

LEGISLATIVE AUDIT ADVISORY COUNCIL

Minutes of Meeting September 20, 2011

A meeting of the Legislative Audit Advisory Council (LAAC) was held on Tuesday, September 20, 2011, in Senate Committee Room A-B of the State Capitol.

CALL TO ORDER AND ROLL CALL

Senator Murray called the meeting to order at 9:55 a.m. A quorum was present with the following members in attendance:

Members Present

Senator Edwin Murray, Chairman
Senator Sharon Weston Broome, proxy for Senator Willie Mount
Senator Ben Nevers
Senator Karen Carter Peterson
Representative Noble Ellington, Vice Chairman
Representative Anthony Ligi
Representative Dalton Honore', proxy for Representative Ledricka Thierry

Members Absent

Senator Willie Mount
Senator John Smith
Representative Cameron Henry
Representative Charles Kleckley
Representative Ledricka Thierry

APPROVAL OF MINUTES

Representative Ellington moved to approve the minutes for the July 22, 2011, meeting and with no objections the motion was approved.

EXTENSION REQUESTS

Mr. Allen Brown, Assistant Legislative Auditor for Local Audit Services with the Louisiana Legislative Auditor (LLA), stated the need for council approval of extension requests for less than 90 days. Senator Murray briefly explained the purpose of the extension requests for the proxy members and asked the council members to review the list for any questions. Representative Ellington moved to approve all extension requests for less than 90 days, and with no objections, the motion passed.

Mr. Brown referred to the greater than 90 day list of five entities who were invited to explain the reason for their extension request. Senator Murray stated the council's policy that a representative from each agency must explain their situation and ensure that they are cooperating, and confirm when their audit will be complete.

Capitol Area Reentry Program, Inc.

Ms. Rhonda Irving, Chief Executive Officer, requested an extension until October 31, 2011, to allow time for them to engage a CPA. Ms. Irving briefly listed her various grants and sources of income. Mr. Brown said because their revenue is such that they only require a compilation, not a full scale audit, and offered to help Ms. Irving hire an auditor. Representative Honore' moved to approve their extension request to October 31, 2011, and with no objections the motion was approved.

Lakeview Waterworks District of Caddo Parish

Mr. Brown told the council that in the past five years this entity was required to report to the LLA four times, and were late all four times. Mr. Brown stated that Mr. Lonzo Stewart, Chairman of the District, declined to attend the meeting and did not provide a reason. Mr. Brown said that their CPA also declined to attend.

Senator Murray said the extension request for Lakeview Waterworks District was denied. He said to also notify their auditor that he would not be on the approved list of auditors if he would not find time to attend the meeting. Mr. Purpera said the objective of having an audit is to see that they are accountable for their funds. Since they are not receiving an audit, he recommended that if Mr. Stewart could not attend this meeting, to ask him more forcefully to attend the next meeting.

Senator Murray said to issue a subpoena to Mr. Stewart, as well as the CPA, requiring them to appear for the next LAAC meeting. Senator Murray said the CPA should hear something in addition to the subpoena about why they should participate in order to get this audit done. Mr. Purpera agreed.

Senator Nevers also asked the LLA to notify the association or whatever the CPA comes under that he refused to come before the LAAC. Mr. Purpera said he would certainly make that notification. Senator Murray said that if the Auditor declines to approve that CPA's engagements, he/she will perform no further governmental audits. Senator Nevers said he agrees with that, but also thinks the CPA's organization should be notified because they license the CPA, and should know this is outstanding.

Morehouse Parish Police Jury

The Honorable Terry Matthews, President of the Morehouse Parish Police Jury (MPPJ), requested an extension until December 31, 2011, because of the ongoing health conditions of his treasurer. Senator Murray asked why their audits had been late for four out the five years. Mr. Matthews said they went through a process of dismissing the previous treasurer and the new treasurer is only a bookkeeper and was learning governmental accounting procedures. Mr. Matthews said that their CEO Ms. Cindy Haynes, CPA, confirmed everything should be ready by the end of the year. Representative Ellington moved to approve the extension to December 31, 2011. Senator Murray asked Mr. Matthews to stay in touch with the auditor's office and hope they do not come again.

Senator Peterson pointed out that the late report history, and commented that the current treasurer should have been trained in what hired for, and asked that the Auditor speak with the CEO to immediately move to hiring a new person. Mr. Purpera proposed to require MPPJ to prepare a plan of corrective action and recommend that they hire outside help immediately because obviously have not been able to do it themselves. He said they can hire another CPA firm than their auditor to come in and prepare their financial statements and be successful by 2013. Senator Murray said that is a good plan to keep them on track, and to get their audits timely. Mr. Purpera said he would call and tell them the plan discussed by the council. Senator Murray said if Mr. Matthews has some opposition to this request, then he would be invited to the next council meeting.

Boys and Girls Club of Central Louisiana

Mr. Dominic Bradford, Executive Director, requested an extension until December 31, 2011, due to extenuating circumstances. The Board of Directors in April ceased their operations and the person engaged to do the audit stopped the process. A new board of directors restarted their organization, and has engaged a CPA to complete their audit. Senator Murray asked why they had been late on submitting audits for the past four years. Mr. Bradford said he was newly appointed on June 15, 2011, and knows the club had experienced many difficult challenges in the past, but ensured the council that going forward the audits would be submitted timely.

Senator Murray suggested to the Auditor to do the same process as discussed for MPPJ, for the Boys and Girls Club to ensure that the audits are timely submitted. Representative Honore' moved to grant the extension request to the Boys and Girls Club of Central Louisiana to December 31, 2011, and with no objections, the extension was approved.

Village of South Mansfield

The Honorable Euricka G. Mayweather, Mayor of the Village of South Mansfield (Village), and Ms. Kim Bradford, Assistant Clerk, requested an extension until October 31, 2011. Ms. Bradford stated that they received a letter from the LLA dated July 25, 2011, notifying them that their auditor, Mr. McAllister, had withdrawn his engagement letter. She said they were requesting time to get another auditor. Mr. Brown explained the CPA withdrew from the audit due to illness. Senator Murray confirmed that the CPA did not withdraw due to lack of cooperation. Ms. Bradford had contacted some auditors on the approved list, and their books are prepared, but waiting on Mr. McAllister who was contacted on August 5 to return the books.

Senator Murray asked the LLA to assist the Village in getting the records back from the CPA, and since they only require a compilation they should be able to have their audit complete by October 31, 2011, assuming they receive their books back from Mr. McAllister. Senator Nevers moved to grant the extension request to the Village of South Mansfield to October 31, 2011, and the extension was approved.

CHARTER SCHOOLS

Senator Murray reviewed the discussion from the previous LAAC meeting regarding a Shreveport school that could not complete their audit because a charter operator would not turn over the books and records. He said they will first deal with that issue, and also asked the auditor to look at the charter

schools to see how many other charter operators there were and if this is a persistent problem that they could step in to help solve.

Senator Murray asked for the current situation on the audit with the Martin Luther King (MLK) Association School in Shreveport. Mr. Brown said Mr. Sean Bruno, CPA, spoke with EdisonLearning, Inc. (Edison) regarding MLK, and has a conference call scheduled later this week with all parties involved to work out the logistics so that Mr. Bruno can get the documents needed to complete the audit.

Senator Murray said he received information from representatives of Edison that they have done everything they could do to provide records needed to Mr. Bruno, but would like to hear what is outstanding.

Mr. Bruno said he had received a flurry of emails from Edison, and had gone through the information provided and prepared a list of questions that will be discussed on Thursday's conference call. He said one issue is the board's bank account managed by the school, and any activity in that bank account should have been included in the financials as well, but has not been. Mr. Bruno said he requested the bank statements from the board, actually a member of the management of the charter organization. The board in place of Linear Learning Academy (Linear) has been disbanded, so there is no board currently. He said he has been working with members of the MLK Association who is the charter organization to get the information, and they have provided some of the bank statements, but the information in the bank statements had not been provided to Edison to be included in the financials, nor had the bank statements been reconciled. He said the financial person at Linear was hired by the Recovery School District (RSD) and currently going to reconcile the bank accounts for the entire year.

Senator Murray asked if the financial person at Linear worked for Edison. Mr. Bruno said she worked for the charter organization, but after Edison pulled out, the school was turned back over to the RSD.

Senator Murray asked if the previous comments about money being swept by Edison as soon as the money was available were correct. Mr. Bruno said the agreement between Edison and the charter organization called for all the funds to go into an account, and in five business days that money was to be transferred to Edison, whereby they could pay all the bills. Mr. Bruno said according to the agreement the board was allowed to keep a certain dollar amount for board operating activities – legal, accounting, and other board charges. Mr. Bruno said his understanding from talking with the school operations manager (SOM) that once the funds were in the bank account, it was transferred to Edison.

Mr. Todd McIntire, Senior Vice President for EdisonLearning, Inc. and Mr. Brett Stoltz, Regional Controller for the Southeast Region, were present to discuss the charter school situation. Mr. McIntire said after observing the webcast of the LAAC meeting in July, they were very concerned about statements made regarding Edison's level of cooperation of the audit of MLK charter school. He said they quickly engaged to ensure that everything they could do, they were doing. Mr. McIntire said it is their opinion that they provided all the requested information to complete the audit - all that they had access to.

Mr. McIntire said they had met with Mr. Bruno, and the Legislative Auditor to outline the steps taken to ensure the audit is complete. Mr. Stoltz had met with Mr. Bruno in his office and went through the list of items requested for the audit, and what Edison could provide, and what needed to come from the board. He made the commitment to provide the documents, as well as any documents already provided, to provide them again. He said over the last couple of weeks he sent them to Mr. Bruno, but the bank statements have always been controlled by the charter board and charter holder. Mr. Stoltz said regarding the "sweeping of the accounts", it was part of the contract that they were allowed to do so, but were never given the access. The standard procedure was at the end of each month an invoice was presented to MLK for payment that represented all payments made on behalf of the charter for the previous month, as well as any fee charging. The contract specified they were to admit those funds within five days, and he also provided a copy of the statement of the account for the entire year. He said payments were admitted by the board not through a sweep but an ACH wire transfer and in many cases MLK was 60-90 days past due.

Senator Murray asked since the last meeting if Edison provided documents to Mr. Bruno that they had not provided before. Mr. Stoltz said they have provided documents that Mr. Bruno requested since their meeting in September 2010, and provided everything he has asked for at this point in time. Senator Murray asked again if Edison provided documents to Mr. Bruno that had not provided before the last LAAC meeting. Mr. Stoltz said he cannot say with clarity, but a majority of the documents were sent before the last meeting.

Senator Murray said that Mr. Bruno stated there are outstanding issues that will be resolved Thursday through a conference call. He asked Mr. Bruno if he had received most of the documents from Edison before the last LAAC meeting. Mr. Bruno said that was totally inaccurate, because within the last three days Mr. Stoltz has sent him a lot of good information, and his staff analyzed every email sent, and those emails were not previously provided to him. Senator Murray asked Mr. Bruno to share with the

Edison representatives the other information outstanding today, rather than wait for Thursday's call because very troubling. Senator Murray said that this points out the need for more oversight between the charter operators and the schools to follow the public dollars.

Senator Nevers asked if Edison furnishes annual financial reports to the charter board. Mr. Stoltz said yes, and when they reached out to Mr. Bruno in September 2010, they had already disengaged with the school, but wanted to provide all the information available including the general ledger, balance sheet and income statement, trial balance, and the statement of activities. He said along with that Mr. Bruno provided a Prepared By Client (PBC) list of documents requested.

Mr. Stoltz said after that meeting, he emailed to Mr. Bruno all the documents they could provide at the time. He said in discussions with Mr. Williams, chairman of the MLK organization, all agreed that Mr. Williams would take the lead in getting the documents from the school because Edison was not allowed on the school site. Mr. Stoltz said subsequent to the last LAAC meeting, there have been additional requests for documentation that he provided, including many items previously discussed that would come from the school site. He said they have reached out to the Louisiana Department of Education (LDOE) for documentation that the school would normally have access to.

