

MINUTES
AUDIT SUBCOMMITTEE
OF THE
LEGISLATIVE MANAGEMENT COMMITTEE

The Audit Subcommittee of the Legislative Management Committee met in Room W110, State Capitol Complex, Salt Lake City, Utah, July 14, 2005, from 4:00 p.m. until 5:30 p.m.

Committee Members Present: Speaker Greg J. Curtis, Co-Chairman
 President John L. Valentine, Co-Chairman
 Senator Mike Dmitrich
 Representative Ralph Becker

Legislative Audit Staff: John Schaff, Auditor General
 Rick Coleman, Audit Manager
 Tim Osterstock, Audit Manager
 Darin Underwood, Audit Supervisor
 James Behunin, Audit Supervisor
 Janice Coleman, Audit Supervisor
 Sue Verhoef, Lead Auditor
 Brian Dean, Lead Auditor
 Deanna Herring, Lead Auditor
 Kade Minchey, Sr Performance Auditor
 Keith Cisney, Performance Auditor
 Chris Otto, Performance Auditor
 Danny Schoenfeld, Performance Auditor
 Tim Salazar, Performance Auditor
 David Gibson, IT Auditor
 Lynda Maynard, Recording Secretary

Other Interested Parties: Burke Jolley, Deputy Supr, Jordan School Dist
 Robert Smith, Business Admin, Alpine School Dist
 Kerry Smith, Provo School Dist
 Jean Hill, Ut State Board of Ed (USBE) Attorney
 Susan M. Kuzak, Utah Ed. Association
 Keith Heaton, Program Spec, DCC
 Richard Walker, DCC
 Darrell Cook, Mountainland AOG
 Andrew Jackson, Mountainland AOG
 Oscar Fuller, HHS, CMS
 Courtney White, UEA
 Chad Harris, USBA
 Richard Stowell, USBA

Sue Player, UTA
Kent Godfrey, State Auditors Office
Dee Larsen, Assoc General Counsel, OLRGC
Jennifer Toomer-Cook, *Deseret Morning News*
Amie Rose, *Daily Herald*
Kathy Biele, *City Weekly*

1. Call to Order

President Valentine called the meeting to order at 4:00 p.m.

2. Approval of Minutes

President Valentine made a motion that the minutes from the April 18th meeting be approved. The motion passed.

3a. A Review of the Public Education Retirement Benefits

(Report #2005-07)

Presented by Janice Coleman, Audit Supervisor

Utah's public education system currently offers post-retirement salary stipends and additional health insurance benefits that are above and beyond the typical state pension and retiree insurance package. Just as with the state's post-retirement benefits, public education has amassed a large, unfunded liability that must be addressed to prevent future educational funding problems. This audit addresses a legislative request for an estimate of both accrued and future liabilities for public education and, if needed, recommendations for an appropriate course of action to resolve concerns with public education's benefit liabilities.

Public Education Post-retirement Benefit Programs Have a Potential Liability of \$1.4 Billion.

About \$954 million of this liability is committed to current employees with prior years of service and is, for the most part, unfunded. An unfunded liability increases the risk of an inability to pay future benefit obligations. The remaining \$500 million represents the additional costs that will result if the programs are allowed to continue unchecked.

Public education must modify or eliminate offered benefits and develop a plan to fund the remaining liability without compromising educational services or requiring additional taxpayer assistance. While the state had less costly benefits than most within public education, the 2005 Legislature's passage of House Bill 213 established a clear policy position to modify the cost of post-retirement benefits and improve the fiscal integrity and soundness of its benefits package. It is important that public education do likewise.

Although Large Potential Liabilities Exist, There Is Hope for Reducing and Better Managing These Costs. Primary control of public education's post-retirement benefits rests within each district. However, there may be a tendency to address short-term funding needs rather than these post-retirement potential liabilities that could be years or decades away. The Legislature can play a vital role helping school

districts to promptly address the growing liability problem created by these benefits.

Again, it is critical that each school district and the Utah State Board of Education (which includes the State Office of Education, the State Office of Rehabilitation, and the School for the Deaf and Blind) reduce their liability by modifying or eliminating their benefits. Once modified, each district must develop a viable funding plan for its remaining liability. Modification or elimination of these costly post-retirement benefits is a challenge but can be done. The Legislature can also assist school districts by requiring actuarial studies and specifying reporting requirements for district cost control and funding plans.

