

**MINUTES OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE**  
November 2, 1999 - 9:00 a.m. - Room 305 - State Capitol

**Members Present:**

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

**Staff Present:**

Mr. Arthur L. Hunsaker,  
Research Analyst  
Ms. Esther D. Chelsea-McCarty,  
Associate General Counsel  
Ms. Audrey Madsen,  
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 October 12, 1999 and September 14, 1999** - Rep. Ure called the meeting to order at 9:10 a.m.

**MOTION:** Rep. Buffmire moved to approve the minutes of October 12, 1999 and September 14, 1999. The motion passed unanimously with Sens. Mansell and Nielson, and Reps. Stephens and Swallow absent for the vote.

**2. R865-19S-49 Sales to and by Farmers and Other Agricultural Producers Pursuant to Utah Code Annotated Section 59-12-104 (Now an Existing Rule)** - John Hunter, Veterinarian, Spanish Fork, said that he was audited in April by the State Tax Commission. The audit concluded that he should be paying sales tax on "consumables," anything consumed when treating large animals. He said that in the past he hasn't been charged sales tax for these items.

Lynn Solarczyk, State Tax Commission, said that none of the laws or rules have been changed, but it is sometimes difficult to determine what the veterinarian purchases for resale and what he purchases that is consumed. She said that the Tax Commission is assuming that the vets are paying the tax up front and passing the cost onto the consumer, and feels they are internally consistent in their handling of the issue.

Sen. Stephenson clarified that if the farmer pays for the goods, they are tax exempt, but that if the vet uses them to service the farmer's animals, he is taxed. Rep. Gowans expressed concern that these issues did not surface until April's audit. Ms. Solarczyk confirmed that the audit did point out some problems that have existed for some time.

Rep. Buffmire asked if it is a double taxation issue. Dr. Hunter said that it is a double taxation issue because the veterinarians are taxed then they must tax their customers. Ms. Solarczyk said that there should not be a double taxation, and if it is being done that way, that is a misinterpretation of the rule.

Rep. Swallow said the focus should be on the end use of the material and that surely the statute was not enacted to urge farmers to do their own veterinary work. He said that it appears that the purpose of the original law has been lost. Committee discussion followed.

**MOTION:** Sen. Stephenson moved to place "R865-19S-49" on the sunset bill for the 2000 session. Sen. Dmitrich suggested having the commission rewrite Item A of the rule rather than have the committee sunset the rule. Rep. Stephens added that repealing the rule won't resolve the problem because the issue is the Tax Commission's interpretation of the rule. Sen. Stephenson withdrew the motion.

Rep. Buffmire said the committee needs to clarify the intent of the Tax Commission.

**MOTION:** Rep. Stephens moved that staff write a letter to the Tax Commission stating that the committee feels the rule is being misinterpreted and suggest it be corrected. If it is not corrected, the committee would support legislation clarifying the issue for the 2000 session. Committee Discussion followed. The motion passed unanimously with Sen. Mansell absent.

**3. Parental Notification of Interviews at School (Rep. Ure) -** Kay Hatch, Secretary, Panguitch Elementary School, addressed the committee regarding concerns with an incident at the school last spring in which Division of Child and Family Services (DCFS) case workers interviewed three sisters regarding alleged abuse by a young man. Ms. Hatch suggested to the workers that she notify the parents of the sisters. The caseworkers instructed Ms. Hatch not to inform the parents and that they would contact them at the appropriate time. When asked if parents were the alleged abusers, the caseworkers said no.

Richard Anderson, Deputy Director, Division of Child and Family Services, said that the policy of the department is to have an interview with the child without the alleged perpetrators knowledge or presence. He said that if it is clear to the department that the alleged perpetrator is not the parent, then the parents are to be notified. If there is any reason to believe that the parents are involved, the department seeks to interview the child in a non-threatening setting without parental knowledge.

Sen. Stephenson asked why parents aren't always contacted before the initial interview if they are not the perpetrators. Mr Anderson said it is division policy to do so, but that if a child is being abused either at their own home or another home the parent may be contributing to the environment in which the abuse occurs through their lack of supervision, which may be considered neglect under the circumstances.

Sen. Nielson asked how much effort goes into determining the involvement of the parents. Dianne Warner-Kearney, State Child Protection Specialist, Division of Child and Family Services, said that the three pieces of information they are required to obtain before beginning an investigation are the name or identity of the child; an address where the child can be found; and what the concerns are. She said that if they don't know if the parents are involved, and they need to

follow a required time frame to contact the child, they err on the side of the child's safety and don't involve the parents. She added that the school is used as neutral ground to contact the child, and the interview isn't required to occur at that time.

Sen. Stephens asked if there are rules in place to discharge anyone who fails to follow department policies. Mr. Anderson said yes.

Rep. Swallow said there needs to be a process to preserve everyone's rights and protect the children. Sen. Mayne said that there doesn't appear to be adequate protection for children who are put through these interviews. Mr. Anderson said that he shares the committee's concerns and feels there are training issues involving his case workers that should be addressed.

Ms. Hatch said the agency is overstepping its authority by making the school the easy place to interview the children. She agreed with Mr. Anderson that training division workers is a major concern.

Rep. Buffmire expressed concern that the State Board of Education should be present at the next meeting, as well as Law Enforcement Officers, and the Division.

Rep. Ure suggested that the committee agendaize the issue for the November 24 meeting, and invite law enforcement, the State Board of Education, and the Division of Child and Family Services to participate.

**4. Report: Role of Department of Agriculture and Food in Addressing Insect Infestation -** Cary Peterson, Director, Department of Agriculture and Food, addressed the committee and introduced Dick Wilson who distributed a handout titled "Mormon Cricket and Grasshopper Infestation Update." Mr. Wilson reviewed briefly the efforts of the department to address the issue, efforts of affected local governments, and the federal government's current support in solving the problem.

Sen. Nielson asked how we can improve the process and government response so that this doesn't happen again. Rep. Buffmire asked why this serious issue was put off for a whole year. Mr. Wilson said that they didn't have the funds or the authority on federal land, only on private land. Rep. Buffmire suggested letters be written to the federal government suggesting they act on this issue more promptly.

Sen. Mansell said that if the federal government neglects their land, then they should be liable for that damage. Mr. Wilson said that the potential property damage through crop loss is in excess of \$20 million. He pointed out that these claims are much larger than the ones that were claimed for Salt Lake City's recent tornado where there was excellent cooperation from the federal government.

Rep. Buffmire said that she is in support of further action and hopes that the issue doesn't get

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forgotten.

5. **Committee Business - Next Meeting:** November 24, 1999.
6. **Adjourn** - Rep. Ure ruled the meeting adjourned at 11:35 a.m.