



2011 NCSL Legislative Summit

San Antonio, Texas

**Insulating State Legislation From
Court Challenges**

Thursday, August 11, 2011

4:00 pm - 5:30 pm

Sponsored by the Legal Services Staff Section

Any type of important or controversial state legislation is likely to face constitutional challenges. Yet state legislators have many tools at their disposal that can thwart litigants and judges who seek to nullify hard-won legislation in court. This session will discuss four of the most powerful statutory provisions that can help bulletproof state laws from judicial invalidation.

- Moderator: Peggy Piety, Staff Attorney, Legislative Services Agency, Indiana
- Speaker: Jonathan Mitchell, Solicitor General, Texas
- Respondents: Robert McCurley, Director, Alabama Law Institute
- Joanne Pepperl, Revisor of Statutes, Legislative Council, Nebraska

Agenda

- | | |
|------------------|---|
| 4:00 – 4:10 p.m. | Welcome and Introductions
Peggy Piety, Legislative Services Agency, Indiana |
| 4:10 – 4:50 p.m. | Speaker's Remarks
Jonathan Mitchell, Solicitor General, Texas |
| 4:50 – 5:10 p.m. | Respondents Remarks
Robert McCurley, Alabama Law Institute
Joanne Pepperl, Revisor of Statutes, Legislative Council, Nebraska |
| 5:10 – 5:30 p.m. | Discussion among the panelists and speaker and
Questions from the Audience |

Faculty Bios

Solicitor General Jonathan F. Mitchell graduated with high honors from the University of Chicago Law School in 2001, where he was an articles editor of The University of Chicago Law Review and a member of Order of the Coif.

After graduating from law school, Mr. Mitchell served as a law clerk for Judge J. Michael Luttig of the U.S. Court of Appeals for the Fourth Circuit and for Justice Antonin Scalia of the Supreme Court of the United States. He then worked as an Attorney-Adviser in the Office of Legal Counsel of the United States Department of Justice from August 2003 through January 2006.

After leaving the Department of Justice, Mr. Mitchell entered legal academia, first as a visiting assistant professor at the University of Chicago Law School from 2006 through 2008, and then as an assistant professor of law at George Mason University. He has published articles in the fields of national-security law, criminal law and procedure, constitutional law, and federal courts, and his academic writing has appeared in journals such as the Supreme Court Review, the Michigan Law Review, and the University of Chicago Law Review.

Mr. Mitchell is currently on leave from academia, serving as the fifth Solicitor General of Texas.

Robert L. McCurley, Jr., Director, Alabama Law Institute

Bob. McCurley, is Director of the Alabama Law Institute.

The Alabama Law Institute is a state legislative agency with offices in both the State House and the Alabama School of Law.

Bob is admitted to practice law in Alabama, the District of Columbia, and before the United States Supreme Court. He has written eleven books on law and government including "Alabama Legislative Process, A Handbook for Legislators" and "Alabama Legislation Cases and Statutes".

He was selected one of 32 emerging state leaders from across the nation for the prestigious "Toll Fellowship" Program sponsored by the Council of State Governments. A Past Chair of the Legal Services Staff Section and former member of the N.C.S.L. Executive Committee.

Bob is married to Barbara and has a daughter, Reverend Leah McCurley.

Joanne M. Pepperl, Revisor of Statutes, Nebraska

Joanne has served the Nebraska Legislature in the Revisor of Statutes' office since August 1977. She was appointed Revisor of Statutes in 1980. Joanne is a member of the Nebraska State Bar Association and Government Practice Section of the bar association. In 2010, she was named as a fellow to the Nebraska State Bar Foundation. Joanne has been a member of National Conference of Commissioners on Uniform State Laws since 1980 and in 2000 she was named a Life Member of the Conference. She earned her B.S. in 1974, and her J.D. in 1977 from the University of Nebraska.

Peggy Piety, Staff Attorney, Indiana Legislative Services Agency

Peggy Piety is a staff attorney for the Office of Bill Drafting and Research (OBDAR) of the Indiana Legislative Services Agency (Agency). Her duties include providing, on a nonpartisan basis, bill drafting and legal research to all 150 members of the Indiana General Assembly in the areas of labor and employment law, public pensions, and elections. She also staffs standing committees during the legislative session and legislative study committees during the interim, and performs editorial tasks related to the preparation of session acts and updates to the Indiana Code after each session. Peggy's other work experience has included employment as an attorney for local government and in private practice. She is a graduate of the Indiana University- Indianapolis Law School.