

MINUTES

AUDIT SUBCOMMITTEE OF THE LEGISLATIVE MANAGEMENT COMMITTEE

The Audit Subcommittee of the Legislative Management Committee met in Room 131, State Capitol Building, Salt Lake City, Utah, December 17, 2001, from 2:00 p.m. until 5:00 p.m.

Committee Members Present:

Speaker Martin R. Stephens, Co-Chairman
President Al Mansell, Co-Chairman
Senator Mike Dmitrich
Representative Brad King

Legislative Audit Staff:

Wayne L. Welsh, Auditor General
John M. Schaff, Deputy Auditor General
Rick Coleman, Audit Manager
Tim Osterstock, Audit Manager
Leslie Marks, Audit Supervisor
Darin Underwood, Audit Supervisor
Janice Coleman, Audit Supervisor
Susan Verhoef, Lead Auditor
Deanna Herring, Performance Auditor
Brian Dean, Performance Auditor
Derek Byrne, Performance Auditor
Ivan Djambov, Performance Auditor
Kade Minchey, Performance Auditor Intern
Lynda Maynard, Recording Secretary
Camille Ahlstrom, Legislative Secretary

Other Interested Parties:

Robin Arnold-Williams, Director, Dept of
Human Services (DHS)
Mark Ward, Deputy Dir., DHS
Sue Geary, Director, Services for People with
Disabilities, DHS
Marie Christman, EDO, DHS
Vaughn Emett, EDO, DHS
John Williams, DOH
Darline Robles, Superintendent, Salt Lake City
School Dist.
Joel K. Briscoe, Board Pres., S LC School Dist.
W. Gary Harmer, Salt Lake City School Dist.
Kent Stephens, Salt Lake City School Dist.

Laurel Young, Salt Lake City School Dist.
Bruce Williams, Davis School District
Jim Eldredge, UEA
Phyllis Sorensen, UEA
Kathleen Leathan, UEA - Davis
Senator Curtis S. Bramble
Representative Becky Lockhart
Representative Chad Bennion
Senator Karen Hale
Senator Paula Julander
Representative Ralph Becker
Senator Karen Hale
John Stringham, Rosslyn Elementary
Stephen Jardine, GOPB
Dan Harrie, *Salt Lake Tribune*
Heather May, *Salt Lake Tribune*
Bob Bernick, *Deseret News*
And Others As Listed

1. Call to Order

President Mansell called the meeting to order at 2:00 p.m.

2. Approval of Minutes

Representative King made a motion that the minutes from the October 22nd meeting be approved. The motion passed.

3. A Performance Audit of School District Funding of Education Association Activity (Report #2001-11) Presented by Leslie Marks, Audit Supervisor

We have reviewed 21 of 40 Utah school districts for the use of public funds to support education association (professional organizations representing teachers' interests) activities. Utah's constitution dictates that public funds allocated to education must be spent in support of the public school system. We believe current policy and practice fail to comply with constitutional requirements for the use of public funds by districts for the support of the public school system. This is because the school districts lack controls over the expenditure of public funds for education association activities. Specifically,

- Sixteen of the twenty-one sampled school districts lack adequate controls over association leave
- About 76 percent of sampled school districts are subsidizing local education associations with public funds by approximately \$210,000 annually without documenting a benefit

Rules or guidelines on association leave are needed to help ensure that any public funds spent on such leave meet the requirements of the state constitution. Summaries of the main findings and recommendations follow.

School Districts Lack Controls Over Association Leave: Current policies, procedures, and controls are inadequate to determine whether publicly funded education association activities provide a benefit to the school districts.

- Sixteen of twenty-one sampled school districts incur costs but lack controls over education association activities during the school day
- Only 69 percent (11 of 16) of the school districts allowing leave have a policy in place that addresses association activity leave
- Those policies that do exist are inadequate to ensure that funds spent by the districts for association leave benefit the district
- Six of the eleven districts with policies are not adhering to them

School boards need to develop new or review existing policies on association leave and related expenses to improve controls and ensure that a benefit is derived from any association activity subsidized by public funds.

