

(Draft - Awaiting Formal Approval)

**MINUTES OF THE
SOCIAL SERVICES APPROPRIATIONS SUBCOMMITTEE**

Utah Independent Living Center, 3445 South Main Street, Salt Lake City, UT 84115

September 11, 2015 1:00 p.m.

Members Present: Sen. Allen M. Christensen, Co-Chair
Rep. Paul Ray, Co-Chair
Rep. Edward H. Redd, House Vice Chair
Rep. Robert Spendlove
Rep. Raymond Ward
Sen. Todd Weiler

Members Excused: Rep. Melvin R. Brown
Sen. Luz Escamilla
Sen. Deidre M. Henderson
Rep. Sandra Hollins
Rep. Rebecca Chavez-Houck
Rep. Bradley M. Daw
Sen. Mark B. Madsen
President Wayne L. Niederhauser
Rep. Earl D. Tanner

Members Absent: Sen. Alvin B. Jackson
Sen. Brian E. Shiozawa

Staff Present: Mr. Russell T. Frandsen, Fiscal Analyst
Mr. Stephen C. Jardine, Fiscal Analyst
Ms. Lorna Wells, Secretary

Note: A copy of related materials and an audio recording of the meeting can be found at www.le.utah.gov.

1. Call to Order

Co-Chair Ray called the meeting to order at 1:45 p.m. He thanked those who were hosting today. He excused committee members who were unable to attend the afternoon session.

2. Utah State Office of Rehabilitation (USOR) issues

a. Analyst Report

Mr. Jardine said that the auditors had reported to the Legislative Audit Committee regarding the recent audit involving USOR. He discussed the [USOR - Fiscal Status and Audit Follow-Up](#)

Issue Brief prepared by the analyst. He explained some of the major concerns of the audit. He listed five questions the committee could consider regarding this issue.

[Fiscal Status Report on USOR](#)
[Recommendations regarding the organizational placement of USOR](#)
[USOR Possible Budget Scenarios](#)

b. Office of the Legislative Auditor General

Tim Osterstock, Audit Manager, Leah Blevins, Audit Supervisor, and Jake Dinsdale, Lead Auditor presented the findings of the [Performance Audit by Office of the Legislative Auditor General](#). Ms. Blevins stated the audit answered four major questions regarding: 1) the USOR budget and financial mismanagement, 2) inadequate oversight efforts, 3) whether USOE is the best place for USOR to be housed, and 4) the use of the Visually Impaired Trust Fund.

Ms. Blevins summarized the five chapters of the audit report. She stated there were two major problems addressed in the audit: 1) USOR's budget mismanagement including: a \$4.9 million deficit in 2014, eliminating \$17 million of federal spending reserves, needing a \$6.3 million state supplemental appropriation in 2015, and anticipating a potential federal penalty of \$5 - \$6 million; and 2) choosing to serve all clients rather than using a waiting list.

Co-Chair Christensen asked for a clarification about the federal spending reserves. Ms. Blevins explained that the federal grants are for two years, so typically money is held in reserve to be utilized in the second year. These funds were all spent in the first year. Mr. Dinsdale explained that this is not a federal requirement, but has been customary.

Sen. Weiler asked if the \$33 million shortfall included the anticipated fine for maintenance-of-effort (MOE). He also asked if the individuals responsible for the budgetary problems were still employed. Mr. Dinsdale indicated that the individuals were still employed, but stated that the budget problems were not intentional.

Co-Chair Ray asked if the leadership of USOE was aware of the situation, and if the major problem was just bad accounting. Mr. Blevins indicated that the USOE leadership did not know of the problem. She stated that the controller and the Director of Internal Accounting were aware of the situation.

Rep. Ward asked what would trigger the federal fine. Ms. Blevins indicated the fine would be because of a MOE violation. The state has to spend for MOE at least what it spent two years before. If the money is not there, there is a \$1 for \$1 reduction from the federal grant. There wasn't really a fine; it is the loss of the federal grant that is the penalty.

