

# LEGISLATIVE AUDIT ADVISORY COUNCIL

## Minutes of Meeting September 12, 2019 House Committee Room 5 State Capitol Building

The items listed on the Agenda are incorporated and considered to be part of the minutes herein.

Vice Chairman Mike Walsworth called the Legislative Audit Advisory Council (Council) meeting to order at 10:50 a.m. Ms. Liz Martin called the roll confirming quorum was present.

**Members Present:** Representative Julie Stokes, Chairman  
Senator Mike Walsworth, Vice Chairman  
Senator Mack Bodi White, Proxy for Senator Danny Martiny  
Senator Dan Claitor, Proxy for Senator John Smith  
Representative Clay Schexnayder  
Representative Jimmy Harris  
Representative Rick Edmonds, Proxy for Representative Blake Miguez

**Members Absent:** Senator Wesley Bishop  
Senator W. Jay Luneau  
Representative Edmond Jordan

**Also Present:** Daryl G. Purpera, CPA, CFE, Louisiana Legislative Auditor (LLA)

### Approval of Minutes

Senator White made a motion to approve the minutes for the April 2, 2019 meeting and with no objection, the motion was approved.

### Extension Requests

Mr. Bradley Cryer, Director of Local Government Audit Services, began explaining the extension requests for the 23 entities on the Nonemergency Extension Requests Ninety Days or Less list. The LLA approved an extension for the City of Shreveport because the auditors discovered some unrecorded leave balances for fire and police that took time to research and adjust the financials for those old balances.

Red River STEM, Inc. was in their first year of operation and took over the Sci-Port Discovery Center in Shreveport that had been run by a different nonprofit in past years. The District Attorney for the 37th Judicial District had a software conversion issue. Cameron Parish Waterworks District No. 7 was caused by a delayed actuary report coming from the parish. There is a new actuary standard that now requires employers to record all of their employees' post-employment benefits, which is health care for employees. So we have some issues regarding the brand new report coming from the actuaries. Claiborne Parish Fire District No.3's delay was caused by software problems. Concordia Parish Police Jury had some problems getting bank reconciliations as well as for a component unit entity that is included in their financials.

Vice Chairman Walsworth asked Mr. Cryer to only discuss the agencies that have not turned in their reports unless a member has a question. Mr. Cryer responded that the only one that we have not yet received their report is the Village of Kentwood and expect that report to be submitted in a matter of a few days. Senator Walsworth asked if LaSalle Community Action Association, Inc. submitted their report yet. Mr. Cryer explained that the report has not been received but the extension was granted until 9/30/19 so not due.

Senator Walsworth asked for more information on why the Village of Kentwood was outstanding. Mr. Cryer explained that LLA received some allegations that were forwarded to the auditor dealing with possible fraud so they are investigating further. Senator Walsworth asked if the Council needed to approve more time since their extension was

only until 8/31/19. Mr. Cryer noted that the Village was not receiving state funds so a few days would have no impact at this point. The extensions on the list were approved by the LLA and asking for the Council's confirmation.

Senator Claitor made the motion to approve the Nonemergency Extension Requests Ninety Days or Less and with no objection, the motion was approved.

Mr. Cryer commented that four school boards across the state had been hit by ransomware and other cyberattacks in the last few months. The school boards lost some or all their financial data and are trying to recover it and hired professionals to recreate some of the data. The school boards' reports will be due by December 31<sup>st</sup> and LLA is expecting to receive and approve extension requests due to the cyberattacks. Senator Walsworth agreed and noted that is an issue to be concerned about for many of our school systems.

