

**MINUTES OF THE  
LEGISLATIVE MANAGEMENT COMMITTEE**

May 21, 2002 – 3:00 p.m. – Room 303 State Capitol

**Members Present:**

Speaker Martin R. Stephens, Chair  
President Al Mansell, Vice-Chair  
Sen. Gene Davis  
Sen. Karen Hale  
Sen. Peter C. Knudson  
Sen. Mike Dmitrich  
Sen. L. Steven Poulton  
Sen. John L. Valentine  
Rep. Patrice M. Arent  
Rep. Ralph Becker  
Rep. Jackie Biskupski

Rep. Greg J. Curtis  
Rep. Brad King  
Rep. David Ure

**Members Absent:**

Rep. Kevin S. Garn  
Sen. Ron Allen

**Staff Present:**

Mr. Michael E. Christensen, Director  
Ms. M. Gay Taylor, General Counsel  
Ms. Beverlee LeCheminant, Secretary

**Note:** A list of others present and a copy of materials can be found at <http://www.image.le.state.ut.us/imaging/history.asp> or by contacting the Office of Legislative Research and General Counsel.

**1. Call to Order**

Chair Stephens called the meeting to order at 3:12 p.m.

**Approval of the Minutes of the April 15, 2002 Meeting**

**MOTION:** Sen. Valentine moved to approve the minutes of the April 15, 2002 meeting. The motion passed unanimously. Sen. Davis, Sen. Knudson, Sen. Poulton, Rep. Becker and Rep. Biskupski were absent for the vote.

**2. Staff Report on Creation of High Tech Subcommittee**

Mr. Christensen reviewed an analysis prepared by the Office of Legislative Research and General Counsel in response to Mayor Evan's request for the creation of a High Tech Subcommittee.

Mayor Evans distributed a High Tech Business Development Study Group Proposal to the Committee and indicated that the creation of this subcommittee could help the state with economic development and struggles the state is having with state budgets. He introduced Rod Lipton, Director, of the Utah Technology Alliance, the initiative started by Governor Leavitt in the Department of Community and Economic Development which focuses on technology development issues. Mr. Lipton introduced John West, Utah Tech Alliance; Rich Nelson, President of the Utah Information Technology Association; Mark Renda, Utah Tech Alliance, and others representing the interest in technology development in Utah.

Rep. Arent asked why the request for this subcommittee did not go through the normal process of being enacted as a study by the Legislature. She stated that she is concerned that her colleagues would say that they voted for certain task forces during the session and they would question why is this one not going

through the normal process also. Mayor Evans said the study group idea was initiated after some discussions early in January regarding high tech businesses coming to Utah. He indicated that it has taken some time to contact various people who would be players in high tech and putting the study group together. Mayor Evans stated that he appreciates what Governor Leavitt has done in bringing this forth, but believes it is important for the Legislature to broaden the base of support for high tech in the state by involving the Legislature in those discussions.

Mayor Evans said the timing in terms of putting the study group together worked out so that it occurred after the session rather than during the session.

Rep. Arent asked if this study is something that could be worked on through the IT Commission during the interim period and if more needs to be done, it could be prepared for the next session. She also asked where the money would come from to fund the study group.

Mayor Evans said he feels the time to consider it is now. As far as the funding for it, he said that the Legislature canceled one set of meetings for the interim and perhaps that could be a source of the funding.

Mr. Lipton said there are a number of IT issues, but there are also a number of broader technology issues that don't fall under the purview of the IT Commission. The intent in forming a study group is to try and bring together in one place all the issues that are important in the broader category of technology development.

**MOTION:** Rep. Biskupski moved to go on to the next item on the agenda.

Pres. Mansell told Mayor Evans that the Committee's concern with this issue is because of the timing, not the fact that it objects to doing this. If the Committee agrees to form the study group, who will be the next group that will come to the Committee under this same extraordinary process.

Sen. Valentine said he has the same concern as President Mansell. He indicated that he is in favor of studying this issue and if the Legislature was in session, he would support this study group, but he doesn't want to open the floodgate for other people to do the same thing.

