a final vote in the senate. A **NO** vote is correct.

**Senate Bill 175 Substitute 2** (Sen. Buttars): Effectively repeals forfeiture reform Initiative B, passed by 69% of Utah's voters in 2000. Police will again be allowed to profit from property confiscated from innocent owners, destroying due process of law. Forfeitures are authorized and encouraged to be performed at the federal level, where property owners are presumed to be guilty. Sickeningly, and despite overwhelming evidence to the contrary, SB 175 S2 claims to increase protections for innocent owners. It passed the house (46-27-2) and senate (16-9-4). A **NO** vote is correct. See page 5 for more information.

#### TAXES, SPENDING, REGULATION

**House Bill 37** (Rep. Curtis): Reauthorizes pork barrel projects and onerous regulatory acts slated to be sunsetted (terminated by a certain date) in 2004, such as the Resource Development Coordinating Committee and the Utah Sports Authority Act. HB 37 passed the house (61-11-3), the senate (26-0-3), and was signed by the governor. A **NO** vote is correct.

**House Bill 181, Substitute 1** (Rep. Morley): Allowed cities to forgo industrial fluoride if the actual implementation costs exceeded the initiative backers' purported costs by 25 percent or more. Voters were lied to in past initiatives. HB 181 required truth in taxation, allowing cities to reconsider additives that do nothing to make the public's water safe. HB 181 passed the house (67-3-5), failed to pass a senate committee, and died in the senate rules committee. Because no senator was willing to make a simple motion to attempt to bring HB 181 out of the rules committee and to the floor for action, each senator has received a **-1 SCORE**. A **YES** vote is correct.

**Senate Bill 1** (Sen. Blackham): Appropriated \$6,029,811,700 toward state government. Along with supplementary appropriations made in other bills, the state budget will now exceed **8 BILLION DOLLARS**—for a population of roughly 2.2 million people. It is no wonder that Utah is the ninth-highest taxed state in the nation.

This bill passed the senate (22-2-5) and the house (59-13-3). A **NO** vote is correct.

**Senate Bill 22** (Sen. Stephenson): This bill reauthorized the administrative rules of all Utah agencies. Administrative rules are the guidelines by which state agencies operate and come close to having the power of law. They theoretically provide guidance for the "grey areas" of existing statute, but in reality provide excuses for misbehavior. Horrible rules abound in the arena of taxes, child welfare, providing due process, etc., that should be addressed and rectified, not given a blanket pass-over. This bill passed the senate (24-0-5), the house (65-5-5), and was signed by the governor. A **NO** vote is correct.

#### **RIGHT TO BEAR ARMS**

Amendment to House Bill 166 (made by Rep. Daniels): Daniels attempted to amend Rep. Hogue's bill to require citizens to jump through additional training hoops in order to receive their concealed carry permit, including actual firing proficiency. Citizens have the inalienable right to carry a weapon to defend themselves without government sanction or micro-management. This amendment failed on the house floor (24-50-1). A **NO** vote is correct.

**Senate Bill 48, Substitute 1** (Sen. Waddoups): Prohibits local governments from enacting any type of *restrictive* firearms law. The state legislature retains this power. This is necessary, as a patchwork of restrictions from one county or municipality to another would be chaotic. Citizens have the right to look to the legislature for protection if a local government is attempting to deny their right to defend themselves. This bill passed the senate (20-4-5) and the house (55-16-4). A **YES** vote is correct.

Senate Bill 140, Substitute 2 (Sen. Buttars): Granted carte blanche authority to bureaucrats in the Office of Licensing within the Department of Human Services to regulate gun owners, including foster parents and businesses. This office could have established rules regulating "access to firearms." It is wrong to turn the right of self-defense over to the whims of unelected state bureaucrats, and blatant discrimination against gun owners would have been the inevitable result. This bill passed the senate (19-9-1) and did not receive a final vote in the house. A NO vote is correct.

#### **DUE PROCESS FOR FAMILIES**

**House Bill 198, Substitute 2** (Rep. Thompson): Requires parties [including accused parents] in abuse or neglect proceedings to provide, at least 5 days prior to the proceeding, "any information which the party: plans to report to the court at the proceeding; or could reasonably

expect would be requested of the party by the court at the proceeding."

The juvenile court system already treats parents like subhumans (proceedings are conducted in secrecy and jury trials are denied). Judges will have another excuse to dismiss key evidence that lay parents and their outgunned court-appointed attorneys attempt to provide.