Senator Nevers asked if Edison entered into a management agreement, and Mr. Stoltz said yes. Senator Nevers asked if part of the agreement was the requirement to have an audited financial statement each year. Mr. Stoltz said state statute requires they have an audit based on their funding. The contract addresses Edison's participation and his role is to assist the client in facilitating that. Senator Nevers asked if that was part of the contract, why wasn't it complete. Mr. Stoltz said he has had some challenges since he is no longer the Management Operator (MO) as of June 30, 2010, and attempted to work with the board and the auditor, and provided any information when requested, and continuing to provide information and be cooperative.

Senator Nevers asked if unable to resolve the issues, is the board of Edison liable for the deficiencies or could it possibly be construed as illegal activities. Mr. Stoltz said the board. Mr. McIntire said it depends on the nature of the findings, and as per the contract, Edison is responsible for managing the operations of the school and included in the contract is the responsibility for managing the operational finances of the school. He said they pay the bills, do the payroll, and support the school to make sure it gets the revenues, and required by contract to cooperate with the audit. The board is responsible for managing its own funds, for drawing down grants and seeking the revenues, and to pay Edison based on invoices. Mr. McIntire said if there is something wrong with the invoices, or payments made, then the accountability would fall on Edison.

Senator Nevers asked if the board depended on Edison to make management decisions that protected the assets of the charter school. Mr. McIntire said they had no control over the board's funds, which they collected from the state and federal government, and then would pay Edison based on the invoice submitted to the board. Mr. McIntire said Edison does not have fiduciary responsibility for the board's funds. Senator Nevers said he assumed Edison is hired to provide management services to protect the board volunteers. Mr. McIntire said the contract is about services regarding the operations of the school and nothing specific in the contract about providing management services for the board or counseling or advice for the board. Obviously for any productive relationship, we can have a good relationship to give advice for issues of concern, but the disengagement from MLK was because that relationship was not in a productive state and not able to give advice on financial matters that the board would accept and found they could no longer work in that relationship.

Senator Nevers asked if recommendations were made that the board refused to adhere to. Mr. McIntire said regarding the budget for the fiscal year 2010-2011, they were not able to agree it, and had recommended a number of changes to the budget to make the school work at a breakeven level, certainly to not work at a deficit, but the board would not agree to those recommendations.

Senator Nevers asked if they feel that the board is responsible for any actions not appropriate. Mr. McIntire said if the finding is regarding operating funds, and if it has to do with Edison's responsibility, they want to be held accountable, but if the finding regards funds managed by the board, they should be held accountable. Senator Nevers asked if the volunteers would be held accountable for the funds. Mr. McIntire said he cannot speak to the fiduciary responsibilities, and liability in this state, but the board as an entity was responsible for managing the funds for that charter school. Senator Nevers said he is very interested in hearing from LDOE on what they will do to prevent this from happening in the future.

Senator Murray asked what Edison's fee was according to the contract with MLK for the management of Linear Learning Academy. Mr. Stoltz said it was a fixed percentage based on the total revenues for the school, which based on the latest numbers it was around \$450,000. Senator Murray asked if that is the same contract with other schools Edison operates. Mr. McIntire said there is a fixed percentage fee based upon revenues, and another contract which they are changing now called a residual fee arrangement where the fee is whatever the balance in the operating account after paying all the board expenses and operating expenses are paid at the end of the year.

Senator Murray said personally he believes that provides an incentive to not spend money to educate children in the classroom. Mr. McIntire said this residual fee arrangement contract is made when the school has no operating funds to get started and needs a large investment so all the risk falls upon the management company. Mr. McIntire said only the Andrew Wilson Charter School – Broadmoor Association in New Orleans- has that agreement and they are far into the negotiations to change that to a fixed dollar fee. Senator Murray asked how many years have they had this agreement and how much has Edison earned with that school in prior years. Mr. McIntire said they are in the fifth year managing Andrew Wilson Charter School, and would have to get that information to the council. Senator Murray asked him to get the earnings for the past five years to the council because it does not sound like a good arrangement for educating children in a classroom. Senator Murray asked if they are requested to post a bond. Mr. McIntire said he does not think so, and not aware of any bonds that Edison are required to post, but would get an answer for that as well. Senator Murray asked if other states require Edison to post a bond. Mr. McIntire said a small minority of states require a bond.

Senator Peterson asked if all of the annual reports have been filed timely. Mr. Stoltz said he understood the question was if they were required to provide annual financial reports, for the auditor's purpose of auditing. He said there is a state requirement that charter schools are required to file quarterly statements as well an annual AFR which is due by September 30 annually. Senator Peterson asked if those had been filed. Mr. Stoltz said for Linear it was after they had disengaged so not sure if filed timely on September 30, 2010. Senator Peterson asked if the quarterly reports were filed timely during the time that he was managing for MLK. Mr. Stoltz said he came on board with Edison in January 2010, and the LDOE requires quarterly budget reports and the one due March 2010 was not filed timely. He said he was not sure if due for MLK, and if it was due, then it was not filed timely. Senator Peterson asked why he said "if" due because he brought up the quarterly reports, and gave the dates of when due, and told him it was okay to tell the truth. Mr. Stoltz said he was telling the truth, and said he was unaware that the report was due at the time, but now aware of it.

Senator Peterson asked how it works if you miss quarterly reports, would they have to be updated, or just go to the next quarter. Mr. Stoltz said he understands that when a drawdown is done, the state requires you to file anything missing. He said the drawdowns were done by the SOM, so not sure if she filed those reports. Mr. Bruno said he understands that the SOM at the school had not filed any of those reports.

Senator Murray asked if the SOM is employed by Edison. Mr. Stoltz said the SOM is the one now working for RSD. Senator Peterson asked if there was a SOM employed by Edison when engaged in the contract with MLK. Mr. McIntire said Edison does not employ any of the employees - they are employees of the school. Senator Murray asked who selected the SOM. Mr. McIntire said neither he nor Mr. Stoltz was involved in this particular contract when that person was hired, but typically it is a joint responsibility. Normally the principal is hired first, and the principal along with a representative of Edison pick out the SOM.

Senator Murray said at the last meeting, he thought the SOM had some relationship with Edison, because an employee of the school, but your contract is supposed to perform this function. Mr. McIntire said part of Edison's job in the financial management is to ensure the SOM or any other employees submit required reports to the state. The reports are from the school and signed by a representative of the school, and Edison is there to assist in preparing and completing - providing information, that is our job.

Senator Murray said it is not as if you are unattached, but you are to make sure that these reports are filed. Mr. Stoltz agreed that his job is to facilitate and make sure they are taken care of. Senator Peterson said she would interpret that as some level of oversight in conjunction with the management contract. She asked if it was his responsibility as a management contract to make sure the reports were filed. Mr. Stoltz said that is correct. Senator Peterson asked if he watched the last meeting, then why not come to the council saying that you have filed everything that was required when you did have a contract and were paid fees, regardless of the termination. You still had a responsibility, even after a contract is over, that is why we have this list of people who get audited - and you are for-profit. To come to the meeting not having some fundamental things done, not necessarily having the audit complete, but to not have the reports up to date is solely within the realm of your responsibility.

Mr. McIntire said since the last meeting, we have focused intensely on providing whatever information necessary to have the audit complete. This issue of state reports was not brought to my attention in any of our discussions. Senator Peterson said it sounds like Mr. Stoltz should no longer be with you, because if he did not prepare you for this hearing and withheld information and through omission did not provide you with the information, he should no longer be employed by you. Because he is making Edison and one school in my district, which I know there are some issues, but I feel you are working with Latoya Cantrell and I have confidence on where you are going, but you cannot be everywhere because your position is the Senior Vice President for the Eastern Region of a major corporation. I do not want to make disparaging remarks about everyone in your organization, that is not fair, but take the school and management on a case by case basis, and so we will stay on MLK, and Mr. Brett Stoltz' responsibility which he has failed miserably, and he does not even have you prepared for this

council meeting. He is not credible, because the chairman asked him a simple question if he had provided additional documents since the last hearing, and you have said that you have cooperated and tried to help to get the audit complete. Clearly there were documents that were not in the hands of Mr. Bruno, and I want to know if you are prepared with proof to show evidence that you had provided the documents that were requested, and I ask you to do this understanding that you will tell the truth under oath. Senator Peterson asked Mr. Stoltz if he provided everything to Mr. Bruno that he had requested before the last meeting. Mr. Stoltz started talking about a meeting in September 12, 2010, with Mr. Bruno. Senator Peterson asked again if Mr. Stoltz had provided prior to the last LAAC meeting all the documents requested by Mr. Bruno. Mr. Stoltz said yes, he provided all the documents that he had access to. Senator Peterson asked if it was everything he requested. Mr. Stoltz confirmed that some documents that he did not have access to, he could not provide to Mr. Bruno, and only provided what he had access to.

Senator Peterson asked during the time of the engagement, there has to be some kind of responsibility even after termination that you owe to this voluntary board to continue getting the business in order even as you transition. At the end of the day, we are talking about children, and the timing in which you terminated the contract left very little time for RSD to get their business in order and provide for children. You are in the business full time of asking school districts across the country to trust you with managing schools and programs for children, why did you think it was okay to notify that voluntary board in that short time to conduct the business of children.

Mr. Stoltz said our business process starts in March prior to the end of the school year, and I came on board in January and had meetings up until that point, and in March they began the budget process for the next school year and already knew that fiscally they were not in balance, and working very hard to get that resolved with the board. Senator Peterson asked for the distinction or delta in the budget on how much would be required to move forward.

Mr. Stoltz said the enrollment was significantly less than what was projected. When the school first came into existence, we were projecting 400 kids, and wound up the year with around 250-270 kids. For the next school year, the administration was projecting fewer kids. He said they do have a commitment to the kids, and even after Edison had disengaged still continued to run the payroll system for the month of July and continued to pay bills outstanding until late October. He said his personal fiscal responsibility is to continually try to work with the SOM, but we are not allowed access inside the school, and any reports are submitted by the school.

Senator Peterson said since the enrollment number changed, that dictates the budget. Mr. McIntire said the enrollment drives the budget, and when building a budget for a school must have a minimal enrollment to cover the nonpersonal costs and essential costs for all positions. Mr. McIntire said he wanted to clarify that Edison did not make any fee from the Linear Charter School and MLK Association at all. In the one year that they operated the school, the operating expenses exceeded the funds which they received from the school, and covered those operating deficits, and never took a fee at all from the school. The fee in theory was based upon a percentage of total revenue which would have come to approximately \$450,000, but because enrollment fell short, cuts to staffing, etc. was not sufficient to bring the overall costs lower than the revenue. So in essence, the school operated at an operating deficit in that one year, and Edison covered those additional costs, and there was no opportunity for Edison to take a fee.

Senator Peterson said so it was no longer profitable for Edison to run Linear Charter School and earn money, so that is the basis for termination. Mr. McIntire said not only did we not earn a profit, but Edison was also paying to work there. Senator Peterson said that was due to the enrollment numbers, and part of Edison's contract is to hire the people that are to market to the greater Shreveport-Caddo community and attract students to this entity. You committed to the voluntary board that you had the ability to do that, and then you failed, and then your budget was not in order, and then you did not get the profits you expected, so then you terminated. That is really pretty much how it sums up to me.

Mr. McIntire said he was sorry he could not provide any details on why the enrollment fell below the projected numbers because he was not part of that. Senator Peterson said that happens - people chose another school. Mr. McIntire said he is sure there was compelling reasons for families to go other places, and in situations like that obviously the school may not be viable in itself and certainly it may not be viable for Edison to be a partner if impossible for us to cover operating expenses.

Senator Peterson asked how Edison was introduced to the MLK board. Mr. McIntire said he did not know the answer to that. Senator Peterson asked if he could find out and provide in writing how Edison was introduced to the MLK board because that will be very interesting as to how that whole relationship developed and why they were so trusting.

Senator Murray said according to the minutes from the last meeting, Mr. Wilmer said they were controlled by Edison which the state department required they brought Edison in to run the school. He asked the Edison representatives to provide in addition to the amount earned from the residual contract

for the five years at Andrew Wilson charter school, how much did they spend out of pocket, since they did not earn anything while managing the MLK Linear school.