### **Fiscal Administration Update**

Mr. Purpera explained Louisiana statutes allow for fiscal administration if a municipality, local government, or political subdivision is not meeting current debts or it is reasonably certain they will not be able to meet their obligations in the near future. The state treasurer, attorney general, and legislative auditor comprise the Fiscal Review Committee (FRC). If FRC has a hearing and votes unanimously that an entity meets the conditions, we will ask the attorney general to request the local court in that jurisdiction to appoint a person as a fiscal administrator over that entity. The fiscal administrator assumes some very broad power to basically take the place of the council or the board as well as the mayor. The elected officials in that entity are then more of an advisory capacity to the fiscal administrator. We have requested the current fiscal administrators to provide an update to the Council.

Mr. Purpera said that the FRC also voted to appoint a fiscal administrator for the Village of Clarence and the Town of Clayton, but we do not have anyone at this time to appoint.

### ***Madison Parish Hospital Service District***

Mr. Purpera explained that for Madison Parish Hospital Service District (Hospital) in Tallulah, Mr. Don Frutiger was released by the courts as the fiscal administrator in early August. Mr. Frutiger began as fiscal administrator in January of 2015 when the Hospital was in terrible shape after a \$5 million fraud and the finances were upside down. The Hospital was negative in their bank accounts and looked like it was going to close. We were all very concerned about that. Since that time Mr. Frutiger and CEO Mr. Ted Topolewski have done a fabulous job. This is very much a success story for the fiscal administration program. The Hospital has had unmodified opinions for their audits over the last few years which is a clean opinion.

One of the problems was that CMS could have asked for reparations of Medicaid and Medicare services somewhere between \$2 million up to as much as \$18 or \$20 million. The Hospital negotiated with the U.S. OIG to repay \$1.8 million and the last payment is in about a year. Their total cash is no longer negative but is positive \$9 million. They have decreased their accounts receivable by over \$2 million and accounts payable by over \$2 million. The parish has renewed the ad valorem tax to support the Hospital. The police jury appointed five new commissioners. Mr. Frutiger has worked with the board over the last two years to basically help them understand how to govern the Hospital. In early August, Mr. Frutiger went to the court asking that the fiscal governance of the entity be turned back over to the Hospital. So this has been a big success and we are very pleased with how it turned out. In addition, they already bought the property and are currently working on building a new hospital.

### ***City of Bogalusa***

Mr. Joey Richard, fiscal administrator for the City of Bogalusa (City), referred to the provided status report. He was appointed by the 22nd Judicial District on May 31, 2019, so just at the beginning of administration. He had met with the council chairman, the mayor, and all department heads to inform them of what the administration requirements were and also to solicit from them solutions to some of the issues that are outstanding. We have established the administration in accordance with the Louisiana Revised Statutes and hired a couple of individuals to assist me in a number of areas - internal legal counsel, actuary, and also some landfill engineers.

Based on a review of the financial condition at the end of July, there are no anticipated defaults on debt in 2019 and the pension contributions are expected to be at or near the actuarially computed requirements. I am receiving a full cooperation from the council, mayor and the employees. The mayor and chief administrative officer are here today if any questions for them.

Mr. Richard shared that the issues for the City can be really blocked into three categories. The first category is the unfunded accrued pension liability and one of their pension plans is \$22 million as of June 30, 2018. The second issue deals with the landfill. The City owes about \$2.1 million in accounts payable to the landfill joint venture from the 1980s. The City has a deficit in the fund of about \$456,000. The third bucket of issues could be called structural deficit. While they have fund balances at the current moment in some funds but are spending more money than they are collecting currently. Therefore, in the long run, the funds would end up in a deficit position and those deficits are running about \$1.2 million a year.

On the City of Bogalusa Employees' Retirement System (COBERS) Plan, as of June 30, 2018, accrued liability was \$26,491,000. The assets in the plan are \$4,246,000, so it is significantly underfunded. Mr. Richard pointed out that in the underfunding, a big portion – probably \$1.3-\$1.5 million in assets – in the plan can be withdrawn because they are under the DROP program where the employees retire now and accumulate their benefits for three years and then draw them out. Prior to my appointment as fiscal administrator, the mayor and the city council had rededicated about \$544,000 of revenues that were coming in to the pension plan. That brings their contributions closer to what they need but does not solve the issue of the unfunded liability for the longer term. The actuarial liability can be significantly reduced by making annual contributions at the required amounts and by making some kind of onetime contribution to the plan to bring that liability down, which will reduce future deficits.