In America, a defendant is innocent until proven guilty. Under HB 198, he (in this case the accused parent) will be forced to attempt to predict the prosecution before he knows how the prosecution plans to attack him.

This is not a two-way street. One entity (the prosecution) is attempting to limit the freedom of another entity (the defense). The burden rests solely on the prosecution to prove guilt and to establish that it HAS real evidence and substance to present; not on the defense to attempt to justify itself prior to being accused in the courtroom. HB 198 passed the house (67-0-8), the senate (24-0-5), and was signed by the governor. A **NO** vote is correct.

**Senate Bill 90, Substitute 4** (Sen. Thomas): Attempted to clarify and strengthen the medical rights of parents, declaring that, "the medical decision of a competent parent or guardian does not constitute medical neglect." The bill required the state to first prove that a parent is incompetent "beyond a reasonable doubt."

SB 90 reinforced the right of parents to seek a second medical opinion, insulated doctors from frivolous prosecution by parents who fail to follow their advice, and removed the onerous requirement that doctors report anything that could possibly be the result of some form of "neglect" (very loosely defined in state statute).

Parents are obligated by their Creator to make the tough decisions regarding the medical care of their children. It is time to treat them with the respect due their monumental responsibility. SB 90 passed the senate (23-6-0) and was filibustered and killed in the house. A **YES** vote is correct.

#### **ETHICS**

**Senate Bill 85** (Sen. Thomas): Broadens the definition of "public entity" and "public official" and creates a Class B Misdemeanor for public agents who engage in certain inappropriate political activities using public funds and resources. Taxpayer dollars should not be used for political purposes. SB 85 passed the senate (27-0-2), the house (43-15-17), and was signed by the governor. A YES vote is correct.

#### **SAFEGUARDING ELECTIONS**

House Bill 301 (Rep. Thompson): Amends the voter registration form to include an affidavit of citizenship which must be reviewed for accuracy by the respective

county clerk. It also includes a penalty for willful violation. This is a baby step toward restoring integrity and trust in our election system. HB 301 passed the house (54-18-3) and senate (17-6-6). A **YES** vote is correct.

**Failure to Address Electronic Voting Security Issues**: Legitimate, serious security concerns have been publicized (nationally and locally) regarding hacker threats and electronic voting machines that fail to print paper ballots for hand-verification. Accountability Utah sent out warnings last year and citizens diligently contacted their officials with these concerns. Despite reality, Gov. Walker is charging ahead to install these machines. Without citizen trust in the election process, our government is not legitimate. No senator or representative took any meaningful action to safeguard our electoral system by ensuring that security issues are resolved before electronic machines begin to be implemented. Each has therefore received a **-1 SCORE**.

#### JUSTICE

Senate Bill 55, Substitute 1 (Sen. Blackham): Grants government employees immunity from personal liability for gross, malicious, abusive, irresponsible, or careless acts or omissions. The party harmed must first prove that the employee: "acted or failed to act through fraud or willful misconduct," was under the influence of heavy alcohol or drugs while driving, or "intentionally or knowingly" committed perjury (lied under oath) "material to the issue or matter of inquiry..."

In other words, unless it can be proved that a government agent lied in court or was driving while intoxicated, he may literally get away with murder. This bill passed the senate (25-2-2) and the house (67-1-7). A **NO** vote is correct.

**House Bill 199, Substitute 1** (Rep. Spackman Moss): Creates opportunities to harass innocent citizens. From the bill: "...A person is guilty of an offense... who, while on a street, sidewalk or public way adjacent to any school building or ground: (a) by his or her presence or acts, materially disrupts the peaceful conduct of school activities; and (b) remains upon the place... after being asked to leave by the chief administrator of that school."

It is remarkable that a person's presence could cause substantive injury or "material" disruption—now an arrestable offense, punishable with stiff fines and up to one year in prison. Political conventions and activities are often held on school grounds. Will it be illegal to pass out fliers because a principal feels it disturbs a track meet?

If legitimate disturbances cannot be resolved through existing trespass laws, they should be addressed in a rational, careful manner. HB 199 does just the opposite. It passed the house (67-5-3), the senate (23-0-6), and was signed by the governor. A **NO** vote is correct.

# SB 175 S2: Subverting Due Process & the Will of the People

In a shocking display of contempt for due process, separation of powers, state sovereignty, the will of Utah's voters, and innocent property owners, the Utah legislature defiantly destroyed citizens' Initiative B. The initiative instituted a broad range of protection against unjust confiscation of private property.