Mr. McIntire said obviously the final numbers will come out in the audit, which we are trying to complete, but we have a rough idea of how much the deficit was. Mr. Stoltz said the outstanding invoice is \$850,000, with \$450,000 represents the fee and \$400,000 represents out of pocket costs. Senator Murray asked how it got this far out of wack. Mr. McIntire said it all comes down to enrollment, and in this particular case, I cannot give you the details as to what our theory is about why the enrollment failed, so I do not want to speculate.

Senator Murray said the date that concerns student enrollment that triggered everything is October 1st because you know then how many students you have to receive MFP dollars from the state for, and also whatever private donations there may be. He asked how if you are supposed to be the financial managers running the school, where there no changes made from October 1 to June 30. Mr. McIntire responded that if you miss enrollment target by 130 students and start with a balanced budget, you are looking at approximately \$1 million in lost revenue. So cuts were made but not sufficient to bring the school into balance. Under normal circumstances, we start to make those various balancing arrangements whether cuts or additions early in the school year, preferably as monitoring enrollment.

Senator Murray said this goes back to Senator Peterson's question about the quarterly reports due to LDOE, and if those were not being done then how could they know that the money was not there. There is a reason those reports are required, and if not done, that is a way to hide what is being done. Hopefully when filed, the state will catch the problems. Mr. Stoltz said that is what Edison was trying to do in March, because he came in January and they missed the target enrollment for October and the second count done in February, and clearly saw that the goal was not hit, they were trying to make recommendations to the board and administration.

Representative Ligi referred to the minutes of the previous meeting, that Mr. Bruno had requested the back up for the bills being paid, and asked if he received the back up for the entries. Mr. Bruno said within the last week he received 12 emails of information, and had his staff go through the documents and prepared a list of questions and issues with respect to the revenues and expenses where numbers do not add up. It could be because the operating account that we do not have access to, if there is a lot of money on the account, or if the board spent a lot of money, it would explain the discrepancies with the numbers. But until he can get the bank reconciliations, he cannot figure it out. Mr. Bruno stated that Edison is showing that Linear owes them \$1.2 million, but when he looks at the revenue and expenses that does not make sense. Mr. Bruno said that Mr. Stoltz indicated that it could be an error and an adjustment may need to be posted, but will not know that until he gets all the information. Mr. Bruno said a bigger issue on how the operating was handled is that Edison followed the practice of recording the school's activity on their system and when he was first asked to engage on the audit he asked for a complete set of financial statements. He said he was never provided with the statements and he believes it is because of the system that Edison utilizes, and he continues to ask the board to give Edison the operating account so they can have the financial statements prepared timely and not certain if that took place. But it is difficult to engage on an audit when you cannot see the big picture. To current, he does not have a detail of federal expenditures, so he does not know what expenditures are allocated to the various programs, so still waiting on a lot of documentation. He hoped to get a lot of the questions cleared up on the conference call Thursday.

Representative Ligi said Mr. Bruno indicated in the last meeting that Edison was receiving bills and no back up for some bills because bulk purchases. Mr. Bruno said some purchases are made at Edison's corporate level, and may purchase for all their schools, and then allocate the costs to the separate schools. Representative Ligi asked if he only received the numbers, but nothing attached to the numbers. Mr. Bruno said he has not made it to that point yet, but during talks with the SOM, it was unclear the relationship between the board and Edison. He said he met with Mr. Leonard Wilmer and trying to get information from the school, but since he was not involved in the daily operation of the school had limited knowledge. Mr. Bruno told Mr. Wilmer that a lot of information had to come from Edison, and he expressed that he was not able to get in touch with Edison, and could not get anyone to call him back. Mr. Bruno asked the attorney Mr. Carl Franklin to try to assist in bringing everyone together to get the audit done, and at some point he received a call from Mr. Stoltz asking to meet and get the process done.

Representative Ligi asked Mr. Stolz what was the process for paying bills. Mr. Stoltz said they have a requisition system and purchase order system like anyone else that is run through the school, by going online to requisition the wanted items through Office Depot, for example. Then the requisition goes through the system for approval by the SOM and by himself, and the purchase order is issued and the goods are shipped to the school. The SOM verifies all received and sends the receiving report to Edison for payment. For some national vendors, the invoices could have gone directly to Edison, but goods are shipped to the school. But anything else particularly public utility bills, local bills, those invoices goes directly to the school, and the SOM enters them into the system for approval, and codes them to the proper general ledger account. Once approved they are paid for, and checks are cut by Edison's corporate office, and at the end of each month Edison sends an itemized list of everything paid on their

behalf, and that statement comes in four separate pages. The first page is the statement of account, second is the specific invoice for that particular month, the third is the detail of the general ledger account with expenses incurred, and the last is the fee calculation.

Representative Ligi questioned the process for the bulk purchases to get better volume pricing. Mr. Stoltz said at the beginning of each year they shop for vendors and make those available online for the schools to order from. He said in some cases if there are bid law requirements, the school tells Edison the need for receiving bids and we process that for them. Representative Ligi asked if the school is able to determine from the information they receive what they are paying for. Mr. Stoltz said the monthly invoices include the general ledger accounts, and the actual invoices are at the school site. If the school asks Edison to purchase for a particular program, would submit as a separate invoice and the actual invoice that Edison received would be attached. Representative Ligi asked Mr. Bruno if he saw that in the documents received. Mr. Bruno said the audit has not reached that point yet.

Senator Murray asked if most of the vendors are outside of the state of Louisiana. Mr. Stoltz said no, the bulk purchases are bid for the best possible prices and Office Depot is one of the largest vendors. He said the schools have the option to go to the local store to make a purchase if the SOM approves it. Senator Murray asked how many employees Edison has that live in Louisiana. Mr. McIntire said the number of Edison employees living in Louisiana is two or three, and the team that offers support on a regular basis to our schools onsite and offsite is 25-30.

Representative Honore' suggested that Edison and Mr. Bruno have a face to face conversation today prior to leaving, and then able to solve some problems by Thursday's conference call. Mr. Stoltz replied that he met with Mr. Bruno a few weeks prior and met with him before the meeting too.

Senator Murray said he had hoped to be much further along from the last meeting. He commented that he does not expect the audit will be completed by September 30. Senator Murray said the bank records are needed from the board, and not sure if a subpoena may be needed to get that, but other documents that Edison has, we need a deadline on getting the documents. Senator Murray commented there may not be anything on the books now that says when a charter operator does not do a good job at one location that it will impact contracts at other schools, but it may need to be considered. Also posting a bond is not required now, but that is something definitely needs to be encouraged to get the information. But to be so far from being able to conduct an audit, and understand the responsibility is not just on Edison, but also the board to provide documents. Senator Murray pointed out that Edison, as the financial manager of the school, this responsibility belongs to them.

Mr. McIntire said he believes that Edison has provided to Mr. Bruno everything that he requested in September 2010 that they have access to. Senator Murray asked what it takes for you to hear that you have not provided everything. He knows the board controls the bank statements, but Mr. Bruno said he still needs further information from Edison. Mr. McIntire said he disagrees with that. Mr. Bruno said he received 12 emails between Wednesday and Friday of last week, and was the first time receiving this documentation. Once he received it, he passed it to his staff and prepared a document listing all the questions and discrepancies.

Senator Murray said that is troubling because they were supposed to contact you with information much longer ago. Mr. Stoltz said they did in September 2010. Senator Murray asked Mr. Bruno to provide an example of some items of what you are looking for from your list. Mr. Bruno said he requested a detail of all federal expenditures, and the way the ledger should be set up is they should be able to print out for every federal program that the school operates a detail of expenditures that pertains to each federal program. Mr. Stoltz said what he is looking for comes from the SOM when she did her drawdown, when she recorded those expenses as she was requesting funds for reimbursement.

Senator Murray asked Mr. Stoltz what role does he play in this, since Edison cuts the check, then the SOM should have provided the back up before you write the check. Mr. Stoltz said yes, that is correct. Senator Murray asked then why doesn't Mr. Bruno have that information. Mr. Stolz said he does not have what the SOM drew down, and does not know what supporting documentation she provided to the LDOE.

Mr. Bruno said what happens is when an entity receives over \$500,000 in federal funds, you do an A133 audit, and he is required to do a calculation to determine what programs I have to attest, and that calculation has to be based upon expenditures of the various programs, but if I do not have the expenditures of the various programs, I cannot make that selection.

Senator Murray said Edison must know what is spent and have the information for back up. Mr. Stoltz said he has that. Senator Murray asked if Mr. Bruno has it, because he needs it. Mr. Stoltz said he has to request it, and obviously he did not. Mr. McIntire said the question is where are we in the process. We believe that they have provided everything requested to this point, and obviously there are additional records which may back up the initial request, which we are prepared to provide and will provide those items that have not been requested.

Senator Murray said Mr. Bruno stated at the last meeting and again today, that he has not received the requested information. Senator Murray told the Edison representatives that the card they signed says that you swear to tell the truth, but you keep saying that he did not request it. But this gentleman says that he has, and it is pretty easy to make this determination and we can play with words all day long, but he needs to get the information to do that audit, and you have to have the information because you wrote the check. Edison must know this information is required to do an audit, so you should just send it to him without having to be asked for it, because the law requires it, and you must have to send it to every other person that does the audits at your other schools.

Mr. Stolz said that is correct, but with the single audit they select major programs and that is the expenditures that he will be looking at. He said this item is on Mr. Bruno's PBC list. Senator Murray told Mr. Stolz that if it was on the list of requested documents, why did you say that Mr. Bruno had not requested it yet. Mr. Stolz said the item specifies that once he has reviewed the general ledger he will ask for the supporting documentation as it relates to the federal expenditures, and that is what I am waiting for. Once he provides me with specific expenses that he is looking for supporting documentation, I have agreed to provide him with copies of the invoices, and copies of the cancelled checks, and anything else that relates to that.

Senator Murray asked if he missed something, you just said that he requested it already, but now you are saying that you are waiting for him to request it. Mr. Stolz asked Mr. Bruno to read the item. Mr. Bruno said item #33 and asking for schedule federal expenditures, and I even gave a format for that. Senator Murray asked Mr. Stolz if he had seen that request before today. Mr. Stolz said yes. Senator Murray asked then why did you say that he did not ask for it yet. Mr. Stolz said there are two separate items. Mr. Stolz said it was based on the drawdown that the SOM requested and he did not know that she used the supporting documentation.

Senator Murray asked if he writes a check without supporting documentation. Mr. Stolz said he is a CPA and has done audits for ten years. Senator Murray said answer my question, then tell me about your experience. Mr. Stolz confirmed he did not write a check without supporting documentation. Mr. Stolz said the C for the schedule of federal expenditures is a schedule of nothing more than a list of programs with their CFEA number, and their total expenditures for the program year, and I have provided that to him on September 2010.

Senator Peterson asked for some proof of the transmittal of the attachment. Mr. Stolz said it was sent via email, and can dig in his records. Senator Peterson asked Mr. Stolz to get for the committee within 24 hours everything, and said she saw something dated June 20, 2010, Data Request, about a page and half of documents. Senator Peterson said there are items on the list have not been provided. Mr. Stolz said we have provided him with the information we had available, and the C4 was one of the ones that I was certain that I provided.

Senator Peterson asked him to go from June 20, 2010, and everything that you ever transmitted to Mr. Bruno, give that to the auditor and his team, and Mr. Bruno again, and copy the chairman. She said if he would send a copy of every email or letter sent to Mr. Bruno in response to his June 20 data request, we could nullify this dispute. Mr. Stolz said I am not being argumentative, I just think we are talking about two different things. Senator Peterson asked Mr. Bruno to show Mr. Stolz the data request again, and asked him to tell for each item which one you have provided, and what you have not. Mr. Stolz said he could not read it. Senator Peterson asked Mr. Bruno to read it, and for Mr. Stolz to answer if he has or has not provided it, with no explanation. Mr. Bruno began the list asking for all bank account reconciliations for month ending June 30, 2010. Mr. Stolz said he does not have access to that. Mr. Bruno asked for the bank statements to go with the bank reconciliations. Mr. Bruno said the next item was a detail of all outstanding requests for funds reimbursement from the State of Louisiana as of June 30, 2010.