Chairman Stokes arrived and took over chairing the meeting from Vice Chairman Walsworth.

Mr. Richard said the City is looking for additional revenues of probably in the area of \$250,000. That may require voter approval, which we look to the spring of 2020, not for new taxes but a rededication. We are also considering, although it's not a final decision, some pension benefit obligations to get money in the fund. This is kind of a protection of the city, but it's also a protection for the employees of the city who are bearing the risk of the city's future abilities to fund the plan. Right now, pretty much on their own without the amounts that are in there, any monies that are put into the plan are going to earn income for the plan and that would be a good thing and it would fix the liability to the city and make that a one-time permanent contribution. We are considering issuing those funds to get the plan somewhere between 40-100%. I have been consulting with their actuary on what do we do, how much is needed to get this done, and that decision will come in the future months.

The second major issue is a landfill obligation. There is a joint venture between the City and Washington Parish that started in the late 80s as an acquisition of land. The land is in Washington Parish. It is operated under various operating agreements since its inception but the latest agreement has expired and they have been operating on a month to month basis. The City's unpaid obligation has risen from \$53,000 in 2004 to now about \$2 million that the City would owe to the joint venture that have not been remitted. Yesterday, we had a meeting with Washington Parish and we are trying to negotiate some kind of solution to minimize the impact. Obviously, the City does not have \$2 million to pay the landfill. We are letting some landfill engineers look at the operation of the landfill to make sure that the operation is effective and efficient and to help us in evaluating what can we do as we move forward.

After we take care of these other issues and get a good understanding of its effects on our budgets and how that's going to impact them, then we can deal with the structural deficit in the general fund and in the sewer and water funds (utilities fund), which total somewhere in the \$1 - \$1.2 million range. The annual revenues of the City are somewhere around \$19 million.

The City has about 150 employees, which cost about \$9 million for all salaries plus benefits. Remaining expenses are about \$11 million. We have a jail in Bogalusa that houses between 25 and 40 prisoners per day, which represents \$1 million of this expense. We are looking at all departments for potential expense reductions and reviewing all fees and service charges for potential increases in those amounts with the idea of building into the 2020 budget. We will be looking to reduce those budget deficits to something more acceptable like zero.

Senator Claitor stated that through justice reinvestment the City may have some opportunity to seek money through programs related to the jail. Mr. Richard asked if that was on the federal level or the state level. Senator Claitor responded it is through the state level. Mr. Richards commented that he is looking for money everywhere he can find it and ended his update.

### ***Town of St. Joseph***

Mr. David Greer, fiscal administrator for the City of Jeanerette (Jeanerette) and the Town of St. Joseph (St. Joseph), provided updates next. St. Joseph started with real problems with a lack of records, lack of management, lack of oversight, lack of qualified personnel and we could not even find ordinances but all of that got fixed. We have good, clean audits and built a \$9 million water system in St. Joseph. I stayed on as fiscal administrator to close out the funding from capital outlay and Delta Regional Authority which occurred in March of 2019 when the construction project was finished.

St. Joseph's existing water plant that was rebuilt was only 13 years old but looked like it was 150 years old. All the pipes were rusted, the valves did not work, the filter was nonexistent for the water. So I could not leave with any comfort that they could operate their own water system. I sought to have a third-party operator come in to operate the system. St. Joseph wanted an attorney general's opinion, which we got.

