

**MINUTES OF THE
UTAH CONSTITUTIONAL REVISION COMMISSION**
Thursday, November 10, 2005 – 1:00 p.m. – Room W125 House Building

Members Present:

Mr. Kevin J. Worthen, Chair
Judge Jon M. Memmott, Vice Chair
Rep. Ralph Becker
Sen. Mike Dmitrich
Mr. Byron L. Harward
Mr. Morris D. Linton
Mr. Michael Petersen
Ms. Kristine Strachan
Rep. LaVar Christensen
President John L. Valentine

Members Absent:

Rep. Sheryl L. Allen
Mr. Michael Christensen
Chief Justice Christine Durham
Sen. Peter C. Knudson
Mr. Roger Tew
Mr. Robin Riggs

Staff Present:

Mr. Jerry D. Howe, Policy Analyst
Mr. Robert H. Rees, Associate General Counsel
Ms. Brooke Ollerton, Legislative Secretary

Note: A list of others present, copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Commission Business

Chair Worthen called the meeting to order at 1:12 p.m. Rep. Allen, and Chief Justice Durham were excused from the meeting.

2. Resolution Enlarging Revenues and Assets in State Trust Fund

Judge Memmott explained that current statute limits the types of moneys allowed to go into the State Trust Fund. He stated that Sen. Hillyard's resolution would amend the Utah Constitution so that similar, one-time revenues may be deposited in the Fund. He explained that Sen. Hillyard wanted any deposits to the Trust Fund to be subject to the same limitations affecting withdrawals from the Fund.

Mr. Byron Harward suggested striking Article XXII, Section 4(1)(a) if all the monies from the November 1998 tobacco settlement had been received.

The Commission discussed the different types of trust funds in the state, what types of moneys could be deposited in them, how the funds could be used, and the restrictions governing the withdrawal of those funds.

President Valentine said that the "rainy-day fund" is not a trust fund, but an "over and under fund," to which the Legislature can make deposits by statute and withdraw from by appropriation with a majority vote.

Judge Memmott stated that when he spoke with Sen. Hillyard, the senator was not aware of any opposition to his resolution.

Rep. Christensen asked if "given to" in line 30 might be expanded to say "deposited in" or "appropriated to" so that the Legislature could make deposits to the fund.

Pres. Valentine explained that he believed Sen. Hillyard's intent was to allow appropriations into the fund.

Mr. Morris Linton suggested striking, on line 30 after "revenues or other assets," "given to the fund," and inserting "that the fund receives."

MOTION: Mr. Harward moved to recommend the draft legislation, with the suggestion to Sen. Hillyard to adopt in line 30 language parallel to line 28. The motion passed unanimously.

Rep. Becker asked staff to consider adding "public" to line 31 after "by bequest."

Mr. Linton asked if language in the Utah Constitution stating that the Trust Fund can "receive funds" also authorizes the Legislature to make those appropriations.

Mr. Rees stated that the Legislature has authority to appropriate funds wherever it desires without additional authority. The Trust Fund was not targeted because there was no constitutional language indicating that it was a source of funds. The intent of this provision was to indicate that appropriations or other provisions of law are sources of money to the Fund—that it can receive money from other sources.

MOTION: Mr. Linton moved to approve the minutes of the September 1, 2005 meeting. The motion passed unanimously.

3. Resolution Revising Executive Officer Succession Provision

Mr. Rees explained the new draft legislation "Resolution Revising Executive Officer Succession Provision." He said that in line 111 Subsection (2) some unnecessary language was taken out so that it states clearly that if a vacancy occurs in the office of governor, the lieutenant governor shall become governor. In Subsection (3), line 113 specifies that if there is a simultaneous vacancy in the offices of governor and lieutenant governor, the president of the senate shall become governor. If a simultaneous vacancy of all three offices occurs, the speaker of the house would become governor.

Mr. Harward expressed his concern that the language on line 70, may be interpreted to allow the lieutenant governor to declare a lieutenant governor-elect "disabled" and vice versa. The Commission directed staff to draft some language clarifying that a lieutenant governor or lieutenant governor-elect may only submit a declaration on his or her own behalf.

Rep. Christensen pointed out that a contradiction exists between lines 124 and 153-155 because a lieutenant governor is not compensated as much as the speaker would be if acting in the office of governor. He suggested striking from line 124-125 "without additional compensation."

Mr. Harward said he did not want any financial incentive for filling the governor's office and would not seek to alter the language.

The Commission discussed the intent of the bill and possible changes to the language.

MOTION: Mr. Harward moved to approve the bill and to direct staff to correct the language, as discussed. The motion was approved unanimously.

4. Other Items / Adjourn

Rep. Christensen expressed appreciation for the result of the Commission's consideration of the income tax earmarked for education during the last meeting.

Mr. Linton asked about future Commission meetings to be held during the general session of the Legislature.

Rep. Christensen stated the Commission has to look at the role it plays in making recommendations and suggested that the Commission meet more than once during the general session.

Mr. Howe explained that statute says that if the Commission is to make a recommendation, it has to do so before both houses act and that it cannot discuss confidential bill requests until the bill is made public.

Mr. Howe asked if the Commission wanted to amend the statute to require all constitutional amendments to come before the Commission or only by direction of the governor, president of the senate, speaker of the house, etc.

Judge Memmott suggested that the review of amendments be by request of groups in the Legislature, such as specific committees, not individual legislators, because not all constitutional amendments are meant to be passed.

Ms. Strachan stated that she would like to see several proposals for how amendments are brought to the Commission.

Mr. Rees asked the Commission how it would like to address a situation where legislators do not want the Commission to review their proposed amendments.

Mr. Linton stated that the purpose of the Commission was to make recommendations and to be an independent supplement to the political process. Therefore, the criteria for bringing something before the Commission need to be narrow enough to avoid political intent as Judge Memmott explained and broad enough to review proposals that may not be endorsed by leadership.

Mr. Harward stated that the best use of the Commission's process would be to put forth its best effort when a request is made by the Legislature. In addition, the Commission should be allowed on its own to consider proposals before the Legislature.

Ms. Strachan asked if this issue could be put on agenda for after the legislative session and suggested setting the February meeting for as late as possible.

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The Commission agreed to a meeting for Friday, January 20, 2006 from 12:00 to 2:00 p.m. and tentatively scheduled another meeting on or around February 10, 2006. It also decided to meet every other month starting in May on the second Thursday from 1:00 to 4:00 p.m.

Chair Worthen adjourned the meeting at 3:09 p.m.