Ms. Blevins also explained that USOR's mission may be better served elsewhere in State Government rather than under USOE.

Sen. Weiler asked if USOR is a stand-alone agency in other states, and how long it has been with USOE. Ms. Blevins indicated that some other states do have USOR as a stand-alone agency. She indicated that USOR has been under USOE since its inception in the early 1920s.

Ms. Blevins mentioned that Chapter 5 of the report discussed the inappropriate use of the Visually Impaired Trust Fund (see [Status of Visual Impairment Fund](#)). Co-chair Christensen asked how much money was left in the trust fund, and how much is expended out each year. Ms. Blevins answered that the fund was now at \$500,000 instead of about \$1 million. Traditionally only \$12,000 - \$15,000 has been expended each year.

c. Public Comment

1. **Leslie Gertsch**, Executive Director, Utah Council of the Blind discussed use of the blind trust funds. She stated that she was one of 100 blind people in 1983 to request this fund be made into a trust. At that time the interest was going into the state General Fund. The interest has diminished because USOE was not investing appropriately. She also indicated that in 2013 the opportunity to make grant requests stopped. She stated that the Advisory Council for the Blind had not been consulted about transferring funds to USOE. She asked that the funds be replaced to the original \$1 million and that it be invested appropriately. She also expressed concern about USOR being transferred to DWS. She would like to see USOR as a stand-alone state agency. She indicated the great value of this fund for the blind community.

2. **Kris Fawson**, Administrator, Statewide Independent Living Counsel stated that they were very much opposed to the recommendation of moving USOR to DWS. They do work closely with the DWS on many issues and have a valuable partnership, but they should not be combined. She stated that USOR provides many other services other than just vocational programming.

3. **Trenton Marsh**, Advocate for Deaf Community, expressed deep concern for moving USOE to DWS. He stated that DWS was an extremely large agency whose mission is very different than the mission of the Deaf Center. He stated that DWS does not have the services that the deaf community needs. He said that Utah is the only state in the nation that has a state-funded deaf and hard of hearing program, and how important the School for the Deaf and Blind was to these underserved groups.

Rep. Ward asked the current funding amounts for these two population groups. Mr. Jardine said that the bulk of these programs were federally funded. Mr. Frandsen indicated that state funding for the deaf and hard of hearing is about \$2 million for the Division of Deaf and Hard of Hearing and about \$6.3 million for the Division of Blind and Visually Impaired. These are compared to the \$80 million total budget.

d. USOE and USOR Response to Audit

Mr. David Crandall, Chair, Utah State Board of Education; Mr. David Thomas, 1st Vice Chair, and Jennifer Johnson 2nd Vice Chair gave a brief response to the Audit. [USOR Agency Response Issue Brief](#)

Mr. Crandall introduced Mr. Darin Brush as the new Director of USOR and explained that Mr. Scott Jones, who was the interim director, is now an Associate Superintendent for USOE. Mr. Brush thanked the legislative auditors for their thorough work. He said that the audit has now become a management tool. He explained the \$6.3 million appropriation would allow the USOR to continue to provide services and stay in sync with federal funds.

Mr. Brush gave a [USOR Status Report from Agency](#). He stated that both USOE and USOR have new executive staffs. He discussed other actions that have been taken. He described four major goals they are working to achieve. He discussed three guiding principles as USOR develops its FY 2017 budget. He gave an update on the Order of Selection, or Waiting List. He highlighted nine key areas in response to the recent legislative intent language. He said that USOR has taken no position on its placement, but does recommend that all of its divisions should remain together. He reported on the status of the Visually Impaired Trust Fund.

Rep. Ward asked for clarification regarding the Order of Selection. He asked if anyone had lost services. Mr. Brush explained this process in more detail and stated that no one has lost services.

