Administrative Rules Review Committee
July 11, 2016

Broad Grants of Statutory Rulemaking Authority
Continued the discussion from the June 8 meeting regarding broad grants in statute that authorize state agencies to make administrative rules. Reviewed and discussed a sampling of broad grants of rulemaking authority currently in statute. The committee chairs requested that staff review state agency policy manuals and determine whether there are policies that meet the definition of a rule and that should be filed as rules.

Impact of Administrative Rules on Businesses
Discussed with the Salt Lake Chamber of Commerce, the Office of the Legislative Fiscal Analyst, and the Office of Administrative Rules current measures being taken to evaluate the impact of administrative rules on businesses and what additional steps could be taken to improve the accuracy of those measurements.

Staff: Art L. Hunsaker (Policy Analyst) / Christine R. Gilbert (Attorney) / Tracey Fredman (Legislative Assistant)

Business and Labor

Continuing Care Retirement Communities
Action: Voted to favorably recommend to the full Legislature 2016 Third Special Session S.B. 3004, "Continuing Care Retirement Community Amendments," which modifies provisions related to continuing care retirement communities.

Economic Development Revisions
Action: Voted to favorably recommend to the full Legislature 2016 Third Special Session S.B. 3002, "Economic Development Revisions," which defines "qualifying enterprise data center" and provides certain sales and use tax exemptions for a qualifying enterprise data center.

Entertainment Software Rating Board
Received comments from the Office of the Attorney General and received a presentation from the Entertainment Software Rating Board explaining the board's rating system of self-regulation.
Grand Boulevards Corridor Plan
Received presentations from Salt Lake City, the Salt Lake Chamber of Commerce, and the Department of Transportation regarding the Grand Boulevards Corridor Plan, which is a master planning effort to create an attractive and welcoming entrance and exit to Salt Lake City. Discussion focused on the transportation aspects of the plan.

Insurance Premium Tax
Received an explanation from the committee chairs of a problem created by a change in how insurance companies report premium taxes. The change has caused a decrease in funds being allocated to firefighter-related purposes.

Occupational and Professional Licensure Review Committee
Received a staff presentation and comments regarding the purpose and activities of the Occupational and Professional Licensure Review Committee created in Title 36, Chapter 23, Occupational and Professional Licensure Review Committee Act.

Staff: Joseph T. Wade (Policy Analyst) / Patricia Owen (Attorney) / Samuel C. Johnston (Attorney) / Lucy W. Daynes (Legislative Assistant) |

| Economic Development and Workforce Services |
Sunset Review—Employment Security Act
Received a presentation from the Department of Workforce Services (DWS) regarding the Employment Security Act, which includes a provision [Subsection 35A-4-312(5)(p)] that allows DWS to provide certain information regarding misclassified workers to the Wage and Hour Division of the United States Department of Labor. DWS recently signed a memorandum of understanding with the Department of Labor and has not yet shared any information with the department. DWS requested that a bill file be opened to change the sunset date of this provision in order to give DWS more time to assess the provision’s effectiveness.

Action: Voted to open a committee bill file to extend the sunset date of Subsection 35A-4-312(5)(p).

Motion Picture Incentive Program
Received a presentation from the Governor’s Office of Economic Development regarding the goals, funding sources, financial outlays, award process, and assessment metrics of the Motion Picture Incentive Program. The presentation highlighted the appeal of Utah landscapes for filmmakers and indicated that the $6.8 million tax credit allocation is effective in attracting film production to the state.

Discussion noted that tax credits awarded through the program are likely larger than the new state revenue generated by filming in Utah but identified the maintenance of the state’s film industry and marketing of the state to the film industry as benefits of this expenditure.

STEM Action Center
Received a presentation from the Governor’s Office of Economic Development regarding the goals, funding sources, financial outlays, award process, and assessment metrics of the STEM Action Center. The presentation highlighted improved test scores in a number of students who used educational software products funded through the program.

Possible future legislation was discussed that would allow the STEM Action Center more flexibility to direct resources to those products that prove most effective.

Tourism Performance Marketing Fund
Received a presentation from the Governor’s Office of Economic Development regarding the goals, funding sources, financial outlays, award process, and assessment metrics of the Tourism Performance Marketing Fund. The presentation outlined the efforts of the Utah Office of Tourism to market the state primarily through advertisements highlighting the state’s red rock regions and ski resorts. A third-party research firm identified a significant increase in incremental visitors and state tax revenue generated as a result of these advertisements.