1. We recommend the Legislature require districts and the USBE to assess their full liability by having actuarial studies completed by June 2006 on all post-retirement benefits including stipends, insurance to age 65, and insurance after age 65.
2. We recommend the Legislature require districts and the USBE to standardize key actuarial assumptions such as the medical inflation rate and the discount rate and report these assumptions during the 2006 General Session.
3. We recommend the Legislature require the USBE to provide for the compiling and reporting of all actuarial study results to the Legislature during the 2007 General Session.
4. We recommend the Legislature require districts and the USBE to modify or eliminate post-retirement benefits to a level that is affordable, sustainable, and more comparable with the state's costs.
5. We recommend the Legislature require districts and the USBE to develop plans to fund post-retirement obligations by modifying or eliminating benefits instead of requesting additional funding from the Uniform School Fund or local taxpayers and without negatively impacting educational services. These plans should be reported to the Legislature during the 2007 General Session.
6. We recommend that the Legislature consider fiscal sanctions or other appropriate measures if the progress reported by public education during the 2007 General Session is not satisfactory.

Discussion following presentation:

Jean Hill, Utah State Board of Education (USBE) Attorney, address the Audit Subcommittee. Ms. Hill told them that the State Board is fully supportive of an actuarial study and would be willing to coordinate the effort so that it is a state-wide effort and that if there is going to be legislation on this issue that local controls and district flexibility be recognized.

Burke Jolley, Deputy Superintendent, Jordan School District, complimented the Legislative Auditor's Office for the audit report and for the attention it brings to the issues concerning post-employment benefits. Mr. Jolley highlighted the following:

- For four consecutive years, Jordan School District has set aside a reserve to fund their retiree benefits.

Rating agencies have recognized Jordan School District for setting aside funds in anticipation of future costs.

- Jordan School District has reached agreement with their associations that they would study these post-retirement issues and identify strategies for terminating district post-employment retirement benefits; both health insurance and financial incentives by the end of December.
- Many of the post-employment retirement benefits have been generated through negotiations and the negotiation process could be a simple policy that needs to be changed. It is clear that we have a problem and we have a method for correcting it.

Robert Smith, Business Administrator, Alpine School District, expressed concern with the audit. He said that districts are taking very significant steps to address the problems of post-employment retirement benefits. It is very difficult to compare one district's post-retirement benefit program with another because they are very different and there are no two districts the same.

Mr. Smith said that Alpine School District has a unique challenge—some employees qualify for a supplement to Medicare, but the majority of employees do not which is why this benefit is not available for new employees. Also, there are several districts who have set aside a considerable amount of money, knowing that this liability is out there.

Mr. Smith concluded by saying that Alpine School District is currently underway with a new study that should be released in a couple of weeks that will reflect a significant difference in Alpine's numbers because of the changes made by the federal government with the Medicare Modernization Act which deals with prescription drugs.

Motion: Speaker Curtis made a motion that the **Review of the Public Education Retirement Benefits** (Report #2005-07) be accepted and referred to the Education Interim Committee and the Retirement and Independent Entities Appropriation Subcommittee for further action. The motion passed unanimously.

3b. School Boards Closed Meetings Do Not Comply with Statute

(Report #2005-08)

Presented by Brian Dean, Lead Auditor

A review of school boards' practices and the Open Meetings Act showed that generally school boards are not in compliance with the statute. The fact that school boards meet regularly in closed meetings and that minutes of most closed meetings do not comply with the law raises the concern that school boards may be circumventing the legislative intent of the Open Meetings Act that the "peoples business" be done openly and in the public.

School Boards Are Not Following Closed Meeting Requirements. We reviewed records and interviewed staff at ten school districts to identify compliance with the State's Open Meetings Act. We found that eight of the school boards are not in compliance with the Open Meetings Act; four school boards keep no closed meeting minutes; and, four school boards only keep brief summary minutes of their closed meetings. According to the State's Attorney General's Office and Legislative General Counsel, these minutes do not meet the requirement of recordings or detailed written minutes of closed meeting proceedings found in *Utah Code* 52-4-7.5.

In addition to insufficient records of closed meetings, school boards generally do not review or approve their closed meeting minutes. This is concerning because school boards meet more frequently in closed meetings than other public bodies—leading to a question of appropriateness of discussions taking place in these closed meetings. Another concerning practice found in four school districts is the practice of opening the door in a closed meeting and considering the meeting open. School district officials report that part of the problem with their records can be attributed to insufficient and inconsistent training by the Utah State Office of Education and the Utah School Boards Association.

The Open Meetings Act Specifies Reasons and Procedures for Closed Meetings. Closed meeting provisions found in the Open Meetings Act sets forth requirements for public bodies to adhere to if they close a meeting. While school boards are generally complying with the open meeting requirements of the Open Meetings Act, closed meeting requirements of the same law are not being followed.

Interpretations of the Open Meetings Act Varies. The Open Meetings Act requires detailed minutes of closed meetings, but school boards are interpreting the word detailed in a variety of ways. The Legislature may want to consider both clarifying the statute and methods of strengthening statutory compliance.

Discussion following presentation:

Speaker Curtis asked Mr. Dean if he thought the districts would have the ability to electronically record and maintain their meeting minutes. Mr. Dean responded that several districts had indicated that, although they don't have recording systems where they hold their meetings, it would be possible to manually record their meetings.