Ms. Johnson read a statement from the USOE indicating that they do not feel that having USOR under their purview is the best decision, but they will be responsible if it is left under USOE.

Co-Chair Christensen said that moving the USOR in the middle of this recuperative phase would be very difficult. However, he does feel that the USOE is not the best entity, so he has developed a timeline to move USOR under DWS in with several transitional phases.

Sen. Weiler asked about the various clients being served by USOR and what is the average length of stay. Mr. Johnson explained that the primary disabling conditions are mental illness and cognitive disabilities. Ms. Stacey Cummings, Program Coordinator indicated that the average length of stay was 1 -2 years. They have to be employed for at least 90 days.

Sen. Weiler asked how they could eliminate 43 FTEs and still meet clients' needs. Mr. Brush answered they had cut back on benefits planning services and evaluation services and eliminated some technicians. He expressed deep concern about the mismanagement of funds. He said that whether it was intentional or incompetence he was disturbed that the individuals were still employed by the state. Mr. Jones gave more insight to the situation and the employees involved. Sen. Weiler would like to continue to hear about the progress being made.

Rep. Spendlove expressed confidence that the issues are being addressed. He was concerned that as new individuals are elected to the Board of Education that this work could be undone.

Co-Chair Ray said that the placement of USOR could be a discussion item for the December meeting.

Sen Weiler indicated that his vote would be to leave it where it is while they are working to fix the problems. He would also like to discuss the situation at more length in December.

3. Tour of Utah Independent Living Center

Debra Mair, Executive Director of the Utah Independent Living Center gave a brief history of the center as well as a description of its programs. She then explained the logistics for conducting the tour. [Utah Independent Living Center](#)

Co-Chair Ray resumed the meeting at 4:00 p.m.

4. Report on Drug Court Program and Best Practices for Substance Abuse Treatment for Offenders

Mr. Jardine, Legislative staff, gave a summary of this report. [Drug Court Coordination Intent Language Report Summary](#) He suggested three questions for the committee to consider. He explained that the agencies involved submitted a report in response to the intent language (see [Drug Court Intent Language Report](#)) regarding: 1) efforts to improve coordination between the Drug Court program and DWS, 2) data indicating the success of efforts regarding post program recidivism, and 3) any savings of funding realized as a result of these efforts.

5. Justice Reinvestment Initiative

Mr. Jardine, Legislative staff, gave a brief background about this initiative (see [Justice Reinvestment Initiative Status](#)). He presented some questions the committee may want to consider. He mentioned a formal process already in statute.

Mr. Doug Thomas, Director, Division of Substance Abuse and Mental Health (DSAMH) indicated they had assembled an implementation team. He introduced Doreen Weyland, Justice Reinvestment Initiative (JRI) Coordinator. She discussed the implementation task force that includes representation from a broad spectrum of interested parties and agencies. She discussed the new sentencing guidelines. She reported on the county incentive performance program.

Co-Chair Ray said that the local entities have been inadequately funded for this initiative. He said that sheriffs don't necessarily control their budget and will need additional FTE's to make this initiative work. There are a number of issues at the local level.

Ms. Weyland explained they have developed a new proposal which would involve regional screenings staffed 24/7 by civilian personnel. This was sent out to all sheriffs for approval last week. They feel that this new proposal will be more readily accepted by the sheriffs. They are trying hard to work through the issues. They are putting together a data research group to provide monthly reports.

Mr. Brent Kelsey, Assistant Director, DSAMH, appreciated the leadership of the Commission on Criminal and Juvenile Justice (CCJJ) and mentioned that this is a statewide system reform. He thanked the Legislature for their efforts to improve behavioral healthcare in Utah for people involved in the criminal justice system. He senses a change in attitude that prevention works and

that people can recover and improve their lives. He discussed some of the work that has been done as well as the other changes that are being implemented.