Education
School Turnaround and Leadership Development Act
Received an update on implementation of the School Turnaround and Leadership Development Act (Title 53A, Chapter 1, Part 12) from the State Board of Education, school administrators, and school turnaround experts that are engaged in academic achievement improvements.

Teacher Preparation
Received a presentation from the State Board of Education and the School of Education at Utah Valley University regarding a partnership between public education and higher education that is working to address teacher preparation in Utah.

Staff: Ryan M. Hunter (Policy Analyst) / Peter Asplund (Attorney) / Debra Hale (Legislative Assistant) |

(Continued next column)
**Government Operations**

**Election Law**

*Action:* Approved as a committee bill, draft legislation “Amendments to Election Law,” which makes logistical changes to the Election Code as suggested by the committee and the Office of the Lieutenant Governor.

**Issues Presented by the Office of the Attorney General**

Discussed issues recommended by the Office of the Attorney General for the Legislature’s consideration, including issues related to the Government Records Access and Management Act and governmental immunity.

**Issues Presented by the State Auditor**

Discussed issues recommended by the state auditor for the Legislature’s consideration, including issues related to state organizations’ operational activities and state employees’ compensation and employment.

**Redistricting Standards**

*Action:* Approved as a committee bill, draft legislation “Joint Rules Resolution on Redistricting Standards,” which enacts principles and procedures to guide the Legislature during the redistricting process.

Staff: Brian J. Bean (Policy Analyst) / Thomas R. Vaughn (Attorney) / Katie LeFevre (Legislative Assistant)

---

**Health and Human Services**

**Controlled Substance Database—Access by Probation and Parole Officers**

*Action:* Voted to favorably recommend to the full Legislature 2016 Third Special Session S.B. 3001, “Controlled Substance Database Modifications,” which addresses access to the state’s controlled substance database by a probation or parole officer.

**Medical Aid in Dying**

Received presentations from interested parties on legislation introduced during the past two general sessions of the Legislature that would enable terminally ill individuals to end their lives at will with the indirect involvement of medical professionals prescribing and dispensing life-ending pharmaceuticals under specified conditions.

**Opioid Misuse**

Received a presentation on a proposal that would prohibit a health insurer from paying for an opioid prescription not made in accordance with established prescribing guidelines unless the prescriber obtained prior authorization for payment from the insurer.

Staff: Mark D. Andrews (Policy Analyst) / Michael E. Curtis (Attorney) / Cathy J. DuPont (Attorney) / Lee A. Killian (Attorney) / Lori Rammell (Legislative Assistant)

---

**Health Reform Task Force**

**July 14, 2016**

**Substance Abuse Treatment -- Fraud Prevention**

Received reports from the Office of Licensing within the Department of Human Services, the Insurance Department, and the Utah Association of Addiction Treatment Providers that 2016 General Session H.B. 259, "Substance Abuse Treatment Fraud," is having positive effects. The legislation was enacted in response to allegations of questionable practices by substance abuse treatment providers brought to the attention of the task force last year. The presenters did not make any recommendations for further statutory changes at this time.

**Telehealth**

Received a report from the Utah Telehealth Network on recent developments in telehealth and discussed potential issues for further study by a workgroup consisting of:

- Members of the task force;
- Members of the Public Utilities, Energy, and Technology Interim Committee; and
- Telehealth stakeholders.

Also received a briefing on the purpose and operation of the Utah Education and Telehealth Network.

Staff: Mark D. Andrews (Policy Analyst) / Cathy J. DuPont (Attorney) / Lori Rammell (Legislative Assistant)
Judiciary

Controlled Substance Database Audit
Received a report from the Office of the Legislative Auditor General on law enforcement agencies' use of the controlled substance database.

**Action:** Voted to recommend that no further action be taken by the Legislature to address the audit findings, but to be open to the possibility that the Department of Occupational and Professional Licensing present to the committee its privacy requirements for the controlled substance database.

Criminal Justice Reinvestment Amendments
Received an overview of 2016 Third Special Session H.B. 3004, "Criminal Justice Reinvestment Amendments," which modifies provisions regarding probation and the earned time program for incarcerated offenders.

Grandparent Rights Amendments
Reviewed 2016 Third Special Session H.B. 3005, "Grandparent Rights Amendments," which provides that a grandparent may petition for visitation after a parent's rights have been terminated, unless the grandchild is adopted by a nonrelative.

