

**MINUTES OF THE  
SENATE JUDICIARY, LAW ENFORCEMENT & CRIMINAL JUSTICE  
STANDING COMMITTEE MEETING  
TUESDAY, FEBRUARY 9, 2010, 3:00 PM  
ROOM 250, STATE CAPITOL**

Members Present: Sen. Mark B. Madsen, Committee Chair  
Sen. Jon J. Greiner  
Sen. Lyle W. Sen. Hillyard  
Sen. Benjamin M. McAdams  
Sen. Michael Waddoups

Members Excused: Sen. Ross J. Romero

Staff Present: Jerry Howe, Policy Analyst  
Karen Allred, Committee Secretary

Public Speakers Present: Linda Hull, Legislative Director, Utah Department of  
Transportation  
Roger Tew, Utah League of Cities and Towns  
LeGrand Bitter, Executive Director, Utah Association of Special  
Districts  
Derek Marsan, Policy Manager, Sutherland Institute  
Rick Schwermer, Assistant Court Administrator  
Mary Lou Emerson, Director, Utah Substance Abuse and Anti-  
Violence Coordinating Council (USAAV)  
Scott Reed, Office of the Attorney General, Director, USAAV  
Jacey Skinner, Director, Utah Sentencing Commission

A list of visitors and a copy of handouts are filed with the committee minutes.

Committee Chair Madsen called the meeting to order at 2:20 pm. and announced that, at the request of the sponsor, S.B. 72 would not be heard today.

**1. S.B. 120 Disarming a Peace Officer Amendment (D. Hinkins)**

Sen. Hinkins explained the bill and the following amendments were distributed:

*1. Page 1, Line 12:*

12           ▶ provides that taking, or attempting to take, { ~~an electroshock weapon~~ } a  
conductive energy device from a peace

*2. Page 1, Line 26:*

26           (a) " { ~~Electroshock weapon~~ } Conductive energy device " means a weapon  
that uses electrical current to disrupt

3. *Page 2, Lines 30 through 31:*

30 (3) who intentionally takes or removes, or attempts to take or remove[;] a firearm or ~~{an~~  
31 ~~electroshock weapon}~~ a conductive energy device from the person or immediate  
presence of a person [he] the actor knows

4. *Page 2, Line 37:*

37 (b) Conduct under Subsection (2) regarding ~~{an electroshock weapon}~~ a  
conductive energy device is a third degree

**MOTION:** Sen. Greiner moved to adopt the amendments.

The motion passed unanimously with Sens. Hillyard and Waddoups absent for the vote.

Sen. Hinkins further clarified the bill.

**MOTION:** Sen. Greiner moved to transmit S.B. 120 as amended with a favorable recommendation.

The motion passed unanimously with Sen Waddoups absent for the vote.

**2. 1st Sub. S.B. 81 Eminent Domain Amendments (L. Hillyard)**

Sen. Hillyard introduced the bill and 2nd Sub. S.B. 81 was distributed.

**MOTION:** Sen. Hillyard moved to adopt 2nd Sub. S.B. 81.

The motion passed unanimously with Sen. Waddoups absent for the vote.

Sen. Hillyard explained the bill.

Linda Hull, Legislative Director, Utah Department of Transportation and Derek Marsan, Policy Manager, Sutherland Institute spoke in support of the bill.

Roger Tew, Utah League of Cities and Towns and LeGrand Bitter, Executive Director, Utah Association of Special Districts spoke to the bill.

**MOTION:** Sen. McAdams moved to transmit 2nd Sub. S.B. 81 with a favorable recommendation.

The motion passed unanimously.

**3. S.B. 130 Judiciary Amendments (L. Hillyard)**

Sen. Hillyard explained the bill.

Rick Schwermer, Assistant Court Administrator further explained the bill.

**MOTION:** Sen. McAdams moved to transmit S.B. 130 with a favorable recommendation.

The motion passed unanimously.

**4. S.B. 141 Utah Substance Abuse and Anti-violence Coordinating Council Amendments**  
(J. S. Adams)

The following amendments were distributed:

1. *Page 19, Lines 567 through 572:*

567     { ~~(e) (i) A member who represents higher education and does not receive salary,~~  
          ~~per~~  
568     ~~diem, or expenses from the entity that the member represents for the member's~~  
          ~~service may~~  
569     ~~receive per diem and expenses incurred in the performance of the member's official~~  
          ~~duties at~~  
570     ~~the rates established by the Division of Finance under Sections 63A-3-106 and~~  
          ~~63A-3-107.~~  
571     — ~~(ii) A member who represents higher education may decline to receive per diem~~  
          ~~and~~  
572     ~~expenses for the member's service.}~~

2. *Page 21, Lines 628 through 633:*

628             { ~~(e) (i) A member who represents higher education and who does not receive~~  
                  ~~salary, per~~  
629     ~~diem, or expenses from the entity that the member represents for the member's~~  
          ~~service may~~  
630     ~~receive per diem and expenses incurred in the performance of the member's official~~  
          ~~duties at~~  
631     ~~the rates established by the Division of Finance under Sections 63A-3-106 and~~  
          ~~63A-3-107.~~  
632     — ~~(ii) A member who represents higher education may decline to receive per diem~~  
          ~~and~~  
633     ~~expenses for the member's service.}~~

**MOTION:** Sen. Greiner moved to adopt the amendments.

The motion passed unanimously with Sen. Hillyard absent for the vote.

