

**MINUTES OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**
December 17, 1999 - 9:00 a.m. - Room 305 State Capitol

Members Present:

Sen. Howard A. Stephenson, Co-chair
Rep. David Ure, Co-chair
Sen. Mike Dmitrich
Sen. L. Alma Mansell
Sen. Eddie "Ed" P. Mayne
Sen. Howard C. Nielson
Rep. Judy A. Buffmire
Rep. James R. Gowans
Rep. Martin R. Stephens
Rep. John E. Swallow

Staff Present:

Mr. Arthur L. Hunsaker,
Research Analyst
Ms. Esther D. Chelsea-McCarty,
Associate General Counsel
Ms. Cassandra Bauman,
Legislative Secretary

Note: A list of others present and copies of materials distributed in the meeting are on file in the Office of Legislative Research and General Counsel.

1. Call to Order and Approval of Minutes of Meeting Held November 24, 1999 - Rep. Ure called the meeting to order at 9:16 a.m.

MOTION: Rep. Gowans moved to approve the minutes of November 24, 1999. The motion passed unanimously with Sens. Mansell and Nielson and Rep. Swallow absent for the vote.

2. R986-12 Conditions of Eligibility (Existing Rule) – Sen. Mayne passed out a letter to Governor Leavitt from a constituent expressing concern about the process of receiving public assistance. He also expressed concerns with Department of Workforce Services policies that perhaps should be in rule.

Mr. Ken Hansen, Director, Division of Administrative Rules stated that he had met with advocates and representatives of the Department of Workforce Services. He said that he felt there is a willingness on both sides to address the issues and talk about concerns. He passed out a handout titled "A Report to the Administrative Rules Review Committee". Mr. Hansen explained that Workforce Services has made changes in the way they do their rulemaking which should improve the process.

Mr. Steve Johnson, Utahns Against Hunger, said that he was concerned that some of the Department of Workforce Services policies did not adhere to federal law. Rep. Stephens said that Mr. Johnson had yet to show an example of a department policy not adhering to the federal law. Mr. Johnson concluded that he believed the department needed to go through the rulemaking process more frequently before taking action.

Ms. Karen Silver, Advocate with Salt Lake Community Action Program, said that there are people who will be pulled off Welfare on December 31, 1999. Ms. Silver explained that the policy for reviewing extensions would not go into effect until the year 2000, but that would be too late for

the people who will be pulled off on December 31st.

Ms. Virginia Smith, Deputy Director and Chief Legal Counsel, Department of Workforce Services, said that where the department has the option to depart from federal guidelines, and chooses to exercise the option, it is mentioned in department rules. Ms. Smith expressed the department's willing to speak with advocates about any problems they have. Rep. Buffmire asked how workers would know what federal laws were if they are not in the policy manual that they are to follow.

Ms. Helen Thatcher, Department of Workforce Services, explained that the process written in the policy already achieves what needs to be done and helps employees accomplish their jobs when needed without having to restate the laws.

3. R865-19S-49 Sales to and by Farmers and Other Agricultural Producers Pursuant to Utah Code Annotated Section 59-12-104 (Existing Rule) – Ms. Pamela Hendrickson, Commissioner, Utah State Tax Commission passed out handouts titled “R865-19S-49”, “59-12-104 Exemptions”, “59-12-102 Definitions”, “Construction”, and “New or Expanding Operations”. Sen. Stephenson explained that the rule itself isn’t the problem, it is the Tax Commission's interpretation of the rule. He said that the committee wrote a letter asking the State Tax Commission to review its interpretation of the rule and bring it into harmony with the intent of the law. Sen. Stephenson read the letter that the committee received from the State Tax Commission.

Bruce Johnson, Commissioner, Utah State Tax Commission, explained that the best interpretation is that when a farmer uses a veterinarian’s services, he is paying for the professional service. He said that the things the veterinarian is using are really incidental and the veterinarian’s supplies may be used for several of his patients. He gave the example of the examining table. Rep. Ure pointed out that some of the tools which are used on the animal are specifically used for that farm animal. His example was the veterinarian’s gloves or syringe. Rep. Ure said that the problem is defining agriculture. What animals are used for agriculture compared to which are used for recreation. He suggested that the definition of medicine should be broadened to make the exemptions possible for veterinarians. Mr. Johnson explained that it is very difficult to find a place to draw the line. He said that he believes exemptions should be narrowly construed and suggested that the committee recommend clarifying legislation.

4. Draft Bill, “Re-authorization of Administrative Rules” – Mr. Hunsaker presented the draft legislation to the committee.

MOTION: Sen. Nielson moved to approve the bill as drafted. The motion passed unanimously with Reps. Gowans and Stephens absent for the vote.

5. Committee Business –

A. Agency Policies and Administrative Rule Making - Rep. Ure expressed concern that some agency policies fit the standard for rulemaking, but are not in rule. This becomes problematic because those policies are not available to the public even though they affect the public.

B. Update: Capitol Use Rules - Mr. Hunsaker reviewed the background on the subject. He said that the Capitol Preservation Board has initiated rulemaking and plans to submit additional rules. Mr. David Hart, Executive Director, Capitol Preservation Board, reviewed some of the rules that were recently put into effect.

C. Other - The next meeting will be held on Tuesday, January 11, 2000 in room 305.

6. Adjourn - Rep. Ure adjourned the meeting at 11:35 a.m.

