

**MINUTES OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**
Tuesday, April 24, 2001 – 1:30 p.m. – Room 416 State Capitol

Members Present:

Sen. Howard A. Stephenson,
Senate Chair
Rep. David Ure,
House Chair
Sen. Mike Dmitrich
Sen. Ed Mayne
Sen. Michael G. Waddoups
Rep. Judy A. Buffmire
Rep. Martin R. Stephens
Rep. John E. Swallow

Members Excused:

Rep. James R. Gowans
Sen. Al Mansell

Staff Present:

Mr. Arthur L. Hunsaker,
Research Analyst
Ms. Audrey Wendel,
Legislative Secretary

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

1. Call to Order and Approval of January 9, 2001 Minutes

Chair Stephenson called the meeting to order at 1:42 p.m.

Rep. Swallow introduced Mr. Paulo Estevao Da Cruz E Souza, attorney, State of Mato Grosso Do Sul, Brazil, and former member of the Brazil legislature, and invited him to speak briefly and to sit at the table with the committee members.

MOTION: Sen. Waddoups moved to approve the minutes of the January 9, 2001 meeting. The motion passed unanimously.

2. Statutory Grants of Rulemaking Power (Rep. Ure) Gary Thorup, attorney, Holme Roberts and Owen

Mr. Gary Thorup, attorney, Holme Roberts and Owen, distributed an untitled five-tabbed handout, from which he based his presentation. Mr. Thorup pointed out that the courts give deference to specific grants of rulemaking authority in comparison to broad grants. State agencies are given general rulemaking authority, and therefore do not need specific legislative rulemaking authority. Mr. Thorup recommended that specific rulemaking authority not be granted.

Mr. John Fellows, Associate General Counsel, Office of Legislative Research and General Counsel, explained the historical background regarding the power of rulemaking both nationally and in Utah, how reliance upon broad rulemaking authority alone has in some cases led to abuse of power, and how more restrictive grants of rulemaking authority allow the legislature to provide a more effective check on the power exercised by state agencies. Committee discussion followed.

Rep. Swallow suggested that the legislature very carefully consider whether to grant specific authority to state agencies that already have a general grant of authority in order to avoid

creating a legal deference where it was not intended.

Sen. Dmitrich urged that broad grants of authority to state agencies be reviewed to determine whether they are uniform.

The committee directed staff to research: (1) broad grants of rulemaking authority; (2) specific grants of rulemaking authority; and (3) agencies that have no broad grants.

3. Committee Members: Future Agenda Items

Rep. Stephens requested that R131-4 be placed on a future agenda.

Sen. Waddoups requested that R501-12-8 be placed on a future agenda.

Sen. Dmitrich requested that staff review R645-301-700 and report to him.

4. 2001 Committee Work Plan

Mr. Art Hunsaker, Research Analyst, Office of Legislative Research and General Counsel, distributed a handout, "Administrative Rules Review Committee Proposed Study Areas," and discussed the current study assignment areas of each committee member. Committee members indicated they would continue with their current study assignments.

5. Committee Business

a. Date of Next Meeting

Future committee meetings were scheduled for May 8, May 29, June 12, and June 26, 2001.

b. Other Business

Mr. Ken Hansen provided hard copies of the administrative code to interested committee members.

6. Adjourn

MOTION: Rep. Ure moved to adjourn the meeting at 3:35 p.m. The motion passed unanimously, with Rep. Stephens and Sen. Dmitrich absent for the vote.