

**MINUTES OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**
Monday, January 11, 2010 – 9:00 a.m. – Room C445 State Capitol

Members Present:

Sen. Howard A. Stephenson, Senate Chair
Rep. Curtis Oda, House Chair
Sen. Gene Davis
Sen. Brent H. Goodfellow
Sen. Mark B. Madsen
Rep. James R. Gowans
Rep. Rebecca D. Lockhart
Rep. Carol Spackman Moss
Rep. Merlynn T. Newbold

Members Excused:

Pres. Michael G. Waddoups

Staff Present:

Mr. Arthur L. Hunsaker, Policy Analyst
Ms. Susan Creager Allred, Associate General Counsel
Ms. Tracey Fredman, Legislative Secretary

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

1. Committee Business

Chair Stephenson called the meeting to order at 9:10 a.m.

MOTION: Sen. Davis moved to approve the minutes of the December 21, 2009 meeting. The motion passed unanimously. Sen. Madsen was absent for the vote.

2. 2010 General Session draft legislation, "Department of Human Services - Review and Oversight"

Rep. Lockhart discussed changes made to the draft legislation since the prior committee review of the bill.

Mr. Thomas Vaughn, Associate General Counsel, Office of Legislative Research and General Counsel, responded to committee members' questions.

MOTION: Rep. Lockhart moved to recommend 2010 General Session draft legislation, "Department of Human Services - Review and Oversight" as a committee bill. The motion passed unanimously. Sen. Madsen was absent for the vote.

3. 2010 General Session draft legislation, "Administrative Rules Reauthorization"

Sen. Stephenson introduced the bill.

MOTION: Sen. Davis moved to recommend 2010 General Session draft legislation, "Administrative Rules Reauthorization," as a committee bill. The motion passed unanimously. Sen. Madsen was absent for the vote.

4. Use of "Liberally Construed" in Statute and Administrative Rule

Mr. Hunsaker distributed and reviewed updated versions of "Use of 'Liberally Construed' in Utah Statute" and "Use of 'Liberally Construed' in Utah State Administrative Rules."

The committee discussed how to most effectively continue study of the topic to determine whether adequate direction has been provided by the Legislature concerning the use of "liberally construed" in both statute and administrative rule.

MOTION: Sen. Madsen moved that the committee direct staff to send a letter to the interim committees who have oversight of agencies that administer or enforce Utah Code or administrative rule provisions containing the phrase "liberally construed." The letter should describe the committee's concerns with the nonadjudicative use of the phrase and request that by November 2010, the committees review each use of the phrase in their area of oversight and recommend to the Administrative Rules Review Committee whether the phrase should be repealed. The motion passed unanimously.

Mr. Gale Lemmon, Assistant Attorney General, said the Legislature and the agencies included the term "liberally construed" in statute and rule to provide discretion to achieve the purposes of the statutes or rules and that there is a check system in which the courts may determine if there was an abuse of discretion.

5. Committee Business

No future meetings were scheduled.

6. Adjourn

MOTION: Sen. Davis moved to adjourn the meeting. The motion passed unanimously.

Chair Stephenson adjourned the meeting at 10:08 a.m.