Recommendations include suggesting that the Legislature consider directing the State Board of Education to provide guidelines or directing local school boards to develop and implement better policy guidelines on association leave. This direction should include a requirement for guidelines to help determine which association activities benefit the school districts and which do not.

District Funds Subsidize Association Expenses: The same 16 sampled school districts are providing public funding in varying amounts for education association-related expenses without documenting that a benefit to the district is received. A conservative estimate of costs incurred last year without a documented benefit is \$210,000. The subsidy is problematic because these expenditures do not meet the requirements for the use of public funds laid out in the state constitution.

Recommendations include obtaining a legal opinion on which cost should be reimbursed (the actual cost of the teacher or the cost for a substitute teacher) when association leave does not benefit the school district and developing review and approval procedures to ensure that paid association leave time is only being allowed when it has been shown to benefit the district.

UEA Staff Are Eligible for Some State Benefits: The employees or staff (not teachers or local representatives) of the Utah Education Association (UEA) are currently eligible to participate in the Utah Retirement System (URS) and the Public Employees Health Plan (PEHP). The UEA is a participating employer in the URS but has chosen another health insurance provider. Most of the other states we contacted do not allow non-profit organizations in their state retirement or health insurance systems.

The recommendation for this chapter is that the Legislature may want to revisit the issue of eligibility for public retirement and health plans.

Discussion following presentation:

There was no official response presented. Representative King asked the auditors to explain the identified weaknesses in the current education association leave policies and how it was determined that the expenditures paid out for teachers who took leave for education association activities did not adhere to the state constitution?

John Schaff, Deputy Auditor General, responded that while the amount of funds paid out is not great, the subsidy is problematic because these expenditures do not have documentation of benefits to either the schools or students, which is required by the state constitution. It may have benefitted both, but without knowing the nature of the meetings, due to lack of documentation, it is not possible to determine the benefit.

Speaker Stephens requested the audit team go back and look at whether state taxpayer dollars have been used to fund the retirement system for non-profit corporations that belong to the State Retirement System in years where there has been a shortage in the retirement system.

Motion: Speaker Stephens made a motion that the **Performance Audit of School District Funding of Education Association Activity** (Report #2001-11) be accepted and sent to the Education Interim Committee and the Public Education Joint Appropriations Subcommittee as well as the state and local school superintendents and members of the state and local school boards. The motion passed.

3a. A Performance Audit of the Division of Services for People with Disabilities (Report #2001-12) Presented by Darin Underwood, Audit Supervisor

State government in Utah provides services to its population who have disabilities through the Department of Human Services' Division of Services for People with Disabilities (DSPD or "the division"). Because resources are limited, not all needs communicated by people with disabilities can be met, so many potential clients must be placed on a waiting list to receive services and supports. Other state agencies, such as the Department of Health and the Utah State Office of Education, also provide services to people with disabilities, but this report focuses on DSPD.

We found that significant problems exist with the accuracy of DSPD's waiting list. We also found other areas where DSPD can improve, such as its effectiveness in utilizing federal matching funds and its effectiveness in making funding decisions. We examined these areas in response to the Legislature's audit question "Are we getting the funding to the people who need it the most?"

Our first area of review was the DSPD waiting list. This review, which included a detailed sample, revealed significant concerns that result in funding needs being overstated. Mainly, the three areas that make up the estimated cost of funding the waiting list—the number of individuals waiting for services, cost of services, and the percent of funding from the state—are unreliable.

But even if data were reliable, a complete representation of the cost to fund the waiting list may not be as helpful to the Legislature as presenting several funding scenarios based on different policy directions the Legislature could choose. For example, the Legislature could choose to fund only those waiting list clients who meet a certain critical needs assessment score or fund only those clients that are eligible for the Medicaid waiver, or both. Funding portions of the waiting list based on such specific policies could range from as little as \$1.2 million to as much as \$7.5 million for the entire waiting list this audit revised. Chapter II presents some of these funding options.

Finally, because current waiting list information is not reliable, DSPD needs to consider changes to its current process of new client intake. For example, more detailed information on a client's eligibility and cost of service needs to be recorded so that better policy decisions can be made regarding waiting list funding.