Senator Murray asked Mr. Stolz if he has no access to bank reconciliations, how can you financially manage the school because if you do not know month to month how much money they have to operate, how can you do your job, so then what are they paying you to do.

Mr. Stolz said the contract does require the school to provide Edison with bank statements and reconciliations, and those have not been provided, but could monitor the amount of money that goes into their account through the state's OSRAP system. Senator Murray said you do not know how much they spent. Mr. McIntire agreed because if the board spends from their accounts for some other purpose, there is no transparency to the board accounts. Mr. McIntire said their contract allows for access to their bank statements, and what Mr. Stolz has said is that the board did not provide those, per our contract, which is one of the reasons frankly for why we terminated the contract.

Senator Murray said that means you cannot do what they are paying you to do. Mr. McIntire disagreed and pointed out Edison is paid to provide operational services for the school, not being contracted for running the boards' finances. Senator Murray reiterated that not knowing how much actual money you have in the account to run the school, you cannot do your job.

Senator Peterson asked why Edison cannot provide the bank statements for the account that the checks are written out of. Mr. McIntire pointed out Mr. Bruno needs the board's bank statements, not Edison's. The process works by the funds transferred from the funding authority – state and local or federal government – to a board account. Edison then invoices the board for the operating expenses for the previous month, and the board, in theory, writes a check to Edison out of their board account. Edison then uses their own bank accounts to pay invoices, do payroll, etc. While we requested and contracted to have access to see what is in the board account, and to see bank statements so that we could have the full picture of the institution, that access was never provided by the charter board.

Senator Peterson stated that is inconsistent with what the gentleman from the board told the council at the last hearing, which was that when the money hit the boards' bank account, it was automatic transfer to Edison's account and then you did all the management and check writing. Mr. McIntire said he knows what Mr. Wilmer testified, and there is language in the contract that we could set up that kind of account, typically it is done in a third account, where this is a board account were funds are received, the board then transfers whatever is necessary to cover the operations of the school into a second account, and that is the swept account as opposed to the board account. However, that sweep account was never established. The way that invoicing and payments were done with this school was through an invoicing process, and we can provide documentation if you like on that as well. Senator Peterson asked if Mr. Bruno has the information on invoicing. Mr. Stoltz replied that he provided Mr. Bruno with the year-end invoice, but not sure whether he has every month. Senator Peterson asked Mr. Stoltz to give him every month, and he agreed.

Senator Murray commented if Mr. Stoltz is a CPA, then why not provide everything to Mr. Bruno that he needs to do the audit. Mr. Stoltz said he promises that he is trying every way possible, and had reached out and contacted Mr. Bruno. Senator Peterson was frustrated and told Mr. Stoltz how disingenuous to only provide the annual invoice, rather than every invoice that was given to MLK. Mr. Stoltz pointed out those invoices were given to the school and the board has access to them. Senator Peterson replied that it did not matter if the board has access, Mr. Stoltz claimed to be cooperating and working with him to complete an audit that has been extended. Mr. Stoltz said that Mr. Bruno has not asked for that - if he asks for it, I will provide it to him. Mr. Stoltz continued to state that Mr. Bruno did not ask for the annual statement, but he still provided it, and the first page lists all the invoices for the entire year.

Senator Peterson told Mr. McIntire that Mr. Stoltz is not representing Edison very well at all, and if these are your practices, you have fundamentally failed the State of Louisiana and children. If he is going to be over your operations in management for any other school, your process is fundamentally flawed, because he does not have a cooperative spirit to work with us so that the new Superintendent of RSD, John White, who set out new standards. He is not going to offer the transparency and accountability and oversight that is necessary for charter schools, because what we are hearing today, if he is in place you have a problem.

Senator Murray asked Mr. Purpera what assistance his office can provide to get this done, because there is outstanding information that Edison has and some of the prior board members have. He said he would like to see something happen before the conference call scheduled on Thursday. Mr. Purpera said the conference call was scheduled to get all parties together at one time including the MLK board, LDOE, RSD and Edison. We have met with some of them individually, but had been unable to get them all at one time before Thursday.

Senator Murray suggested before Edison's representatives leave, to get them with Mr. Bruno to get the information they have access to. Senator Murray asked if Mr. Purpera looked into other charter operators to see if this is a consistent problem and where audits stood with other charter schools. Mr. Purpera stated he does not believe it to be pervasive that charters are not being done timely, because all are held to the same standards so if they need extensions, they have to come before this body.

Senator Murray asked now that the MLK school is an RSD school, and there is no charter operator in place, will their funds be in jeopardy if we do not give them extensions. Mr. Purpera said they would receive funding through RSD.

Senator Murray asked Mr. Purpera to look into this situation - if the charter does not operate, you just fire the charter operator, and put in a RSD school. But the audits do not get done, and the council can do nothing, so we need to have something in place to make sure these folks get audits done timely. Because it seems to be that Edison just walked away from a major problem- it's no big deal with them because we cannot do anything to them. They have not posted a bond, so we cannot proceed against them for that. I suppose if there are some findings, we might be able to file a lawsuit to get the money back. But we do not have any stick to hold over these charter operators, and maybe we should take a look at what other states do because these folks handle a lot of money and must be responsible to somebody. I know that the Department has oversight, and we will get into that in a little while, because it is not as strong as it ought to be. But something needs to be in place to make these operators do something, and not just have them fly in and out and act as if what they have done is not important.

Mr. Purpera said this was set up for failure through the contract because the board is not sharing information with the contractor. One of the two had to be responsible for the overall finances of the entity. Senator Murray stated he thinks the board is responsible, and that is why Edison does not have the same urgency about getting this done because they do not have the responsibility. It seems to me if they cannot take care of the school in Shreveport, or the one in Baton Rouge, they should not have any other schools in the state. It is apparent that the board is the responsible party since they receive the money from the state, and the money was not put in Edison's account, even though they took pretty much full control and made a lot of the decisions. I would like to look at that and see what we can put in place to make sure this does not happen again. Mr. Purpera stated that he would look into it.

Senator Murray said regardless of the money still flowing, he would like to put a date in place to encourage this audit being completed to get them off the list. He asked Mr. Bruno how long it would take to complete the audit if Edison gives you the information by September 30th, and we may be able to assist in getting the bank records of the board. Mr. Bruno replied that he would like 60 days to allow time to go through some of the discrepancies. Representative Ellington moved to grant an extension to November 30, 2011, and hearing no objection, the motion was approved. Senator Murray said he hopes it will be done and not continue squabbling over what information was requested, and what has been turned over. Senator Murray told Mr. Purpera the council would assist however needed in getting the bank records, even to sign for Mr. Bruno to have access to the records with the bank directly, and to strongly encourage the board to turn over the bank records. Mr. Purpera said he would take care of it.

RECOVERY SCHOOL DISTRICT

Mr. Paul Pendas, First Assistant Legislative Auditor, pointed out the council's copy of the Louisiana Department of Education- Recovery School District Performance Audit issued September 14, 2011. Ms. Anne Nelson, Performance Senior Auditor, provide a quick summary of the report's five objectives and the findings:

Objective 1: How does LDOE transfer schools to the RSD?

- LDOE tracks and identifies schools that are eligible for transfer to the RSD based on criteria in state law and makes a recommendation to BESE for approval to transfer the school to the RSD. (p. 9)
- Currently, schools are eligible for the RSD once they are considered Academically Unacceptable Schools (AUS) for four consecutive years. In FY 2011, AUS status was determined by an SPS of 65 or less, which means approximately 61 percent of students performed BELOW grade level and continued to perform below grade level for four years prior to their school entering the RSD. (pp.7-8 ; Exhibit 4)
 - The schools in New Orleans were transferred into the RSD under R.S. 17:10.7, which transferred schools whose baseline school performance scores were below the state average and were in districts that had more than 30 schools that were AUS or more than 50% of its students attended AUS schools. This ended after November 15, 2009.

Objective 2: How does the RSD reorganize, operate, and transfer out the schools under its authority?

- This process is directed by state law. The RSD, with BESE's approval, reorganizes schools under one of four different operational structures: Direct-Run, Type 5 Charter School, Memorandum of Understanding (MOU), or Management Agreement (MA) based on a comprehensive audit review. (pp. 10-11; Exhibit 6)
- State law requires Direct-Run and Type 5 Charter schools to remain in the RSD for a minimum of five years, it also requires the RSD to make a recommendation to BESE on how these schools should be operated after five years. (p. 13)
 - In response to the law, RSD created policy which states that the Previous Governing Authority (PGA) must meet certain conditions to get their schools back and non-failing schools can choose to remain in the RSD. (pp.13-14)
 - In addition, when a school within the RSD converts to a Type 5 Charter school, the five-year minimum transfer period within the RSD resets to year one because the charter becomes a new Local Education Agency (LEA) and is given the standard five-year charter contract. (pp.14-15)

Objective 3: Is the RSD making progress toward its schools meeting an acceptable level of student performance?

- By design, the RSD is comprised of failing and/or under achieving schools. Overall, the RSD is making progress toward improving student performance based on multiple measures of accountability reported by LDOE. For example,

- In FY2010, 60.3 percent of RSD schools were not in AUS status. (p. 17; Exhibit 10; Appendix E) *Only 78 of 111 schools included because they were not operating long enough and of how SPS is calculated.*
- The Graduation Rate for high schools in the RSD increased from 43.2% to 51.6% (19.5%) from FY2009 to FY2010. Statewide Graduation Rate was 67.4 in FY2010. However, the RSD has identified the Direct-Run High Schools (FY2010 average 44.5%), as an area to focus on due to their lower performance. (p.18-19; Exhibit 12; Appendix F)
- The Type 5 Charter schools have shown the greatest amount of improvement based on FY 2010 SPS and Growth Performance Scores. (pp.19-20; Exhibit 13 and 14)

Objective 4: Does the Office of Parental Options within LDOE, along with the RSD, effectively monitor Type 5 Charter schools to ensure they are meeting their student, financial, and legal/contract performance standards?

- Overall, the OPO and RSD did not effectively monitor Type 5 Charter schools in FY 2010 and need to improve the process to annually collect, review, and evaluate the performance of Type 5 Charter schools to comply with LA Admin Code. For example:
 - In FY2010, the OPO and RSD did not monitor 8.3% (4 of 48) Type 5 Charter schools for student performance because the schools did not receive an assessment index or SPS because of grade configuration (p.21)
 - The OPO and RSD's FY2010 monitoring criteria did not sufficiently provide an accurate account of a Type 5 Charter school's overall financial health and sustainability.
 1. The financial indicators used were not prioritized by importance. For example, timely submission of a report and issues related to the data reported were treated equally.
 2. This issue was identified and discussed with LDOE in early 2011. In April 2011, LDOE revised the LA Administrative Code regarding Charter Schools to strengthen the fiscal monitoring process over charter schools using the same financial accountability system as the local school districts use. (pp.22-24; Exhibit 15)
 - In FY2010, the OPO and RSD did not comprehensively monitor all Type 5 Charter schools for legal/contract compliance. Type 5 Charter schools were only comprehensively monitored if they were eligible for contract extension or renewal that year. In FY2010, only 10 of the 48 (21%) were monitored in this manner. (pp.24-26; Exhibit 16 Indicators; Exhibit 17 3rd and 5th Year Review)

Objective 5: What was the RSD's process for developing and implementing the Master Plan and what is its current status?