Motion: Speaker Curtis made a motion that the audit, **School Boards Closed Meetings Do Not Comply with Statute** (Report #2005-08), be accepted and referred to the Education Interim Committee and the Legislative Process Committee for further action. The motion passed unanimously.

3c. Nebo School District's Administrative Controls Appear Reasonable (Report #2005-06)

Presented by Susan Verhoef, Lead Auditor

A review of specific Nebo School District controls did not identify significant problems. While some policies and procedures can be improved, our review of travel expenditures, administrator salaries, and board meetings did not appear extraordinary.

We were asked to complete a limited review of the administrative controls of the Nebo School District after concerns were raised that travel expenditures were excessive, that some board meeting were held outside of the district, and questions about administrator salaries. We reviewed Nebo School District controls and compared their expenditures and salaries with two school districts with similar student enrollments.

Nebo's Travel Expenses Appear Less Than Other Districts. We compared Nebo School District's overall travel expenditures and found they were close to those of Salt Lake City and Washington School Districts. We also found the amount reported as travel varies from year to year and from district to district. Although all three districts reported their expenditures were over \$600,000 in fiscal year 2004, Nebo reported travel includes over \$200,000 for student field trips and activities that the other districts do not include. Therefore, Nebo's travel expenses may actually be lower than the other two districts. We also reviewed Nebo District administrator and board member travel expenses and estimate that only a small percentage of the total travel expenditures involve their travel. Although Nebo School District's travel expenditures appear reasonable, we believe authorization and documentation procedures could improve and recommended they follow their established personnel travel policies.

Nebo's Administrator Salaries Are Reasonable Compared to Other Districts. It is difficult to compare district compensation because each district has different needs, positions and classifications. Based on our limited review, it appears that Nebo School District does not have an excessive number of administrators and their salaries are within a reasonable range.

Board Meetings Are Held Within District Boundaries. The Nebo School District board has regularly scheduled meetings that are held at the district office or occasionally in one of the district's schools. We found no evidence that any board meeting has ever been held away from the District.

Motion: Speaker Curtis made a motion that the audit, **Nebo School District's Administrative Controls Appear Reasonable** (Report #2005-05), be accepted and referred to the Education Interim Committee for further action. The motion passed unanimously.

4. Audits in Process

John Schaff, Auditor General, referred the Audit Subcommittee to the **Audit Survey Results Regarding Mountainland Association of Governments (MAG)** (Report #2005-09) in their packets. Mr. Schaff said although there are issues and concerns, the auditors working on this project feel they are outside the guide of a normal time to go back and so something about those. The auditors are recommending that the committee accept this survey report.

Motion: Speaker Curtis made a motion that the **Audit Survey Results Regarding**

Mountainland Association of Governments (MAG) (Report #2005-09) , be accepted as drafted, removed from the Future Audits List and no further action taken. The motion passed unanimously.

Mr. Schaff reminded the Audit Subcommittee that they had prioritized the use of an audit team to work with the Health Care Organizations (HCO) Task Force. To date, the audit team has not been utilized and John asked that the audit team be re-assigned to the Jail Reimbursement audit request and that the request for audit work on the HCO Task Force assignment be placed on “Hold.”

Also, John said there was a question as to how the Auditor General reports to the HCO Task Force. By law, the Auditor General reports to the Audit Subcommittee and releases reports through this Committee and John asked for clarification as to how their information was to be released in this instance.

Motion: Senator Dmitrich made a motion that the audit team assigned to the HCO Task Force be reassigned to the Jail Reimbursement audit; that the request for an audit of the Health Care Organization (HCO) be placed on “Hold” pending a definition of the scope of the audit work, and when the information for the HCO audit is ready for release it is to be brought back to the Audit Subcommittee for release. The motion passed unanimously.

John gave a brief explanation of the following New Audit Requests to the Subcommittee:

- Utah Health & Occupational Safety, requested by Senator Madsen, concerns the efficiency and effectiveness of this agency. The Auditor General has been asked to look into those areas.
- Archaeological Surveys, requested by Senator Thomas Hatch and Representative Brad Johnson, concerns the cost, timeliness and delays in some local and state construction because of survey work and how they are prioritized and staffed.

Motion: Speaker Curtis made a motion that the requests for an audit of **Utah's Health & Occupation Safety** be approved and moved to number 1 under Future Audits. Also, that the request for an audit of **Archeological Surveys** be approved and placed as number 2 under Future Audits. The motion passed unanimously.

Motion: Speaker Curtis made a motion that the request for an audit of the **Utah Performance Assessment System for Students (UPASS)** be removed from the Future Audits list and no further action be taken. The motion passed unanimously.

5. Adjournment

President Valentine adjourned the meeting at 5:30 p.m.