Through SB 175 S2 police will again be allowed to profit from property they cause to be forfeited. Most significantly, they are authorized and encouraged to utilize unjust federal confiscation statutes, under which property owners are *presumed guilty* (see Title 18, Section 983, U.S. Code).

Rather than receive input from citizens desiring a fair and reasonable opportunity to expose the corruption inherent in SB 175 S2, legislators aligned themselves with menacing swarms of armed government agents and self-serving lobbyists who crowded every committee hearing and public meeting.

The entire ordeal of SB 175 S2 demonstrates a government that is of, by, and for the government rather than its people. The legislature purposely rejected facts and the truth, in favor of unrestrained government power and the destruction of your rights. For a detailed analysis of SB 175 S2, see www.accountabilityutah.org.

# Senate Votes to End Taxpayer Funding of Infanticide... But at What Cost?

For years, the senate has filibustered and killed antiinfanticide bills. Last year, the senate broke the camel's back by collaboratively filibustering a bill to ban taxpayer funding of abortion on demand (HB 123 S4). Despite citizen outcry and anger, not one senator would stand up and fight for the unborn, or take any meaningful action. Senator Parley Hellewell stated: "We would have only had 6 or 7 votes [in the Senate]."

Over the past year, citizens have appropriately and relentlessly confronted each and every senator for his or her cowardice and contempt. In desperate fear for their political careers, senators sailed Senate Bill 68 (Substitute 3) through the entire legislature this session (21-7 in the senate and 57-13-5 in the house). Almost identical to last year's bill, SB 68 S3 prohibits the state and political subdivisions from using public funds for the performance of an abortion except in certain circumstances such as rape, incest, and life of the mother. It also provides penalties (Class B Misdemeanor and termination of government employment) for any government employee who knowingly authorizes the use of public funds for frivolous abortions. This again proves that many legislators are only sufficiently "motivated" to do the right thing when enough heat and political pain are applied—*innocent lives notwithstanding*. Last year, the unborn had no voice in the Utah senate. This year, an election year, senators publicly shed tears and relayed heart-wrenching experiences regarding the sanctity of infants. Many Democrats even fell over themselves to pass this bill.

Unfortunately, in the precious time it took to thrash senators for their vulgar obstruction, over 4,000 infants have been murdered in Utah via "therapeutic" or "elective" abortions. And many of those abortions were directly or indirectly paid for by Utah taxpayers. Senators eager for praise should be reminded of these horrific facts, and the innocent blood they have allowed to be spilled should be remembered in upcoming elections.

The following legislators voted against SB 68 S3: Senators Allen, Arent, Davis, Dmitrich, Hale, Julander, Mayne, and Representatives Becker, Bourdeaux, Buffmire, Daniels, Goodfellow, Jones, King, Litvack, Mascaro, McCartney, McGee, Moss, and Shurtliff. All were Democrats save Rep. Mascaro.

#### Good Bills that Never Saw the Light of Day

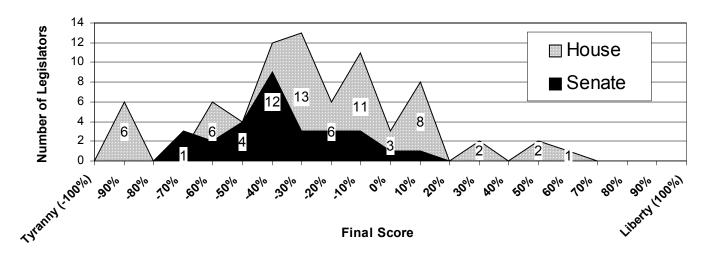
Accountability Utah is sometimes asked: "Why don't you focus on more of the good the legislature does, rather than on so much of the negative?" Here are two reasons why:

1) House Speaker Marty Stephens, Senate President Alma Mansell, and their subordinates kept many desirable bills from reaching the floor for a public debate and vote.

HB 366, for example, would have prevented illegal aliens from receiving in-state tuition rates. HB 257 S1 would have required informed patient permission prior to receiving violent (and still experimental) electroconvulsive shock treatment. These bills were stalled in the powerful house rules committee. Speaker Stephens appointed all of the members of this committee to represent his interests. Sen. Bill Wright repeatedly promised citizens that he would run SB 56 to restore jury trials for parents accused of abuse or neglect. He filed the bill, but never ran it.