- The original Master Plan was approved in November 2008 and RSD and OPSB are required to update it every two years. The RSD and OPSB have separate Project Worksheets with FEMA to provide funding for projects in the Master Plan. FEMA acknowledges that the PWs will be updated based on a number of factors. (pp. 27-29)
- As of February 2011, 7 out of 32 projects in Phase One of the Master Plan have been completed. (p. 30; Exhibit 20)
- Since RSD and OPSB have separate PWs open with FEMA, LDOE needs to determine the potential effects on the PWs when schools included in the Master Plan transfer back to their OPSB. (p. 31)

Senator Murray questioned the status on the master plan. Mr. Pendas said he understood the plan to be approved by FEMA, but must now be approved by both BESE and OPSB, which has not happened yet, but expect in October they might approve it. Senator Murray asked if there is a change by BESE or OPSB, does it have to go back to FEMA. Mr. Pendas was not sure how big a change has to be before they ask FEMA for permission.

Senator Nevers commended the LLA staff for all the work put into the report. He pointed out on page 13 of the report it says according to RSD officials and asked if they actually found the policy in this bulletin 111 that sets forth the process of transferring schools. Ms. Nelson responded that this process was created and approved by BESE during the field work of the audit, and sat through many BESE meetings where they approved that policy. Senator Nevers said according to the audit Bulletin 111 does not state a limit on the amount a school can choose to remain with the RSD. He asked if it states that a school can elect to stay in the RSD from now on. Ms. Nelson explained that the way the policy is written, a non-failing school which is defined by a school that is at least 5 points above the Academically Unacceptable Schools (AUS) bar for two consecutive years, so it would be AUS for two years. If they are considered non-failing, they are allowed the choice to stay within the RSD or return to their previous

governing authority. So we wanted to note is that the policy does not give a limit to the amount of times that this non-failing school may decide to stay within the RSD.

Senator Nevers asked if RSD has that authority statutorily. Ms. Nelson stated that the auditors did not make a determination on that. Senator Nevers said he noticed the report referred to the growth performance scores, and you talk about a 6.2 point gain, which is certainly great and appreciate that, but asked what the GPS averages are for the RSD school system. Ms. Nelson said she did not have that in front of her now, but could get that information. Senator Nevers said he may get the from LDOE representatives, but inquired about the average graduation rate for the whole RSD system. Mr. Purpera pointed out on page 19, Exhibit 12 - the MOUs have a 53.1 average graduation rate, type 5 charters have a 58.2, and direct runs have a 44.5 percentage. Ms. Nelson said the direct run schools are under RSD, and those schools are identified as their areas of issue.

Senator Nevers asked if the numbers were confirmed to be correct. Ms. Nelson said the information that ordinarily posts for every school in the state was used in the exhibit. Senator Nevers asked if the auditors verified the information with the schools to be correct, because expects data in an audit to be verified. Mr. Purpera agreed that the auditors did not go to the individual schools to test the data to ensure that it was absolutely correct. Senator Nevers stated that in an audit, we assume that those tests have been performed and wants to be sure that we recognize that the data has not been tested, and maybe we should test it so that we know that the data is accurate.

Senator Murray asked if the graduation rate is based on every student that starts the 9th grade. Ms. Nelson answered that it is based off a four year time frame from freshman to senior year. Senator Murray pointed out that students that do not make it to ninth grade are not counted in this number at all, and because of the leap tests a lot of students after the eighth grade are lost.

Representative Honore' asked if the RSD schools, which their enrollment has decreased in a lot of schools statewide, but have they improved more than 50% of what a normal school would have. Mr. Purpera stated the report based on the evidence presented to us, shows there is growth in their performance scores. We are seeing by the numbers that there was growth, and in one of our statistics we show 17.9% growth in the scores, but not 50%. However, the average graduation rates, none of us would agree those are good rates. The bottom schedule shows the school performance scores (SPS) of 70.8, 64, and 48, that translates to under achieving students, so I think the RSD would certainly agree there is a lot of room for improvement.

Ms. Ollie Tyler, Acting State Superintendent of the Department of Education, and Mr. John White, Superintendent of Recovery School District, went to the table to respond to concerns and questions about the RSD direct run schools and the charter schools.

Senator Murray asked when, how and what thought processes were involved in the process of the policy of converting direct run RSD schools to charter and start over with year one, because he did not realize that this policy was in place. Superintendent White stated he was present when it happened and do not know the exact date, but his staff can get that information. I would say that the rational for it is that when you try one intervention, for example, a Memorandum of Understanding, or Charter school, and, for whatever reason that intervention did not work, we want to basically say, let's try an entirely different approach, whatever we are doing now is not working. But it is very hard to convince someone to try an entirely new approach, whether it is RSD direct run or charter school operator, we are going to assume that you too have failed. But when we are starting with a new principal, new teachers, and entirely new approach, we do not want to say let's get a fresh start, but by the way, we could shut you down because you are a failure - that would be counter intuitive.

Senator Murray said that is one way of approach, but my thought is they are the same students. His concern was that it gives a false impression because the name of the school changed that it is no longer in its fifth or sixth year as a failing school, but starting from scratch where not failing at all. He asked if that is how BESE interprets it.

Superintendent White said yes, it is saying we are going to give this school more time to see if it will succeed. He explained that the school still appears on the list as being academically unacceptable. The numbers are still published, so parents will know the state has deemed this school unacceptable. The state would not however, be in a position that the adults that are in that school building have failed those children, because it is new adults. So the parents will have the accurate information, but the educators would be treated fairly.

Superintendent Tyler thought the policy was enacted during the 2009 – 2010 academic year. She said the school will not appear if it is not still academically unacceptable, but the new approach is, we want to see if the intervention that we are going to allow the charter provider to give, is going to work. We still have the record that the school is academically unacceptable, but I need my accountability people to see exactly what we call it, and I can get that information for you.

Senator Murray asked if a school could be in MOU for five years, then the RSD in the MOU could run it for five years, then go to a charter for another five years each time restarting. Superintendent White replied yes, and what we are trying to achieve is to honestly say this school has failed, we need an entirely new approach, and the way to get a new approach is to get a clean slate. Now, do I think it is the acceptable thing to have a failing school for 20 years – not for a second. And if there is a better way of ensuring that people are held accountable for change, then absolutely, but that is the system as it is designed to work. The school is put into AUS status for a certain number of years, and if it has not made change by the fifth year, you have to start from scratch.

Senator Murray said I guess the RSD would never think that it cannot make it any better, and may be time to go back to a local school district to make it better. Using this process, the RSD gets to hold onto it for 15 years. Superintendent White pointed out that the school district had that same school for the 15 years prior to being AUS and being in the RSD.

Senator Murray said the local school district could have made changes, and gotten better. I think the theory is that once it gets into the RSD's hands, you have to figure out how to keep it there forever, and I hope that theory changes, and send schools back. What happened, and I guess the poster child for all this is the Orleans Parish School Board (OPSB), and the whole theory is that if you question anything about what the RSD is doing, that means you want to go back to the old system. That is not the case, because there is a lot of room in between there. I am not familiar with all the local school districts, but I would like to see RSD try to decrease the number in RSD, and put schools back to the local control.

Superintendent White said he did not want to disagree, but there are eight schools currently in RSD that OPSB has the opportunity to apply to take back under the BESE approved process. So while it does not cover every school, in fact, these are schools that have improved already. We have not seen OPSB apply for those schools yet. And we are still talking about a different kind of school, which is still failing after all these years, so the question is not if the school board doing well, and I think, by all measures OPSB is doing a good job. But the question is has any school board shown evidence that they can take a radically failing school and improve it. But I do agree that we should be open to all approaches. Senator Murray stated he does not think that the OPSB should have to apply for schools- this should be theirs to begin with.

Senator Broome said it is good to know in the recommendations from the auditor that the LDOE and RSD pretty much concur with all the recommendations. That is a positive note. Graduation rates for direct run high schools mentioned in page 19, on average the students were 4.3 years behind grade level. We know there are some very significant and in many cases alarming concerns as relates to some of the information. Senator Broome asked for the plan of action or vision in terms of what we can expect.

Superintendent Tyler said she and Superintendent White both have been working together to address and actually evaluate each school not performing as they should. They were in very poor condition when came into RSD, but Mr. White has set forth a plan of action, and we at LDOE have also been working collaboratively with Mr. White on how to address the serious needs.

Superintendent White pointed out that the students represented in this document, who graduated in 2010 were in 8th grade when RSD came into existence in most of these schools, so most of these students have already passed through. Which given the improvements we have seen, and important to note that RSD is the state's top improving school district over the last four years, and second in the state last year. Given those gains, these numbers will go up. The impact of the RSD charter and direct run schools on these students is not nearly as great as it will be in the students graduating in future years, they were just not with us for very long.

Superintendent White said to address your concerns: Number 1- we made a commitment that our direct run schools which have a large number of high school students will outpace the rest of the state in academic gains this year because of the new support model we put into place which is very simple and centered around student assessment, and observation of teacher practice. Number 2 - in cases where that does not succeed, we have enacted very stringent accountability, and we will recommend schools that are below 75, that we not take action on Senator Murray's point, but schools that are below 65 we do take immediate action on, from an accountability perspective. Finally, we will continue to create new schools across the system in the form of not just traditional college preparatory but also schools specifically to serve over age and under credited students, as well as prepare students for a career in technical education. Those three things, swift accountability in instances of very low failure, tremendous support for schools that are not succeeding, and third, the creation of new types of programs that actually serves specific student needs beyond college prep.

Senator Broome said it is her understanding that one of the recommendations was to shorten the time period of student assessments. Superintendent White pointed out one of the recommendations was regarding kindergarten through two children whom the state provides assessments for currently in for example literacy, but does not have a accountability oriented set of assessments, where you might put a school in RSD because of their kindergarten outcomes. The state is in the process as Superintendent Tyler can speak to of developing common core standard, national standard oriented assessment through

PARC consortium that will cover kindergarten through grade 2. Although the plans for actually tying those to accountability where you might shut down a school for example based on first grade outcomes is not likely in the cards, so we agree that significant student accountability in measurement in the kindergarten through 2 level is important, the state is moving in that direction. We are unlikely to take severe accountability based on kindergarten outcomes.

Senator Peterson said regarding the high schools, the information in the audit that talks about 4.3 years behind grade level, that is for the direct runs specifically. I am interested, and we visited on many occasions about the long term plan to recover the high schools, but I want to take a minute to understand how we got to where we are today, because we cannot repeat history because we do not want the same results. For the last four years or more, these direct run schools have been under the control of the RSD, why are they in the condition they are in. I just want the analysis, the audit only shows statistics of where we are today. I am not saying that you are responsible for it, but why did it occur in your analysis.

Superintendent Tyler said he believes LDOE has analyzed what has happened to those young people, and we discovered in many cases that these young people did not have the foundation of literacy to enable them to succeed in any core academic courses. Senator Peterson said she did not want to talk about what you have done, what you did is in response to the analysis of what was wrong, so for four years we have failed a population because the only reason I authored the bill is because I said the OPSB was not doing it right, and the only reason that the schools should be transferred to the RSD was because they were going to do it better. I cannot look the people in New Orleans in the eye and say that the RSD did what they promised to do, if in fact we were honest the RSD schools would be transferred back to the OPSB, but that may not be the answer. And I am not suggesting to you that it is - I want to know what went wrong.

Superintendent White reiterated Superintendent Tyler's point around students' low performance coming in, if you take that challenge, you have two problems. One – a system that is not yet actually providing access for every child equitably, and two – a system that unlike many of the independent but accountable charter schools, has not made every decision about adults with the rigor that was necessary. And when I say equity, I mean two things, one is a system that ensures that every child whether they have special education needs, or over aged, or coming back from incarceration, has access to an excellent school. In order to achieve that, government must play the role of ensuring equal access for all kids through an enrollment system.

Superintendent White continued that schools need to be tailored to individual student needs. John Mack High School, Landry High and Carver High offer fairly generic college preparatory programs rather than really strong career technical programs, which are for youngsters specifically two years over age. Strong programs for students with special education disabilities. We have still in our school district adhered to many practices that have not been great for students across our country and across our state, and those things include tenure, in my view without accountability for performance. Performance at the principal level and at the student level, these are problems that I am proud to say the department in my view has taken a very strong stance toward, but we are only at the basic phases of those reforms. Those decisions have not been made at the rigor that I hoped as a State we will make. Over the next several years, these schools became challenged with the most challenged students and made the least rigorous decisions around adults.