I was going to exit after we got all that done, but then we hit the issue through Louisiana Department of Health (LDH) testing that this new water system is producing disinfection byproducts that are not acceptable. I am continuing to help them work with LDH and the engineers to repair the issue. Another issue, we increased water and sewer rates in St. Joseph. We were projecting nearly 500 customers for the new rate structure, but it was not generating the level of revenue necessary to properly maintain and operate that system. So now I am in a position to have to increase rates again.

St. Joseph has had a good audit for two years. Mr. Greer said that he is not actively working or billing St. Joseph but still trying to get them to where he is comfortable with them moving forward with their operation of the town. But I want to comment that I heard rumors that one of the members of the board of aldermen has made statements that as soon as I leave they're going to put things right back where they were, so I'm going to put language in my final report that hopefully the court will tell them that is not acceptable.

Mr. Greer said he has been ready to exit but unfortunately has not been able to. There is also the issue with a fiscal administration job when you go into problem areas where there's not much money. You have to make a decision. They had a lot of debt, bills did not get paid, and we could not increase rates at the time because you could not drink the water. So there is still a debt owed to me from November 2017 of approximately \$40,000.

Mr. Purpera stated that Senator Colomb passed a bill to form a fiscal administrator revolving loan fund. Last session \$450,000 was appropriated for the fund. I talked to Barbara Goodson about getting the rules published and getting the fund set up. We, the state, are asking these individuals to go and take on these responsibilities, so we need to try to make this happen.

Chairman Stokes stated we do not need legislation because the money is there. She asked if only need the rules and regulations set up over how that would fund and those come out of Department of Revenue (LDR). Mr. Purpera answered the fund is set up in the Department of Treasury. When the loan is set up for the revolving loan fund, it goes before bond commission, which has a lot of procedures to go through. Chairman Stokes asked if the locality will have to pay that back as a loan. Mr. Purpera answered it will be a loan over a period of time so the entity does still pay the bill. But most of these entities, by the time we get them into fiscal administration, have no money. So it's either let them hang out there with no leadership or do it this way. Chairman Stokes stated by the time they get through, they are pretty desperate.

Senator White asked if after you take these steps and the work that you have done that the towns will go back doing business as they were before. Mr. Greer answered that was the comment relayed to me. Senator White asked if they dissolve the city, if they bankrupt, would they go back under Tensas Parish's government. Mr. Greer explained the only

way that they could become unincorporated is by a vote of the people. We could attempt to take some of the critical services, such as water and sewer, and see if another party would administer and not just operate those programs, which is something that should be considered. It was only one member of the board that I heard about, so I don't want to get overly aggressive in thinking they're going to do something bad. But I think that if in my final report, which the law requires, I tell the court that this is something that must continue I believe the court would stand behind that. Senator White asked how much debt is carried by the town. Mr. Greer responded there are some outstanding payables and a small debt to USDA. We caught up with all the payables. It is not significant debt but it has to be taken care of. Senator White stated he was trying to get a parish road overlaid and \$500,000 bonded for capital outlay in Tensas Parish. I wonder if they are going to have the match to do the road. Mr. Greer responded the parish is struggling as well as the town.

Representative Edmonds said he noticed in the report that the water is at a higher than acceptable level. He asked if the water is drinkable. Mr. Greer answered it is safe to the public. LDH has said this is not unsafe. An example given to me was at this level, if you consumed it for 50 years, you are at risk of cancer. I mean that was a practical way it was put to me, it is not unsafe for public consumption but it does have to be addressed. Representative Edmonds asked if he heard any kind of monetary commitment because obviously it is going to take money to fix it. Mr. Greer responded we are trying to figure out how much money it may be. There are several options to potentially fix the problem. They have talked about aerating the elevated tank which would keep the water circulating and the byproducts would not build up but some say that is not going to be effective and that will cost approximately \$100,000. Another option is to switch the treatment method from chlorine to chloramine, which will not allow for that buildup. I do not have a price tag on that one yet but also an operator has to be trained and there are some greater maintenance issues related to this method.