Speaker Stephens asked if most of the subcommittee members would be nonlegislators. Mayor Evans said he would like most of the members to be legislators. Speaker Stephens suggested having Mayor Evans chair the subcommittee and have local government officials and some legislators voluntarily sit on the subcommittee to help look at these issues and develop recommendations to bring to the Legislature.

Mayor Evans said he struggles with the concept of legislators volunteering their time. He feels they need to be compensated for their efforts.

Rep. King said he has a concern in that there is not any mention of rural Utah and the digital divide that infests the state which also needs to be addressed. He indicated that he feels that forming a subcommittee to look at the high tech issues is a good idea, but that he would rather vote on it in the next session.

Speaker Stephens asked if it would possible to wait and vote on the subcommittee during the next session. Mayor Evans said that the time to act is now and it is important to move forward on all of these items now.

Speaker Stephens asked Mayor Evans that where this has never been done before, how he would propose that the Committee deal with future floodgates of other legislators bringing in requests for task forces or subcommittees.

Mayor Evans said he feels that the Committee could justify all of those requests on the worthiness of the topic and the need. He indicated that he has a great respect for the legislative process, but has viewed it as being structured and being flexible and that this is an area where he would encourage them to be flexible.

Speaker Stephens noted that most of the governments listed in the Study Group Proposal are from the south and southwest end of the valley and asked Mayor Evans the reason for that. Mayor Evans responded by saying that those communities are very interested in pushing this issue forward.

**SUBSTITUTE MOTION:** Sen. Poulton moved to present this item to the four respective caucuses for discussion as to whether they can accept this without viewing it as precedent and then the recommendations of the caucuses could be brought back to the next Legislative Management Committee (Committee) meeting.

Sen. Valentine said he is in favor of the Substitute Motion as it would allow the caucuses to have some debate on the issue.

Rep. Arent said she supports the Substitute Motion and if the caucuses are not in favor of forming this subcommittee, she urged Mayor Evans to continue to put the subcommittee together with the idea of finalizing more of a formal process.

The Substitute Motion passed unanimously. Rep. Becker was absent for the vote.

### **3. Staff Report on Additional Server for Live Broadcast During the General Session**

Mr. Mark Allred told the Committee that this item is a follow-up of last month's meeting. He indicated that the audio broadcast of the session was going out from the Senate and House floors during the last session. He said that he has contacted ITS about providing additional streams and support for their servers at no additional cost and they have agreed to do this.

Rep. Arent said she is pleased to hear that the public is interested in listening to the floor debates during the session.

### **4. Staff Report on Parking from Capitol Preservation Board**

Mr. Christensen reviewed with the Committee a letter he sent to David Hart, Executive Director of the Capitol Preservation Board, asking for information on parking on Capitol Hill. He said that Mr. Hart was unable to attend the meeting today as he is out of town, but has provided a letter which is in the mailing

packet which lists five parking plans that are being considered. Mr. Christensen also noted that Mr. Hart will come to the August meeting to give the Committee an update on this issue.

Rep. Arent said the focus of her concern is that she is hearing from the public that they have no place to park. Mr. Hart is talking about later dates in the year, but when she raised this issue at the last meeting, her intent was to have it resolved before August as people are having trouble finding parking places at the present time.

Rep. Ure said law enforcement has been ticketing cars all the way around the capitol where, in years past, people have been able to park and not receive tickets. This has made it more difficult for people to come to the capitol and participate in public hearings and this situation needs to be remedied.

Rep. Arent said one of the things she has requested is finding a remote parking lot for the public to park in and then being shuttled to the capitol on interim days. President Mansell indicated that the fairground parking lot is already available for employees and that could be extended to the public also.

Ms. Taylor said Mr. Hart is in the process of working with the Department of Transportation to get East Capitol Boulevard and 5<sup>th</sup> North restriped so people can park on an angle rather than parallel parking which would double the number of parking spaces on those streets.

## **5. Staff Report on Sunset Review**

Ms. Taylor said that staff was asked to report back to the Committee what entities or acts have been reauthorized without an interim Committee review during the last three sessions. She distributed a report on the legislative review process for reauthorized acts or entities included in the Sunset Act. She noted that the Traffic Mitigation Surcharge Act, the Department of Health Organization, the School Participation in Risk Management Fund, and three entities in S.B. 244 were all reauthorized without interim Committee review.