Senator Peterson asked why is what you described different from the OPSB was doing. Superintendent White said having not been in New Orleans Parish School Board, I do not know. I would say this- I have been in some of their schools, and have a lot of respect for the practices of teachers that I have seen in their schools. I would say serving students at a 20 SPS or 30 SPS level is a fundamentally different thing from serving students at a 100 SPS.

Senator Peterson said her question is why are the problems that you have identified, equitable access, a system that ensure access to excellent schools, special education, adults tenure, enrollment system, those things – why was that different from what existed when these same schools were under the auspices and jurisdiction of OPSB. Those similar problems existed, in my opinion, at the OPSB, so you are telling me 4-5 years later, those same things that we talked about when we took over these schools, so how is it acceptable for five years later – remember the word "Recovery" – it was only created to recover something. Nothing was recovered with respect to these direct run schools. I am not going to talk about the Type 5 charters, or MOU's, and some other things. I want to commend you when you said there were some good things. But every school taken over by the RSD, there was not an expectation to leave 3,500 students in the direct run, it was about choice. These children did not have a choice, and by default required to go to – they had nothing else other than to be on the streets, parents could not afford private education. They had to go to direct run schools by default, those schools based on your analysis were not worthy, really were not recovering anything for four years.

Superintendent White said I think it is fair to say, as you state, these schools are generally in a very different position from the type 5s – there are 50 type 5s and 16 direct runs, so I want to commend my predecessor on having the courage to make the change to what was working in the Type 5's.

Senator Peterson told him to stop - that is not only thing that makes the high school work to be a direct charter. You can have successful direct run schools with the right student leaders and school leaders. That was selected by the RSD. So whatever model the RSD chose, if they chose to go charter run or chose the direct run, the expectation was the same, it should have been. What I am seeing is that the focus though, for those, they were at the bottom of the barrel. Thirty five hundred students were left behind and not cared for, so why was there was no recovery plan. She asked how in the last four years did the BESE board, legislature, and governor ignore 3,500 students.

Superintendent White responded that of those 16 direct run schools, there are a couple that are making tremendous progress, and I do not want slight those schools in this discussion. But as I said before, I think that a lot, from what I understand of what went on, I had not been educator in that system before - a lot of the frankly adults first orientation that too often we engage in our business was replicated in the direct run system. Senator Peterson said so we did what the OPSB was doing. Superintendent White said not in the move to convert to Type 5 charter schools. Senator Peterson said she is not talking about anything but the direct run, and in the direct run situations we did what the OPSB was doing, we extended what we said was run. Superintendent White said he would say that is true in any unsuccessful school, whether charter or direct run.

Senator Peterson said we were the RSD, I do not want you to be defensive John, because I am only asking you this because we need an analysis of what went wrong to get it right. You have a good plan, and I am living with someone who is a part of that plan in the High School, who is taking on one grade versus an entire high school, so do not be defensive, I just want the public to understand how we failed, and it should be OK to say that - I have done it before personally, professionally. We failed a number of children, not Type 5s, not MOUs, but the direct run did not do what we said we were going to do with the RSD. Ok, as Senator Murray said, we are giving RSD another chance through a BESE policy, and maybe even another chance.

Superintendent White said what I would say, is number 1, the reason you hear me at all coming back with any - trying to draw some distinctions - is that, I want to make sure on the record that it is clear in my view that there is a distinction because the approach of having a Recovery School District, as opposed to the RSD running schools. The RSD running schools have not - meaning the direct management of schools - been remotely as successful as the overall strategy of having recovery schools. Senator Peterson said she agrees that the direct run schools by RSD failed and did not have a good plan, no plan means no implementation of a plan, so we now are looking at what was successful which was the Type 5 Charters. Let's use John McDonald or use the one that I am most familiar with, as full disclosure, my husband is the chairman of Firstline Schools and their board just took over Clark High School, which is the second lowest high school academically. One of the things that RSD went to the board with was that there was a huge debate among the board members about taking over just 9th grade or taking over the entire school. Now Firstline decided to take over the entire school, which I commend them for, and not an easy decision for a bunch of volunteers who had never run a high school before. They had experience with elementary schools. Senator Peterson asked for the intent moving forward whereby new charter operators are only going to be encouraged to take over 9th grade, or the existing population at a direct run failing school.

Superintendent White stated their intent is for the majority to be the rule rather than the exception of these full take overs. I would not want to be categorical to say that absolutely a proposal that might land on our desk to do it a different way, but that is our intent.

Senator Peterson said she appreciated that, if it will be the exception rather than the rule. It is very important to not continue a policy which I believe, there were a lot of folks willing to accept just taking over the 9th grade - that would leave a population behind. That is the easy route for non-profit and for-profit operators to take a defined population of 9th graders and add a grade each year, it is much easier than to take an entire high school and roll up sleeves to do hard work with students that are 4.3 years behind grade level. When talking about accountability, we need to talk about it and really understand what these charter operators are up against.

Senator Nevers said we appreciate the significant improvements made by RSD and DOE, and know that the schools in RSD are there because of dramatic failures. We know the situation that we faced in OPSB in 2003, and commend the authors of the legislation that brought about change. But I do know in OPSB made dramatic changes in not only school board operations, but also in the schools under their control. I believe that working in partners between DOE and RSD and local districts, we should strive to improve, but not put in policies that would challenge local districts from getting their schools back. When I look at the number of RSD schools, it has grown dramatically from about 12 originally to around 105 schools now.

Superintendent Tyler said she was not sure about the numbers, but can get that for you. What we have done from the department level, working with RSD and school districts, many of the schools that you are referring to are those that remain under the governance of the local school board. The MOU is the contractual agreement that we have put into policy by BESE to keep schools in their school district under the governance under the local board. They are under the supervision, however, of the Recovery

School District and that particular type initiative is working. We have found that the MOU schools are working in partnership with RSD and local school districts, and there are settled criteria indicators, performance indicators that we look toward and work closely providing assistance to those schools, so they can approve. Those schools never go into the RSD, so we have a number of those schools around the state, and shown a lot of improvement in doing that. We work directly with the local school districts, RSD superintendent and his staff. But on many of those schools in districts outside of New Orleans, most are under the MOU, not directly in RSD.

Senator Nevers said they could be in RSD, but this decision was made by DOE. In 2006 there were 12 schools in the RSD, and according to the information in the audit, there are 105 now in RSD. We have to suspect that it will continue to grow because many schools will be academically unacceptable. Superintendent Tyler said she expects more because we did raise the bar for academically acceptable schools this past school year. Senator Nevers asked if the school will have the choice to be MOU or direct run. If we see a school district making significant improvement, we should have policies in place to offer the opportunity for those schools to return, and to work with them, rather than have policies to keep the schools out of the local districts.

Superintendent White said he shares his sentiment because as some of my staff has spoken with leadership in your part of the state, we are particularly concerned about rural parishes and how we engage in educational change. We will work with rural parishes and look forward to figuring out how best to do that. It may be very different from our approach in Orleans or East Baton Rouge. Secondly, I think the current practice that the policies the BESE board set up does allow for the transfer of schools back. Perhaps there are different opinions on whether it is the right process or not, but it is designed that the school and the district has to be in the right place to go back. I believe it is fair to say for the schools that have reached a certain threshold, the policy allows for in Orleans place, if the district and school are both in agreement, they will go back. Finally, I think to question if there are more schools in RSD, while there are schools on the list, and potentially a large number, that is some years away because the bar has only recently raised to 75, and this being the first school year, and it will have to be another four years for the schools under 75 to become eligible for the RSD. It is the aim of the DOE and local parishes to improve the schools to above 75 over the course of the four years.

Senator Nevers appreciates the gains we have seen and as indicated by this audit. I encourage all of us to work together to improve education across the board. As I visit across the state, I see divisiveness, and some see RSD as a threat, or DOE or legislators as a threat.

Senator Murray asked what will happen with charter schools to make sure that children with disabilities have a place to go. Superintendent Tyler said they have addressed some of that problem, by putting in place a new system whereby we will be able to track students. We have not completed the comprehensive plan, but looking at an oversight and monitoring plan to track students from one school to the next, and for special need students we have in place a system whereby parents can contact through RSD or OPSB to let us know what is happening to their children, and the Department over sees that system. We are focusing heavily that special needs children that attend schools are getting the services they need, and just recently put that system in place.

Senator Murray asked in their respective contracts or charters, are they required to accept special needs children. Superintendent White answered affirmatively, and pointed out two areas where they have specific plans for changes: one, the question of referral to a school and enrolling that child. I think it is fair to say that our schools are required by law to accept every child. When you look at schools there are differences, whether direct run or charter, and we need to make sure that parent choice is being honored in that process. That is why an equal access enrollment process in Orleans Parish in particular, is 100% necessary. That includes charter schools and direct run schools, because in the end government must be the one that ensures equal access to all the students. Second, we have a particular challenge with what I referred to earlier as low incidence disabilities, which are students that, for instance are not verbal, or hearing impaired 100%. A lot of traditional schools are going to have a very hard time, unless we do a more intentional job of creating programs specifically to serve the very small number of children that will not be served well in the traditional setting. We have to intentionally create those programs, and we are working hard on both of those issues. Regarding oversight, even once established, someone must be sure that it is happening, and that is why in October before the BESE Board, we will be proposing that the Type 5 Charters, the RSD which has staff in these locations whether EBR or NO, will do annual reviews. Part of that review will be walking through the individual education plan of each child with special needs in the schools, and then seeing in the classrooms whether those services which the IEP spells out are actually being provided. We do that kind of review regularly in the schools, but not on an annual basis, that schools can prepare for.

Senator Murray asked where the master plan revision is now since being approved by FEMA because the council members receive many questions about it. Superintendent White stated that he can always send those questions to his office. Senator Murray said they called the RSD and did not get the information, and that is why they call me. Superintendent White stated the master plan is required to be amended every two years. We went through a round of public engagement on the amendment, and decided the public comment was such that we needed to do some reorienting of the plan, and are in the

process of doing that. We will be proposing a new plan in a public meeting either the first or second week of October. We will be hoping for a briefing of the Orleans Delegation of Elected Officials prior to its release, so we will show you the plan in greater detail if you like. Then it will be voted on at a meeting of the OPSB in October, and ultimately the BESE board on October 18 and 19. Subsequent to that FEMA would approve that version of the plan.

Senator Murray discussed Edison as a charter operator, stating that there was a lot of angst about the charter operator at the Abramson High school. Tell me what the Department will do about oversight to get a better handle on charter schools, because difficult to read the stories in the paper about Abramson that the problem was reported to the Department over a year ago, and nothing happened. What is the Department with respect to oversight of the charter schools and operators to make sure it does not happen again.

Superintendent Tyler said they have been working for the past few weeks with RSD to provide and create comprehensive oversight, monitoring plan and will bring it to BESE on September 28 in New Orleans, and be able to release to the public. Of course, we have been working closely with Superintendent White to be sure that we are addressing as many of the loopholes that we find. We discovered many things that we need to do, and could not predict some things that occurred, but working diligently and with a sense of urgency to put in place a revised plan of monitoring and oversight to ensure these things do not happen. Even with that plan, some things may happen that we did not predict, but as soon as we discover those things, we will return to the drawing board to refine and retool the plan as necessary. We have also contracted with a national expert who has the knowledge about what is happening around the nation with other charter schools and how they monitor and audit their schools, so we can look at their best practices. We will have the plan ready and certainly provide the council the plan, and to other legislators as soon as completed and to our board.

Senator Murray asked if their plan involves having the charter operators post a bond, they handle a lot of money and if they do something improper with it, there is no mechanism for us to recover it. Superintendent Tyler stated— right now, that is not part of the plan, but we will look at putting in something of that nature, now that you say that. I can tell you from the Edison situation, we will be bringing a policy to the board that we think will help address that type situation. In the past we have not had in our contract with the charter operators what they needed to do, when they contract with 3rd party contractors, so we will bring something that we hope will strengthen that process.