Second, we reviewed some DSPD clients who receive services funded wholly with state dollars and found evidence that many of them could qualify for federal matching funds through one of the three Medicaid home and community-based service waivers administered by DSPD. Our review of a sample of clients who did not receive federal waiver funds revealed several concerns. Namely, some individuals qualify for waiver funds, but the state does not receive the funds because paperwork has not been completed. In addition, other individuals do not qualify for federal waiver funds because they do not have either the disability level of care need or the financial need to meet eligibility requirements. Given the limited resources available to provide services, serving these

waiver ineligible clients raises important policy issues. Some possible ways for the state to better maximize federal Medicaid funds are discussed in connection with this review.

In our final area, we found that decisions about which clients get funded for services by DSPD are often inconsistent and confusing. Policy clarification about client funding practices as well as better information about available funds and the demands placed on those funds by different client groups can improve DSPD decision-making.

Chapter IV further discusses a number of issues related to how DSPD decides which clients receive funding for what services. We found that practices sometimes differ among regions and offices because of different policy interpretations and departures from using the Critical Needs Assessment (CNA) prioritization model. We also found that in some instances a lack of reliable information may affect decision making.

Discussion following presentation:

Robin Arnold-Williams, Executive Director, Department of Human Services expressed her appreciation for the opportunity to respond to the audit and told the audit team that she appreciated their effort and professionalism. Ms. Williams said that their findings coincide with efforts of the Division of Human Services to review its own practices and develop alternatives; however, whether someone does or doesn't qualify for Medicaid is a very complicated issue. Ms. Williams agrees that the audit outlined the right policy issues that need to be addressed.

Sue Geary, Director, Division of Services for People with Disabilities, responded to the audit by commending the auditors for the breadth of coverage they were able to give to the review of the Division. She said that although there are points of disagreement on certain aspects of the findings, the recommendations were generally useful and manageable.

Ms. Geary made the following points:

- The division agrees that there are some on the waiting list that no longer need services.
- There is a need for improvement in the division's information system and the division is committed to assuring the integrity of the data necessary for accountability and good decision-making.
- The division will continue to abide by policy direction provided by state statute.
- The division is working to collect only information necessary to establish a person's eligibility for division services.

- The division is working to maximize the use of Medicaid matching funds and has increased the number of persons receiving Medicaid matching funds by 6%.
- The division does impose restrictions in the assessment of needs for services although the audit suggests that there are no restrictions.

Ms. Geary concluded by telling the Audit Subcommittee that DSPD has formulated an approach that will be presented during the general session that will allow the division to intervene much earlier and address the needs of the people on the waiting list.

Motion: Speaker Stephens made a motion that the **Performance Audit of the Division of Services for People with Disabilities** (Report #2001-12) be accepted and sent to the Health and Human Services Interim Committee and the Health and Human Services Joint Appropriation Subcommittee. The motion passed.

4. Audit request of Salt Lake City School District's School Closure Procedures

Senator Karen Hale thanked the Audit Subcommittee for the time given to present the audit request and referred to the request letter sent to the Audit Subcommittee conveying the concerns of their constituents. Senator Hale raised the following questions:

1. Will the closures of Rosslyn Heights Elementary and Lowell Elementary seriously disrupt programs and relationships that have taken years to establish, and
2. Do these closures violate any state laws which require the establishment of school choice and policies that have been set.

Senator Hale concluded by saying that it would be helpful for the state to have direction and uniformity in school closures; to make recommendations as to a process that would look at what procedures each school district should take and if there should be set standards for school closures.

Senator Paula Julander added that the public is not clear as to who has responsibility to close schools as these responsibilities are not delineated clearly. Senator Julander said that constituents have been asked to approve bonds to build new schools and then they are asked to turn around and close schools—a situation that suggests some review is in order.

Representative Ralph Becker told the Audit Subcommittee that he has developed a heightened appreciation for the staff at the Board of Education and he has looked more closely at what the State's role should be in proposed school closures; what the school board's role is and how citizens

should be included. Representative Becker said that there are areas that the State should clarify: (1) the process of closing schools; making sure that there are adequate opportunities for public input; (2) access to information that has been developed by the school boards when they are contemplating a closure of schools; and, (3) having some standards for school boards to consider as they make these decisions.