Rep. Curtis said he appreciates staff putting this report together. He feels it is important to review these entities or acts that are reauthorized by the Sunset Act without interim committee review.

## **6. Committee Letters**

Speaker Stephens reviewed letters from the interim committees and the Executive Appropriations Committee regarding study items, and the following actions were taken:

The Committee made no change to the study items requested by the Business and Labor Interim Committee.

**MOTION:** Rep. Ure moved to approve all of the study items on the Government Operations Interim Committee list with the exception of #6 - Oversight of State Agency operations. The motion passed unanimously. Sen. Valentine and Rep. Becker were absent for the vote.

The Committee made no change to the study items requested by the Political Subdivisions Interim Committee. The Committee did not approve the request to recreate the Special Districts Subcommittee.

**MOTION:** Rep. Curtis moved to delete #79, Optometry Law, from the Health and Human Services Interim Committee list and leave it with the Business and Labor Interim Committee, but not as a required study item, and to delete #5, decertifying unused nursing home beds, as it is being studied by the Executive Appropriations Committee. The motion passed unanimously. Sen. Valentine and Rep. Ure were absent for the vote.

**MOTION:** President Mansell moved to delete study item "Driver Education" from the Transportation Interim Committee list as it has been assigned to the Executive Appropriations Committee. The motion passed unanimously. Sen. Davis, Sen. Valentine, Rep. Biskupski, and Rep. Ure were absent for the vote.

The Committee made no change to the study items requested by the Law Enforcement and Criminal Justice Interim Committee.

**MOTION:** Sen. Dmitrich moved to delete Item #4, Utah State Parks, from the Natural Resources, Agriculture, and Environment Interim Committee study list as this item has been studied by the Executive Appropriations Committee. The motion passed unanimously. Sen. Davis, Sen. Valentine, and Rep. Biskupski were absent for the vote.

The Committee made no change to the study items requested by the Information Technology Commission.

The Committee made no change to the study items requested by the Public Utility and Technology Interim Committee.

The Committee made no change to the study items requested by the Revenue and Taxation Interim Committee. The Committee noted that there is already a competition in telecommunications industry task force and so did not approve the creation of a subcommittee to study issues regarding taxation of the telecommunications industry.

**MOTION:** Rep. Ure moved to make no change to the study items requested by the Workforce Services and Community and Economic Development Interim Committee and that with regard to the addition of Item #119, Attracting Technology to Utah, Mayor Mont Evans be contacted by staff about the possibility of creating a subcommittee along the lines of his proposal to the Legislative Management Committee, and the Workforce Services and Community and Economic Development Interim Committee could decide whether to recommend the creation of the subcommittee to the Legislative Management Committee in its August meeting rather than go through the caucuses. The motion passed unanimously. Sen. Davis, Sen. Poulton, Sen. Valentine, and Rep. Biskupski were absent for the vote.

**MOTION:** Rep. Curtis noted the 2nd item is a duplicate to the Health and Human Services Interim Committee. He moved to assign the two Executive Appropriations Committee study items to the two appropriations subcommittees

**SUBSTITUTE MOTION:** Rep. Arent moved to delete Item #5, Decertifying unused nursing home beds, from the Health and Human Services Interim Committee study list and give it to the Executive Appropriations Committee to study and to leave Item #1, Cost-of-Living Adjustment for Public Safety and Law Enforcement, on the Executive Appropriations Committee study list. The motion passed unanimously. Sen. Davis, Sen. Poulton, Sen. Valentine, and Rep. Biskupski were absent for the vote.

**MOTION:** Rep. Curtis moved to add a new study item #7, Separation of Powers, the selective enforcement of laws, to the Judiciary Interim Committee list and to approve the rest of the items to that committee. The motion passed with Rep. Arent voting in the negative. Sen. Davis, Sen. Poulton, Sen. Valentine and Rep. Biskupski were absent for the vote.

**MOTION:** Rep. Ure moved to approve all the interim study lists with the amendments that have been made. The motion passed unanimously. Sen. Davis, Sen. Poulton, Sen. Valentine, and Rep. Biskupski were absent for the vote.

The Committee discussed the request from the Economic Development Appropriations Subcommittee to hold an additional meeting during the interim to discuss the Hogle Zoo audit.