Senator Murray asked if the charter operators have a contract with the department and with the individual school. Superintendent Tyler responded yes, they have to sign a contract with DOE, and then can contract with other parties. Senator Murray asked if they are required to have a contract with DOE before they can contract with individual schools. Superintendent Tyler responded yes.

Raphael Gang, Interim Director for the Office of Parental Options, said the process as it currently stands is that an application for a charter school for authorization by BESE includes a detailed accounting of their relationship with the proposed management organization. If a school, as the one we were talking about earlier, proposes to begin contracting with a mgmt. organization after a school has already opened, they will provide a detailed accounting of that and that will be material amendments made to their charter contract, and also must be approved by BESE. After the application has been approved by BESE, we go through the contracting process with the applicants as part of that contracting process, the applicant submits their proposed contract with the management organization to the department for review by our legal team to make sure it meets the standards set by our team and in policy as well. If the contract does not meet those standards which it is fairly regular to have small problems, we make sure that the contract is not executed before it is met the approval by our legal team that it is in compliance with state law and regulations.

Senator Murray asked if the contracts can add some language to say that if they default or do not act in good faith in the operation of one school, it puts the other contracts in jeopardy. Mr. Gang responded that what we do already as part of our application processing, and renewal and extension processes for all charter schools that we authorize, we take into account the past performance of not only that school but we look at their performance at other schools as part of the application process and part of their renewal and extension process.

Senator Murray asked when Edison comes up for review for the schools they are running in New Orleans. Mr. Gang said the Andrew Wilson School is on their fifth academic year, the application is up for renewal and will be voted on by BESE in December, along with the new applications. So all the schools will be up for renewal or extension will be voted on by BESE in December. Senator Murray asked if that is when BESE will where hear how Edison failed in this particular school in Shreveport, and can take that into consideration in deciding to not renew Edison's contract. Mr. Gang said our review team will be assembling information about the Andrew Wilson school in particular, because that school also obviously has a history in terms of academic and fiscal and legal and contractual performance, so that history will be the primary focus of the renewal for extension but if there are concerns in other areas of compliance that will be included in the renewal.

Senator Murray pointed out that he is aware of the situation with Edison in the school in Baton Rouge, and that did not work, and you are now aware of the school in Shreveport and that it did not work out, and if BESE should hear this information. Mr. Gang said they plan to include that as part of the information, but want the core to focus to be on the individual school. Senator Murray commented if they do not raise it at that level, what if Andrew Wilson is in the same situation next year. Mr. Gang said they plan to make sure that there is a thorough investigation of each school up for renewal to ensure they are providing quality education, as well as complying with all legislative mandates.

Senator Murray said that he would like for you to think that if they are operating in Louisiana, that they would be held to the same standard as all these schools, because if they fail at one school, just like we do the school districts, they should not be allowed to keep other schools. Mr. Gang said he believed it is something they can include.

Superintendent Tyler said one of the proposed policies that we plan to bring to BESE particularly after this incident with Edison, is the fact that if any contractor does not behave appropriately according to their contract. The policy will state that if done at any school, we can recommend from the department that the contractor cannot do business or even contract with BESE for any school. We plan to strengthen what has been done and not just look at each school.

Senator Murray asked what has happened with RSD and the charter schools in terms of trying to procure insurance so the state does not have to pay for it. Superintendent White said they pursued two tracks: one is working with ORM on specifically their process for bidding the insurance contracts in the first place, and whether or not there is a more potentially competitive rate in the event we are required to contract – our charters are required to go through ORM.

Senator Murray pointed out that when the debate happened earlier this year, the Attorney General's (AG) opinion said they were not required to use Risk Management. Superintendent White said his second point is that we are asking for a second legal reading to ensure that the AG's opinion is exactly accurate. Senator Murray asked who LDOE will ask other than the AG. Superintendent White was not sure, and said he would ask his staff, but said they believe that the AG's reading is not entirely clear as to whether it is directive or not, and we are seeking a second reading because there are those who have read that to mean that ORM must provide insurance and others who read it to mean ORM may provide it. We are seeking a legal reading. Our goal is to not have the high rate, and thus not have to charge the schools, and thus not to have to have a supplement as appropriated by the legislature. We are trying to get a legal reading that frees us from the obligation to work with only ORM, just as we are working with ORM to try to figure out how to bid it to get a lower rate.

Senator Murray volunteered to help get the legal opinion, and said he is sure that Senator Nevers with the Education Committee will also assist. It is a very difficult thing to continue doing for New Orleans. Our colleagues keep asking why this is happening to New Orleans and no place else, because everybody's cost to educate children with insurance is going up. I was surprised to find out that all the charter schools do not participate in it, and I am not sure how the ones that receive it were selected, but a lot of the other charter schools in New Orleans do not receive any help with their insurance. Superintendent White said he thinks everyone wants to figure out how to resolve this by getting the cost as low as possible.

Senator Peterson stated that in her opinion the issue regarding Edison goes back to the lack of familiarity with volunteer charter board members. These are citizens who are volunteering to improve education in their communities. I am curious to what the DOE/ RSD is doing in regard to oversight, transparency and monitoring, since it appears their intent is to maximize the number of charter schools within the RSD. She asked what is being done today to make sure that the charter boards get enough information so that when they choose to hire a management company they know that they have a resource to do a checks and balances other than the Better Business Bureau. She said these for-profit and nonprofit entities to help for-profit, more often than not, are being recommended to volunteer boards and they look good on paper but no one is digging deep. They are so interested in getting authorized and through the BESE process that they will do whatever it takes to give the appearance of knowing what they are doing to manage the board so they can control this education reform movement in their communities. Because they think this is the only way they can do it, and know they need a financial person and a lawyer. When these companies come, using Edison as an example, they are not well poised to make those decisions.

Superintendent Tyler said DOE is trying to address some of these issues through the application process. We know there are many community leaders that want to be charter school operators and contract with 3rd party contracts like Edison and other EMO's or CMO's. We are learning some lessons on some of these issues. We are looking at the application process and the type of technical assistance we can provide when we have community individuals make an application. We are reworking that process so that we are in a better position to provide community people who want to become charter operators with an education that will permit them to choose appropriately, and we set in place some revisions from these lessons learned, how we can better monitor what is happening in the schools. DOE has started that progress.

Superintendent White stated that the authorizing process has been housed at the department and the BESE level, so it might be work to have LDOE talk about the professional development that they do on the front end for applicants. We view our role as a match maker between community and effective managers. For instance, I sat in two meetings the past few days with the Carver High School Alumni Association, who I think have gone down the road you described, and their question is how do they make sure they have an effective back office manager to meet the requirements of the application, but in reality if it is not a strong organization, the whole thing won't work in the first place. Knowing that there are interested operators who have successful, sustainable organizations, match those community leaders and broker a discussion about how then the community becomes a part of the governing structure, as what has happened in Clark. That process is sustainable organizations like Firstline matching through an organic process with community leaders in the Carver area.

Senator Peterson said that is exactly what happened with Edison, based on information that I have. I specifically asked for the Edison folks to tell me how they were introduced to MLK. They were introduced by RSD and DOE officials to these community organizations, so the question becomes what is the responsibility at the end of the day if DOE and RSD introduced the for-profit entity to the vulnerable, naïve volunteer board, and the for-profit fails them. She said that Edison was introduced to MLK and to the 100 Black Men, and to Latoya Cantrell via DOE and RSD relationships.

Superintendent White responded that she said for-profit, but he did not mention any for-profit organizations. Senator Peterson said that is a distinction you made for Carver, and Firstline, but here's the point –whether for-profit or nonprofit, you say you are mediating these discussions and helping the boards. Superintendent White clarified that he did not say boards, but said community members and those are two distinctions. He said you have a group that has a fiduciary responsibility for the school, they are hiring an education management organization as a private contractor. I am talking about community members who are interested in a board seat in affiliation with improving education charter management organization. I have not been involved and the RSD is not involved in brokering contractual relationships, which I think is a valid distinction we should not be in the business of.

Senator Murray mentioned an association that wanted to charter a school that they were told in no uncertain terms unless they picked a charter operator, they would not get a charter. Superintendent White said there is a distinction, and would say there has not been the discussion between the contracted organization such as Edison, whether a for-profit or not, although I think that is an important point too – and the actual board that is applying for the school, in the case of Clark High School, and Collin High School, and the case of the discussions I just referenced which is Carver High School, I am talking about community groups that are interested in a relationship with a board applicant. In the previous Edison discussions, you are talking about a community board that already has full and admittedly vulnerable fiduciary responsibility contracting with an outside vendor.

Senator Murray said in the July meeting Mr. Wilmer with MLK presented to the council that they were told that they could get a charter, but only if they contracted with Edison. Superintendent White said he was not a part of that and is a different front than the one you were referring to which was New Orleans College Prep, and Collin or Clark and Firstline. Senator Murray said he referred to the alumni group at Collin, because a couple members attend my church and they complained that they could not get the charter done unless they gave in to a charter operator.

Mr. Raphael Gang, Interim Director for the Office of Parental Options, said he cannot speak for what happened in the past, and believes there were some research efforts going on to figure out what exactly happened, and get back with you as soon as possible about what we know about that. But speaking about the present, at no point do we ever tell an operator, at least from RSD, or to my knowledge at LDOE, that they must work with an operator or must work with a specific group in order to be part of our process. Our process is very deliberately an open one in which any group that meets the minimum standards as set out by law and policy is eligible to apply for an application. What we do, intentionally, is that we kind of remove ourselves from that process in contract with the National Association of Charter School Authorizers to manage our process, and they hire outside evaluators that we literally have no contact with until the end of the process and when they submit to us their evaluations. That is a deliberate effort on our part to really remove ourselves from the idea that we are then in the place of being a team maker.

Senator Murray asked when Mr. Gang when was he hired into his position with LDOE. Mr. Gang replied that he was appointed on July 28, 2011. Senator Murray invited him to come to New Orleans and meet several people who have tried charter schools and told they could not unless they hired a charter operator, and I know you were not there, and everyone is new, but you could meet these people. Mr. Gang stated he would be happy to provide more clarity regarding our processes if that would help the situation in terms of helping address some of the concerns. Senator Peterson said that the Superintendent for RSD has indicated that that is not their policy and is fine with that.

Representative Honore asked if he knew the percentage of third party involved in the running of charter schools, because as it is indicated today, the State of Louisiana has no control over Edison at all.

They are not bonded, and can turn and walk. He pointed out that only two people that are residents in Louisiana running several school districts for Edison.

Mr. Gang stated he did not have an exact number, but can get the information to you quickly because we have that information in our office. He said that it is likely a small percentage overall, less than probably 20% of the charter schools that we authorize in the state of Louisiana, but I cannot speak for schools that are authorized through districts. But less than 20% of the schools that we authorize, I expect to be contracted with a management organization – for-profit such as Edison, or a non-profit such as Firstline - but is essentially separate from the board and that is generally how we define working with this kind of third party that we have been discussing today. Most of our charter schools are directly managed by the non-profit board, and in the case of Firstline where they are a network of schools and the central office is really operating those as a small district.

Senator Nevers stated the board has a fiduciary responsibility and other responsibilities over the charter whether new or established. He asked how the board members are chosen, even though he is sure they are good people volunteering their services.

Mr. Gang responded that the plan is to have it be an organic process whereby communities are coming together to form these boards and not a state directed process. So when the boards are put together, sometimes they are a group of community leaders coming together, sometimes one very driven community leader. But the policy does say that the board members should have direct experiences and we factor that directly into our application and renewal process where looking at experiences, and background and the success of the board members and making sure that is a factor in our application and renewal and extension process. We have actually introduced some new processes which I will let new applicants know about in a public meeting. So our application process this year that we will be instituting to help increase with regard to who are on the boards for the charter schools.

Senator Nevers said that transparency is the magic word to not hide anything from the public, we want them to know from up front what to expect. You receive an application for a new charter, you grant that application and within that application there is a process to have board members that are responsible, is that correct. Mr. Gang agreed.

Superintendent White said that the applicants are the board members. Senator Nevers said they could be, but might not be. Superintendent White stated that the school is not distinct from the board as a school district is not distinct from the school board of that district. Senator Nevers asked if they are responsible to the state taxpayers, and bonded. Superintendent White stated they review themselves and subject to disclosure.