2) If a common thug cuts off your right arm and leg, no sane person would be inclined to thank him for leaving his other limbs intact. The mentality of focusing on the good while ignoring the destruction of fundamental rights is akin to a judge who allows a man to go free because, aside from an occasional armed robbery, he is a wonderful philanthropist. Accountability Utah condemns those who abuse citizens, regardless of other "good" they may or may not do.





## Accountability Utah's Political Rating System

Unlike traditional academic rating scales of 0-100% or "A-F" the reader may have encountered in the past, Accountability Utah rates on a -100% to +100% scale. Because our rating system is different, we have provided this explanation of our reasoning.

It is not unexpected that traditional academic evaluations have been applied to political performance. This application provides familiar results to voters. But a fundamental difference exists between the academic and political environment, making traditional academic ratings inappropriate for political purposes.

In academia, students are evaluated against a standard of perfection: the "A" or 100%. Though levels of motivation and capability vary, virtually all students desire a higher grade over a lower grade. When a student answers a test question correctly, he receives the associated positive points. If his response is partially correct or incorrect, he receives fewer or no points. Because students do not reasonably desire to incorrectly answer examination questions, they do not receive a negative score when their answers are incorrect.

But politicians are not comparable to students. For each component of Accountability Utah's beliefs, there are legislators who are supportive of that belief, and there are those who are opposed to that belief. A negative score on a particular issue indicates opposition to our belief. By assigning a negative score, the harmful effect of the legislator's action is measured. A good vote is positive. A bad vote is negative—not just neutral. If legislators were to receive zeros rather than negative points, the undesirable voting patterns would be more difficult to ascertain. Without negative scores, the mirage is created that the legislator's performance is still satisfactory—or merely less acceptable. But, again, in politics those being evaluated are rejecting what we believe is the correct response, in favor of another to which we are diametrically opposed. The laws required to enforce these differences of opinions equate to a tangible, real loss of freedom.

In assessing the scores, it should become clear that freedom has few friends within the Utah legislative and executive branches of government. Some may claim that our rating system is too demanding. Accountability Utah argues that traditional academic rating systems of political performances are inflated and misleading, and should yield to methods that discredit—rather than ignore—harmful political actions.

If the principles upon which America was founded are truly important, then we should be willing to fairly and honestly report and consider how little support these principles have within our current government. Recognition or acknowledgment of our serious state of affairs is the first step toward correcting our course.

Disclaimer: This publication is the culmination of many hours of volunteer work and represents the political opinion of Accountability Utah. Every effort has been made to accurately present the information contained herein. Covering a session of the legislature is a formidable task at best. If you find any information that is inaccurate, please contact us. You are encouraged to read this report and reach your own conclusions.

# 2004 Utah State House Performance Report

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Name    Perg    Deta    S11    S5    S10    S10    S01    S10    S0    S00    S00 <th></th> <th></th> <th></th> <th>Property</th> <th>Rights</th> <th></th> <th>Taxes,</th> <th>opending, Regulation</th> <th></th> <th>Right to Bear Arms</th> <th></th> <th>Due Process for Families</th> <th>Ethics</th> <th>Safeguarding</th> <th>Elections</th> <th>tion</th> <th>20091000</th> <th></th> <th></th>				Property	Rights		Taxes,	opending, Regulation		Right to Bear Arms		Due Process for Families	Ethics	Safeguarding	Elections	tion	20091000		
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## ACCOUNTABILITY UTAH 2004 Legislature Performance Report

Accountability Utah exists to shed light on the legislative process, to provide citizens with knowledge and tools to effectively hold their government accountable, and to secure—for every man, woman, and child—a future of freedom.

What goes on during at the legislature? Are your political views represented? Can you make a difference? Accountability Utah is pleased to provide you with this preliminary Performance Report. We want you to know that other Utahns also value their God-granted rights and are concerned for the future. Now is the time for like-minded Utahns to unite and demand government that is restrained, fair, open, decentralized, and representative.

Citizen involvement does not have to be a losing battle anymore. Your participation can produce substantive results!

Accountability Utah is a network of citizens dedicated to providing information and training to citizens who want to be active and effective. We encourage you to read this report and then visit www.accountabilityutah.org. Join the educational process (no membership fees or dues) with many other Utahns who want to be caretakers and guardians of their freedoms. Your right to life, liberty, and happiness is worth it!

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