Sen. Dmitrich moved to go on to the next item on the agenda. The motion passed unanimously. Sen. Davis, Sen. Poulton, Sen. Valentine, and Rep. Biskupski were absent for the vote.

The Speaker noted that there would be no legislative site visits this year.

#### **7. Amicus Brief in Petition of Review - Judicial Conduct Commission and Honorable Joseph W. Anderson**

Ms. Taylor told the Committee that a complaint had been filed and was about to be heard before the Judicial Conduct Commission (JCC) by some guardians ad litem who stated that Judge Anderson was not timely in his review of his cases. Before it was scheduled for a hearing, Judge Anderson appealed to the federal district court arguing that the Judicial Conduct Commission hearing should be stayed because the Judicial Conduct Commission violated separation of powers and there could be no fairness in the decision there or in the Utah Supreme Court. The federal court looked at the hearing and one of the things that the parties agreed to was to bring an interlocutory appeal to the Utah Supreme Court on these two issues. Both parties agreed to it and the issue the parties are asking the Utah Supreme Court to address is part of this interlocutory appeal. The Judicial Conduct commission is created to review and investigate cases and then make recommendations, which include reprimand censure, suspension, removal, or involuntary retirement. Prior to any implementation of a JCC order, the order must be reviewed by the Utah Supreme Court as to both law and fact. Then the Supreme Court issues its order.

Ms. Taylor indicated that the question is, under our constitutional framework whether it is appropriate for the Utah Supreme Court to even review a case before the JCC has recommended an order. The Utah Supreme Court has asked the Legislature to present arguments on these two issues and the Office of Legislative Research and General Counsel has between now and Wednesday, May 29, to file an amicus. Under Legislative Management Committee policy, the Committee needs to authorize the filing of an amicus.

**MOTION:** Rep. Curtis moved to authorize the Office of Legislative and Research Counsel to file an amicus brief. Rep. King asked Ms. Taylor what position the Legislature would be taking. She said the position she would advocate is that the Utah Supreme Court cannot review interlocutory appeals, but is limited by the Utah Constitution to reviewing JCC recommendations of reprimand, censure, suspension, removal, or involuntary retirement of a justice or judge. The motion passed unanimously. Sen. Davis, Sen. Valentine, and Rep. Biskupski were absent for the vote.

## **8. Authorization for Appropriation Subcommittees to Meet Regarding Fiscal Year 03 Budgets**

Speaker Stephens stated that there has been some discussion on whether appropriation subcommittees should, in anticipation of a special session at the end of June, be allowed to meet regarding the 2003 budget. Some legislators would like to wait until the Special Session and then let the interim committees meet, rather than meet all through the month of June before the Special Session. If the Legislature is in a Special Session, legislators will get paid as part of their attendance at the session and have staff, and the Committee will not need to authorize these special meetings.

Rep. King asked if a date has been set for the Special Session. Speaker Stephens said that because the Legislature and the Governor want to get the best revenue numbers they can, and because of the primary elections on June 25, the Special Session will most likely be June 26, 27, or 28.

Rep. Arent indicated that those dates will be in conflict for some legislators who are involved in speaking or attending various legislative and bar association meetings.

Speaker Stephens said that the concern is that the Legislature has to cut base budgets in 2003 and the earlier they do it in the budget year, the easier it is for agencies to plan out their budget for 2003.

## **9. Other Business**

Rep. King asked if there has been a specific call regarding the special session. Speaker Stephens indicated that he has not seen an official call, but that all the representatives were called yesterday to try and give them as much notice as possible.

Rep. Arent asked if bills have been prepared in anticipation of the Special Session. She suggested having copies of those bills before the Special Session.

Speaker Stephens said the bills to be considered are: 1) taking money out of the Rainy Day Fund; 2) changing appropriations between the General Fund and the Uniform School Fund; 3) taking some increase in the bonding for cash for some buildings; 3) decoupling of the federal economic stimulus package for the accelerated depreciation of business; and 4) the Geneva bill.

Speaker Stephens asked staff to have copies of the bills that have been prepared for the Special Session on the legislator's desks in the morning.

## **10. Adjournment**

**MOTION:** President Mansell moved to adjourn the meeting at 4:40 p.m. The motion passed unanimously.