Mr. Gang stated that each board is responsible for any and all financial obligations of the school, so they are responsible if there is debt at the end of the school's life cycle. We do everything within our power to ensure they are held accountable for that and they choose if they fall through on those responsibilities.

Senator Nevers asked about Edison's responsibilities for having the audit completed on time, and having all this information, and asked what would be done about that situation. Mr. Gang stated that LDOE had taken action on this already. When this situation first arose last fall, we immediately realized that there were several parts of this that we wanted to address. One is that boards that are submitting their charter contracts, because that is the situation in Shreveport, which was that the contract was submitted very soon to the beginning of the school year, so we instituted policy immediately following that that was if a school board submits their charter less than 90 days before the beginning of the new school year, the state can decline to accept applications from members of that board that was responsible for turning in that application for up to five years. We intend to take full advantage of that policy in terms of schools that we see that are not working, you know boards that are not acting in the best interest of the students.

Senator Nevers asked if he notified these board members that they can be liable, and wanted to be sure we are educating those that might serve on these boards as to what their responsibilities are, and be sure they understand that. The board that represents the situation with Edison, that if they were here, they would tell you that they knew nothing about all of this that they would be held financially liable or otherwise. I think this process needs to be looked at, and let's be sure they all understand their responsibilities.

Mr. Gang stated as part of their preopening process, there is a period of about eight months between the time the schools are approved and the time they usually seek to open. In that process we have a series of preopening procedures. One of them is a meeting in which we sit down with every charter school that is opening or going through the renewal or extension process, and we explain to them key areas of their charter contract that we believe they should be made aware of. We ask that both the school leader be in attendance, and the board chair also attend. We are also looking into as a possible opportunity for this spring is creating a series of training modules for board members that train them to their legal responsibilities and requirements under state law. We are looking forward to working with the

U.S. Department of Education to help create that in the next few months, and hopefully have it implemented for the spring.

Senator Nevers said he received a note that the Legislative Auditor says the boards are not liable, so if that is the case, who is liable. Senator Nevers said that would be good news from a volunteer's stand point, but I guess the question is who is liable because millions of dollars go through these organizations.

Ms. Joan Hunt, Counsel for the Louisiana Department of Education, said she had looked at the contract between MLK and Edison, so can speak on that one, and it appears to me that Edison is liable for the fund - first, what are you asking that they are liable for. Senator Nevers said Edison is over the operations and from what I understand, have fiduciary responsibilities and if not met, I assume they are liable. Ms. Hunt stated that she would tend to agree that the board is not liable when looking at this particular contract if there have been funds not used appropriately. Senator Nevers said since the board controls the funds, he would be surprised if they would not be liable. They said they did not do anything unless the board authorized it. But never the less, we need to deal with and know exactly who is liable, and be sure these great people who serve on these boards know.

Senator Murray asked Ms. Hunt if she concluded her comments that the board is not liable either, because she began to say that Edison was liable for certain things. Ms. Hunt said it would pertain to what the particular liability was, and look at the contractual relationship because there are indemnification clauses, insurance, etc. Senator Murray asked if she would agree that the boards themselves are not liable. Ms. Hunt said generally yes, I tend to agree with that. Senator Murray said if that is the case, we have all of these millions of dollars that we are sending out to people to educate our children and the board members who are given this money are not liable, and asked who then would be liable.

Senator Murray asked, for example, the board members decide to take a trip to Vegas and spend two weeks, and spend \$100,000, not educationally related. Then the auditor finds the expense, and asked if they are responsible to pay the money back to the state under our law. Ms. Hunt said in that particular situation they would be liable. I thought you were talking about federal funding misspent, and that is not anything that the management organization approved or knew about. Ms. Hunt asked why the legislative auditor thinks the board is not liable. Senator Murray pointed out that she agreed that the board is not liable. Ms. Hunt said you are right, I was thinking in terms of something that was funding through the management organization such as Edison, and they had control of how used. Senator Murray asked if Edison is liable opposed to the board itself. Ms. Hunt said yes, as opposed to the MLK Board. Senator Murray said this is scary with all these charter boards we have.

Senator Peterson asked about their new policies being presented in October and the modules for training the charter board members – if just provided or required. I am thinking there may be a need for mandatory attendance for board meetings or like when we qualify for elections there is a package that they get. She asked if every charter board member who is authorized by the BESE Board receives some kind of packet detailing their responsibilities.

Mr. Gang said LDOE is trying to improve with the module system that we are hoping to develop to standardize some of this. Currently as part of the application, charters are required to describe the board training process and their process for recruiting board members, but it is not standardized in terms of what each school is required to do. But we hold them again to the application process to a high standard in terms of looking at the governance very closely of the school and making sure they have articulated a very clearly plan for every single time a new board member is arriving, that that person is trained effectively and ensures that person knows what they are responsible for.

Senator Peterson asked if he thought it was sufficient. Mr. Gang said they are trying to improve by doing standardized modular based process. Senator Peterson asked if the modular based process is something in writing being distributed, or something they are required to attend.

Mr. Gang explained that ideally it is going to be a web based process whereby they watch specific videos and, if we cannot get the technology side right, we most likely will do in person trainings. In the interim, the ideal is to not do this every three days because board members change regularly. We would like to make it a web based process whereby the board members take assessments to ensure that they are actually knowledgeable about things by creating a post test and then we are able to watch the module. If you know things already, they would not have to watch the module, but if they do not know they must watch the module and take the post test. That is something we are hoping to implement, but if we are not able to implement because of technology or financial concerns, then we will implement a training process. But regardless of any scenario, it is an area we are looking to improve and standardize and ensure all board members know their responsibilities and know what they are responsible for under the law.

Senator Peterson said she believes many of them are right now not aware and knowledgeable about their responsibilities under the law. We are just trying to get clarity as to who is responsible financially when you have a management operation agreement as in the case of Edison and these

volunteer boards. I am really worried about my husband who serves as the chairman of the board - we would have a conversation if this does not get cleared up real quickly. It is something that I see very problematic as we authorize additional board charters, and I just hope in the short term as you see if the technology works or if the legislature might determine as a policy in the future that requires some kind of continuing education or something that we know they have this base line. School board members run for office and raise their right hand to take an oath and swear to uphold the constitution. The elected process and being an elected official, all that goes with it, is different for those school board members versus the charter board members, but they have the same responsibility to operate a school. Whether they hire a management company or not, I would surmise that the board is liable for something.

Senator Peterson said charter board members need to understand what state law requires of them and what their responsibilities are, because what I am learning today is that many of them are eager to be participating in the education reform movement, and when they get asked to be on the board they do not fully understand all that goes with that. So my point was if you cannot work out the technology, until we get to that point, the simple thing that can be done I believe is for the legal team at DOE working with Caroline, who had relationships with all the charter schools, to get something in writing to every charter board member in this state. That can be done in the short term, and then we can decide for the long term they will be officially on notice, if they need to sign something, they may need to attend training via web or in person, whatever works and is feasible for volunteers who have full time jobs. But I think it is very important, as we will have more instances of what we heard about today.

Superintendent Tyler said as we learn about these different type dynamics we are going to be diligent in working to correct and to look at doing things better and differently. Senator Peterson said it is not alright to think about these things after the fact. One of the things in response to failing high schools is that the high schools that are RSD direct run are going to look to the Type 5 Charters. As you look for Type 5 Charters, we are developing community based organically developed boards. These board members need to understand the heightened level of scrutiny and transparency and understand the law and not just sign off on having this responsibility without fully appreciating it. Superintendent Tyler said they understand that and will be part of the package as they set it up.

Representative Ellington said if 20% of the boards have a managing company, then the rest are run by the school board. Somebody has to be responsible, and liable, and if there is not a management company to pass it on to like Edison, then that school board is responsible and liable in my opinion. Ms. Hunt said what the law provides according to R.S. 17:3993, the local school board and its members individually are immune from civil liability and BESE and its members are immune. So the immunity is to the local school board and BESE, but not the board of directors of the charter schools.

Senator Murray suggested that we come back to the charter school issue and recovery school issue before the year is over. Senator Murray said this is a good audit, and sure a lot of our colleagues and people around the state will look at it. But what I would also like to see, I do not know if this is in your plan or not, it would be interesting to see if you could do something similar for the schools where we provide a voucher to students to see where they are. I think that is pretty much just in Orleans Parish to see with these vouchers if children are really getting a quality education. Mr. Purpera asked if he was interested in growth scores or SPS scores. Senator Murray agreed with both, and asked for a comparison to see where they stand.

OTHER BUSINESS

Senator Peterson said in the last meeting the Hazard Grant Mitigation Program (HGMP) audit was discussed, and asked if the Legislative Auditor had a follow up on those issues, or we can just put it on the next agenda. Mr. Purpera said he would check to see if anything was prepared to be issued on that.

Senator Murray said the main thing Mr. Purpera wanted to talk to the committees about the additional budgetary item, something that we cannot approve here, but asked Mr. Purpera to make you all aware since many of us sit on Joint Budget, once he goes to get approval there.

Mr. Purpera said during the legislative session, Act 741 of 2011, deals with the GRAD Act and my auditors have to go to each of the institutions and do certain work related to those performance measures. In that bill you allowed my office to charge each institution up to \$10,000, and if it is over \$10,000, I have to bring it to this council to explain why it went over \$10,000, and you determine whether or not to bill them \$10,000 or more. So I need an additional and expenditure and revenue of about \$210,000. In addition to that, during the session several members talked about additional work for RSD on the construction projects. As you know there are 87 schools being built for approximately \$1.8 billion. I spoke with Superintendent White about this extensively. My auditors are involved in this, and also contracted with an individual who has construction expertise to help me in this process. So I am including an additional \$150,000 for that expense.

Mr. Purpera brought his third item to the council that his office is continuing to do a lot of work with the recovery program with FEMA dollars, and we have to estimate that far in advance as to what we would need. We estimated it to be \$3.6 this year, but working with GOHSEP and the work that they need

us to do, it looks like it will be about \$4.2 million, so that is an additional \$600,000, so a total of \$960,000 of self-generated funds. Mr. Purpera reiterated Senator Murray's comments that this council does not approve the budget, but certainly would not want to bring it to Joint Budget without your blessing.

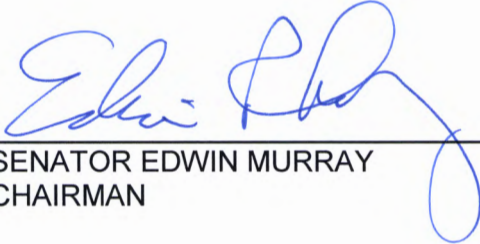
Senator Murray said on the construction side, especially in talks with Mr. Purpera, he will also be able to maybe use that person to do some work along with new teaching hospital as well, to follow the construction dollars there as well. Mr. Purpera agreed and said that his office found this exercise to be very valuable because the construction expert has been able to help us develop with his expertise an audit program that we can use for lots of different construction projects, and believe it will be very fruitful for us.

Senator Murray told the members that Mr. David Greer is retiring from the State Auditor's office, and not sure what he plans to do, but want a chance to recognize him for all of his years of work. Mr. Purpera read a Resolution by the Legislative Audit Advisory Council recognizing the 33 years of public service in various capacities with the Legislative Auditor's office. Mr. Greer thanked everyone and stated he enjoyed working with the council and legislators these past years. He pointed out the legislators are the institution, and policy makers and hoped that his help over the past years had been of value. He stated that Daryl and his office will continue to do great things. Senator Murray commended Mr. Greer for all the good work he had done for the council. Mr. Purpera introduced his new First Assistant Legislative Auditor, Mr. Paul Pendas.

ADJOURNMENT

Senator Nevers made the motion to adjourn, and with no objections, Senator Murray adjourned the meeting at 1:45 p.m.

APPROVED BY:



SENATOR EDWIN MURRAY
CHAIRMAN



DARYL G. PURPERA
SECRETARY

11/17/11

DATE