Joel Briscoe, Board President, Salt Lake City School District, addressed the request for an audit by saying that they oppose the request for an audit and wondered if this is a wise use of time by the auditor's office. He said that the school board faces many pressures, from how to spend limited resources to being responsible to taxpayers. Mr. Briscoe said that the school board looked at many alternatives; that parents were involved in making the decisions to close two or three schools; that parents served on school community counsels and were represented on the 1996 Facility Master Plan Committee that recommended the closure of schools. However, he said that they came to conclusions different from the ones that he could support with the data that had been given them.

When asked if Rosslyn Heights Elementary was one of the top performing schools in the district, Darline Robles, Superintendent, Salt Lake City School District, said that the Salt Lake City School District had quite a few schools doing very well and that singling out Rosslyn Heights Elementary or Lowell Elementary would be a mistake of the facts.

Gary Harmer, Business Administrator, Salt Lake City School District, said that a study was done of their fixed costs of operating schools and they found that they could save \$500,000 by closing an elementary school (having three more elementary schools than needed), and a savings of \$6.8 million in capital costs (averaging the cost to either retrofit or rebuild).

John Stringham, having served on the School Consolidation Committee and representing Rosslyn Heights Elementary, clarified that if the board had chosen 450 students per school, down from 500 students per school, there would be no need to close any school. He stated that he had asked committee members why they had chosen 500 students as a criteria; they didn't have a clear answer and neither committee had recommended Rosslyn Heights Elementary for closure. Mr. Stringham said that it would actually cost an extra \$3.6 million to close Rosslyn Heights Elementary because it was a retrofit school and he believes the auditors should conduct an audit to see if proper procedures were followed. Mr. Stringham gave the Audit Subcommittee members a handout, **Availability of School Choice in SLC, 2001-2002**, for their information.

Darline Robles handed out a packet that describes the fixed costs associated with unnecessary schools to the Audit Subcommittee members. After further discussion, presented by parents in the Salt Lake City School District, the following motion was made.

Motion: Speaker Stephens made a motion that the request for an audit of Salt Lake City School District's School Closure Procedures be approved. That the auditors look at the process used and if that process was followed; if the criteria selected by the board was followed and, based on that criteria, if other decisions could have been reached. The motion passed.

5. Other Business

Wayne Welsh, Auditor General, presented the following new audit requests to the committee:

- **Use of Technology in Education.** Representative Kory Holdaway is concerned about the technological resources used by public and higher education. He is requesting that the Office of the Legislative Auditor General determine if the resources that exist are used appropriately and to what extent additional resources may be needed.
- **Retirement Office.** Speaker Stephens is requesting the Office of the Legislative Auditor General review the Retirement Office's investment practices and follow up on related prior audits.

Motion: Speaker Stephens made a motion that audit requests for the Use of Technology in Education and the Retirement Office be approved and that the Retirement Office audit request be moved to the top of the Other Approved Audits. The motion passed.

Mr. Welsh referred to a copy of a draft bill titled, **Classification of Certain Legislative Records**. Mr. Welsh told the Audit Subcommittee that this bill would amend the **Government Records Access and Management Act** to afford audit requesters the option of having their names kept confidential or made public at the time an audit is requested. However, once the audit is completed the requester's name would become public.

Motion: Speaker Stephens made a motion that the Audit Subcommittee recommend the draft bill, **Classification of Certain Legislative Records**, come to the next Legislative Session for discussion and passage. The motion passed with one "no" vote.

Mr. Welsh told the Audit Subcommittee that in response to a request from Speaker Stephens, at a prior Audit Subcommittee meeting, he had included a **2000 Audit Recommendations Follow-up** handout in their packets. He said that these recommendations are the ones made directly to the

Legislature for action. The more recent audit recommendations will have less information because the Legislature has not had time to implement them. Mr. Welsh said that he will continually update the list as more information becomes available.

Motion: Speaker Stephens made a motion that Legislative Research and General Counsel draft a rule requiring an interim committee, after having received a completed audit with recommendations from the Office of the Legislative Auditor General, report back to the Management Committee on the disposition of each recommendation made in the audit. The motion passed.

6. Adjournment

President Mansell adjourned the meeting at 5:00 p.m.