Judicial Nominating Commissions
Received an overview of 2016 Third Special Session S.B. 3003, "Judicial Nominating Commissions - Amendments," which provides that if a judicial nominating commission is considering applicants for more than one vacancy existing in a court at the same time, the judicial nominating commission shall include in the list it sends to the governor one additional applicant for each additional vacancy.

Chairs: Rep. LaVar Christensen / Sen. Mark B. Madsen
Staff: Gregg A. Girvan (Policy Analyst) / Esther Chelsea-McCarty (Attorney) / Lucy W. Daynes (Legislative Assistant)

Off-Duty Law Enforcement Officer Employment
Received a presentation from a legislator regarding draft legislation, "Off Duty Law Enforcement Officer Employment Amendments," which would address the employment of law enforcement officers by private security businesses while they are off duty.

Staff: Nathan W. Brady (Policy Analyst) / Susan Creager Allred (Attorney) / Lori Rammell (Legislative Assistant)

Natural Resources, Agriculture, and Environment

State Energy Policy
Received a report from the state energy advisor and the Governor's Office of Energy Development on the status and development of the state's energy resources and the energy advisor's activities. The advisor reviewed the state energy policy and discussed the importance of energy development and the impact of energy development on the state economy.

Energy Producing States' Agreement
Received a report on Utah's involvement in the Energy Producing States' Coalition and the efforts of the coalition to establish an energy production agreement.

Sunset Review—Mercury Switch Removal Act
**Action:** Reviewed Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, which is set to be repealed on July 1, 2017, by a sunset provision. Recommended that the act be reauthorized for a period of 10 years.

Unmanned Aircraft Amendments
Discussed 2016 Third Special Session H.B. 3003 "Unmanned Aircraft Amendments," which addresses operating unmanned aircraft systems within certain wildland fire areas. The bill modifies penalties and authorizes neutralization of an unmanned aircraft under certain circumstances.

**Action:** Voted to favorably recommend H.B. 3003 to the full Legislature.

Waste Tire Recycling Fees
Discussed Title 19, Chapter 6, Part 8, Waste Tire Recycling Act. Received a report from the Division of Waste Management and Radiation Control, the Salt Lake County Health Department, and the Division of Finance on the collection and use of waste tire recycling fees.

Staff: J Brian Allred (Policy Analyst) / RuthAnne Frost (Attorney) / Katie LeFevre (Legislative Assistant)

(Continued next column)
**Point of the Mountain Development Commission**

**Request for Proposals for Consultant Services**
Reviewed a draft request for proposals (RFP) for consultant services. Also suggested minor revisions to clarify the size of the area intended to be studied in association with the RFP, and expressed the expectation that the selected consultant will help the commission provide a report to the Legislature and the governor by December 1, 2016.

**Action:** Voted to approve the RFP and authorize its issuance, subject to discussed changes, formatting, and other non-substantive corrections by the commission chairs and staff.

Voted to authorize the commission chairs to do the following on behalf of the commission:

1. Issue any addenda to the RFP that become necessary during the RFP process, including an addendum to answer questions submitted by potential responders; and
2. Take any administrative actions that become necessary during the RFP process in order to facilitate the process.

Voted to appoint an evaluation committee to evaluate proposals submitted in response to the RFP.

**Political Subdivisions**

**Limited Purpose Local Government Entities—Taxation and Fees**
Received a presentation from committee staff providing a legal and statutory overview of how limited purpose local government entities levy property taxes, collect fees, and charge assessments. Discussed several related policy issues, including:

- The composition of boards that oversee certain entities that tax customers;
- The public process required when entities propose to raise a tax or fee; and
- Transparency.

**Local Building Authorities**
Discussed Title 17D, Chapter 2, Local Building Authority Act, which allows a local government to create a nonprofit corporation for the purpose of financing public facilities. Examined the relationship between the local government and the authority in terms of governance and financial obligations, and explored the variety of projects that have been funded under the act.

**Local District Dissolution Process**
Received a presentation from committee staff providing the statutory requirements for the dissolution of a local district. Discussed the policy basis for having a high threshold to dissolve an active local district, and the ways in which local governments and local districts have worked together to amicably dissolve an active district.

**Short-Term Rentals**
Received an update from a legislator regarding the regulation of short-term property rental units. The League of Cities and Towns has been gathering data to determine how municipalities are regulating these rentals, and hopes to identify best practices that can address concerns raised by interested parties.

**Zoning for Substance Abuse Recovery Residences**
Received an update from a legislator on issues related to a local government's ability to use its zoning powers to regulate substance abuse recovery residences while also complying with the federal Fair Housing Act and Americans With Disabilities Act, including an update on meetings the legislator has held with stakeholders.