Vice Chair Redd asked for clarification as to when the screening and testing takes place and who does the screening. Mr. Kelsey explained that screening will take place on several levels. It will take place within county jails, but there will be other system triage taking place as well. All entities will participate in screening and assessment process. It will be based on the structure of the local system. He said that treatment may begin in the jail and it may continue on in the community, but the treatments must be by a certified DSAMH provider. Mr. Thomas added the screening will inform the system and then the next step will be identified based upon the screening.

Mr. Mike Haddon, Deputy Director, Department of Corrections explained that coordination is essential between all of the entities involved. He said that this is a fundamental systemic change that is taking place with JRI. It may take two or three years to fully grasp how much this will change the whole state. He said one of the first significant changes will be to the O-track management information system with the Department of Corrections, which will involve three different phases.

Rep. Ward asked if the O-Track is from a vendor or developed within the state. Mr. Haddon explained that O-Track is homegrown. States have shared various modules, and these have been added. They have contracted with three vendors to supplement this software.

Mr. Haddon discussed the importance of risk and needs assessment. As the process moves forward, all treatment will be based on this risk and needs assessment. It will require a great deal of staff training especially for individuals to understand the breadth of the system.

Vice-Chair Redd mentioned that this is more than just change, it is changing of culture. He said that many people in county jails feel frustrated by JRI.

Mr. Haddon agreed that this is a fundamental shift; and it will take time to be completely implemented. They would like to promote individuals who see the vision. He discussed implementation in more detail.

Rep. Ward asked about the incentives that might be used to encourage good behavior. Mr. Haddon mentioned that allowing offenders who are violation free for 30 days to get 30 days off of their probation would be an example of the incentive.

Rep. Redd asked if this is shifting the treatment off to adult probation and parole. Mr. Haddon said that this was a different issue. They are not trying to put state issues on to counties. They are trying to determine the issues involved and develop a pathway to success. They are looking at time credit, which was passed in the 2015 General Session, for inmates inside the institution, ways to have their sentences reduced.

Vice-Chair Redd asked if judges will tack on increased sentences because they are aware of these time credit incentives. Mr. Haddon said they are working with the judges to see the vision.

Mr. Kyle Snow, Chair for the Utah Behavioral Healthcare Committee of local county-level providers reported they are having monthly meetings with stakeholders so local needs are driving the local plans. They are trying to be honest about some of the frustrations and then addressing them.

Co-Chair Ray was concerned that if it was determined that an individual needed treatment and the local or state agencies didn't have enough money to provide the treatment, if there would be a liability issue.

Mr. Rick Schwermer, Deputy State Court Administrator said that there are a number of critical issues. He made four quick points: 1) the Courts didn't get any money for JRI, they view it just as a different way of doing business which will save courts, state and the system money; 2) this is a huge endeavor which requires macro-system collaboration and micro changes on the ground. It is a collaborative process which requires a leap of faith. It is certain that mistakes will be made and corrections and changes will have to be made; 3) what makes this process different is that from a judicial perspective they are being asked to make supervision and treatment decisions based on characteristics of that offender, rather than what they are convicted of; and 4) very important to have screening information up front. This will give the system actual data that will inform decisions and save the State money and reduce crime.

Vice-Chair Redd asked if the State is helping the counties in any way. Mr. Schwermer said that it is mostly a leap of faith. They need to identify people who don't belong in the system and get them back home.

Co-Chair Ray explained when individuals are incarcerated they can't get Medicaid. If they can be kept out of jail, they can be on Medicaid. He said that the sheriffs are committed to make this work.

6. Other Business

Mr. Jardine and Mr. Frandsen offered to meet with committee members individually as they prepare for the upcoming General Session. He also stated that there will possibly be a meeting in December.

MOTION: Co-Chair Christensen moved to adjourn. The motion passed unanimously.

The meeting was adjourned at 5:15 p.m.

Sen. Allen M. Christensen, Co-Chair

Rep. Paul Ray, Co-Chair