The following amendments were distributed:

1. *Page 1, Line 16:*

16 Council to the Utah Substance Abuse {~~Coordinating~~} Advisory Council;

2. *Page 2, Line 43:*

43 the direction of the Utah Substance Abuse [~~and Anti-violence~~]  
{~~Coordinating~~} Advisory Council, created

3. *Page 2, Line 59 through Page 3, Line 59:*

(b) "Advisory council" means the Utah Substance Abuse Advisory Council created in Section 63M-7-301.

59 {~~(b)~~} (c) "Alcohol-related offense" means:

4. *Page 3, Lines 75 through 77:*

75 {~~(d) "Coordinating Advisory council" means the Utah Substance Abuse~~  
~~[and Anti-Violence]~~

76 ~~Coordinating Advisory Council created in Section 63M-7-301.~~}

77 {~~(e)~~} (d) "Municipality" means:

5. *Page 5, Line 128:*

128 (iii) Notwithstanding Subsections (3)(c)(i) and (ii), if the  
{~~coordinating~~} advisory council finds

6. *Page 5, Line 131:*

131 the {~~coordinating~~} advisory council may direct the State Tax Commission to  
distribute the money to the

7. *Page 6, Line 182:*

182 (b) the {~~coordinating~~} advisory council shall notify the State Tax  
Commission of any municipality

8. *Page 7, Line 184:*

184 (7) By not later than December 1 of each year, the {~~coordinating~~} advisory  
council shall notify the

9. *Page 7, Lines 189 through 190:*

189 (c) any municipality or county that may not receive a distribution because the  
190 ~~{-coordinating}~~ advisory council has suspended the payment under Subsection  
(10)(a)(i); and

10. Page 7, Line 196:

196 any municipality or county that the ~~{-coordinating}~~ advisory council notifies the  
State Tax Commission in

11. Page 7, Line 205:

205 (a) report to the ~~{-coordinating}~~ advisory council:

12. Page 8, Line 214:

214 (b) provide the ~~{-coordinating}~~ advisory council a statement signed by the  
chief executive officer

13. Page 8, Line 218:

218 (10) (a) The ~~{-coordinating}~~ advisory council may, by a majority vote:

14. Page 8, Line 221:

221 (B) the ~~{-coordinating}~~ advisory council finds does not use the monies as  
required by Subsection

15. Page 8, Line 227:

227 (ii) notify the ~~{-coordinating}~~ advisory council of the balance of retained  
monies under this

16. Page 8, Line 229:

229 (11) (a) Subject to the requirements of this Subsection (11), the  
~~{-coordinating}~~ advisory council

17. Page 8, Line 231:

231 (i) as prioritized by majority vote of the ~~{-coordinating}~~ advisory council;  
and

18. Page 8, Line 239:

239 (b) By not later than May 30 of the fiscal year of the appropriation, the  
~~{-coordinating}~~ advisory

19. Page 15, Line 436:

436 ~~Anti-Violence~~] {~~Coordinating~~} Advisory Council by no later than October 1 following a fiscal year on the

20. Page 15, Line 459:

459 (k) the chair of the Utah Substance Abuse [~~and Anti-Violence~~] {~~Coordinating~~} Advisory Council;

21. Page 16, Line 484:

484 ~~Anti-Violence~~] {~~Coordinating~~} Advisory Council[;] created in this section.

22. Page 16, Line 486:

486 ~~Anti-Violence~~] {~~Coordinating~~} Advisory Council.

23. Page 18, Line 538:

538 (1) The Utah Substance Abuse [~~and Anti-Violence~~] {~~Coordinating~~} Advisory Council shall

24. Page 19, Line 577:

577 (1) The Utah Substance Abuse [~~and Anti-Violence~~] {~~Coordinating~~} Advisory Council shall:

25. Page 21, Line 637:

637 (a) "Council" means the Utah Substance Abuse [~~and Anti-Violence~~] {~~Coordinating~~} Advisory

**MOTION:** Sen. Greiner moved to adopt the amendments.

The motion passed unanimously with Sen. Hillyard absent for the vote.

Mary Lou Emerson, Director, Utah Substance Abuse and Anti-Violence Coordinating Council and Scott Reed, Office of the Attorney General, Utah Substance Abuse and Anti-Violence Coordinating Council spoke in support of the bill.

**MOTION:** Sen. Greiner moved to transmit S.B. 141 as amended with a favorable recommendation.

The motion passed unanimously with Sen. Hillyard absent for the vote.

**5. S.B. 40 Juvenile Detention Amendments (J. Greiner)**

Sen. Greiner presented the bill and the following amendment was distributed:

*1. Page 2, Lines 32 through 38:*

32           (2) (a) Children charged by information or indictment with crimes as a serious youth  
33   offender under Section 78A-6-702, and bound over to the jurisdiction of the district court,  
          or  
34   certified to stand trial as an adult pursuant to Section 78A-6-703 .if detained. [may]  
          shall be detained in a  
35   jail or other place of detention used for adults. Children charged by information or  
          indictment  
36   with crimes under Section 78A-6-701, except for offenses committed in a secure facility as  
37   described in Subsection 78A-6-701(1)(b), shall be detained in a jail or other place of  
          detention  
38   used for adults.

**MOTION:** Sen. Greiner moved to adopt the amendment.

The motion passed unanimously with Sen. Hillyard absent for the vote.

Jacey Skinner, Director, Utah Sentencing Commission clarified the bill.

**MOTION:** Sen. Greiner moved to transmit S.B. 40 as amended with a favorable recommendation.

The motion passed unanimously with Sen. Hillyard absent for the vote.

**MOTION:** Sen. Greiner moved to adjourn.

The motion passed unanimously with Sen. Hillyard absent for the vote.

Sen. Madsen adjourned the meeting at 4:28 p.m.

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Sen. Mark B. Madsen, Committee Chair