Chairs: Mr. Christopher Conabee / Rep. Brad R. Wilson
Staff: Ryan M. Hunter (Policy Analyst) / Robert H. Rees (Attorney) / Peter Asplund (Attorney) / Lucy W. Daynes (Legislative Assistant)

(Continued next column)
**Public Utilities, Energy, and Technology**

**Long-Term Planning**

Received a presentation from the Governor’s Office of Energy Development regarding the office’s mission, strategic plan, top three issues, and goals.

**Regional Transmission Operation Proposal**

Received information regarding the California Independent System Operator and PacifiCorp regional transmission operation proposal from the following organizations:
- Governor’s Office of Energy Development;
- Public Service Commission of Utah;
- Office of Consumer Services;
- Division of Public Utilities;
- Western Resource Advocates;
- Utah Association of Energy Users;
- Rocky Mountain Power;
- Utah Associated Municipal Power Systems;
- Sutherland Institute; and
- Deseret Power.

**Action:** Voted to open a committee bill file to address the California Independent System Operator and PacifiCorp regional transmission operation proposal.

**Revenue and Taxation**

**Assessment of Land in Agricultural Use**

Received an overview from the Utah State Tax Commission regarding the Farmland Assessment Act, which provides that qualified agricultural property is assessed, for property tax purposes, on the basis of its agricultural production instead of its market value.

(Continued next column)
**Water Rights Adjudication**

Reviewed 2016 General Session S.B. 75 "Water Rights Adjudication Amendments" and received a report from the Executive Water Task Force and the Division of Water Rights on water rights adjudication efforts.

**Utah Tax Review Commission**

**June 30, 2016**

**Apportionment of Income Under the Utah Corporate Income Tax**

Received information regarding the possibility of expanding the option of using a single sales factor apportionment formula under the Utah Corporate Income Tax to more taxpayers. Discussed issues and possible effects if Utah were to allow more taxpayers to use a single sales factor apportionment formula.

**State and Local Taxes on Businesses**

Received a presentation from The Tax Foundation, a non-partisan, non-profit organization that conducts research on a variety of tax issues, including state and local taxes. The foundation said that Utah is consistently highly ranked in its annual *Business Tax Climate* report and is only one of two states with both an individual income tax and sales tax included in the top ten states.

**Transportation**

**Long-Term Planning Updates**

The committee received presentations from the Utah Transit Authority and Utah’s four metropolitan planning organizations regarding the current and emerging challenges and issues facing each agency.

**Update on Electronic Driver License Study**

2016 General Session H.B. 227, "Electronic Driver License Amendments," required a written report be presented to the Transportation Interim Committee. The committee received the draft report and a presentation from the Driver License Division and the Department of Technology Services outlining the current landscape of electronic driver license technology and standards.
Third Special Session of the Sixty-first Legislature of the State of Utah—July 13, 2016

The Legislature passed:

- **HB 3001 Tax Credit Review Amendments** (J. Peterson). This bill requires the Revenue and Taxation Interim Committee to review certain credits related to individual income tax, corporate income tax, motor and special fuel tax, taxation of admitted insurers, and economic development.

- **HB 3002 State Fair Park Amendments** (S. Hollins). This bill authorizes the Division of Facilities Construction and Management to contract for the design and construction of an arena at the state fair park and appropriates $10 million for the construction of the arena.

- **HB 3003 Unmanned Aircraft Amendments** (D. Ipson). The bill modifies penalties and authorizes neutralization of an unmanned aircraft that is flown within certain wildland fire areas.

- **HB 3004 Criminal Justice Reinvestment Amendments** (E. Hutchings). This bill modifies provisions regarding probation, including supervision and services, and modifies the earned time program for incarcerated offenders.

- **SB 3001 Controlled Substance Database Modifications** (T. Weiler). This bill describes the circumstances under which probation and parole officers may access information from the controlled substance database without a warrant.

- **SB 3002 Economic Development Revisions** (C. Bramble). This bill defines "qualifying enterprise data center" and provides certain sales and use tax exemptions for a qualifying enterprise data center.

- **SB 3003 Judicial Nominating Commissions - Amendments** (P. Knudson). This bill provides that if a judicial nominating commission is considering applicants for more than one vacancy existing in a court at the same time, the judicial nominating commission shall include in the list it sends to the governor one additional applicant for each additional vacancy.

- **SB 3004 Continuing Care Retirement Community Amendments** (D. Henderson). This bill modifies provisions related to continuing care retirement communities.