Representative Edmonds asked what are we to do to move forward to help the public. Mr. Greer stated it's critical for life and for the public. I'm convinced that a third-party operator, a person who has the experience, the skills, the know-how, the people base, the equipment to properly maintain the system is needed for St. Joseph. The only qualified operator, who was a city employee, left city employment but the current contract operator knows what to do and when to do it. The town did not adjust their water rates for many years, so they were constantly losing money. Plus, the water system distribution lines were experiencing at least three new leaks a week. So you need somebody in there that knows what they are doing, will properly maintain it, make sure things are taken care of, check the chemical balance, make sure we are in accordance with the regulations – that's the answer for St. Joseph. Representative Edmonds asked if anything else for this body that we would take issue or we would try to take leadership. Mr. Greer stated it has to be a case by case basis. I do not think you can make a global opinion that it's better for this one or that one without knowing all the circumstances.

Mr. Purpera stated he would certainly defer to David's expertise. David Greer used to be First Assistant Legislative Auditor and since that time he has learned a lot about water and sewer and running small towns. One thing we might want to consider, the municipalities have a water/sewer fund and it's either operating at a positive or negative. If it's operating at a positive, there's a propensity in some cases for the municipality to take the excess revenues and maybe a little more than the excess out of the fund and use it for general government and other places instead of building the proper reserve funds to keep the maintenance up. And then with St. Joseph, they went 13 years not maintaining the system properly. Is there some requirement that we place upon the municipalities that their water sewer fund should operate to pay itself and build a reserve for its replacement?

Chairman Stokes asked who is responsible for the problem that exists now where this brand new water system cannot get clean water to the people. Mr. Greer responded that it is a brand new system with a semi-new technology. It's my understanding that in any new system there's some tweaking necessary to make sure that the balance is right. The engineers designed the system, the operators operate the system. Chairman Stokes asked if the engineers were from an engineering firm. Mr. Greer answered yes. Chairman Stokes asked for the timeframe on getting clean water. Mr. Greer explained that the water is clean but has the byproducts from disinfection so still toxic. It no longer has HA5 but has TTHM at a higher than acceptable level. I understand that level was only reduced three or four years ago, so even the regulatory bodies have changed some of the rules. They guarantee me it's not unsafe but we've got to come up with a solution. Chairman Stokes stated it's probably the same sort of safe levels as with these water bottles that the BPA are in and why we have this ridiculously high cancer rate. If there's somebody that has made a glaring error here, I would

like for that to be something that's heard but I will defer to your opinion because I have a high amount of respect for you. Mr. Greer said he does not believe there's a glaring error.

Senator Walsworth thanked Mr. Greer for working in St. Joseph. We have talked about this over the last several years. The locals can do what they want to do with their ability to vote and to govern their municipality. I think that's the conflict we have. I know the Louisiana Municipal Association (LMA) tries to guide the mayors and town councils when it comes to water and sewage systems. The towns need to have rates that are paying for the system and have a little bit of a construction or maintenance balance but that's up to them at the end of the day. But we've seen it in many cases, because they are allowed to run the system how they want and then they holler at the state "please help us out." We should look to see if other states do things differently. We are going to start having to work together across town and parish lines. Tensas is a small parish and not sure they will be able to afford parish government much longer. He encouraged Mr. Purpera to quickly figure out what we need to do to make the rules and start using the money in the fund and maybe have everything done by the time Joint Legislative Committee on the Budget (JLCB) meets in November or December. Mr. Purpera commented that his office has drafted the rules and presented them to the Department of Treasury.

### *City of Jeanerette*

Mr. Greer stated that the City of Jeanerette (Jeanerette) has been somewhat of a challenge. When he was appointed Jeanerette had not had an audit for 2015, 2016, or 2017. Jeanerette has since had audits for 2015 - 2018, all of which were disclaimers of opinion. Jeanerette did not have any accountability for the finances and the operations of the city. The 2019 audit has been engaged but since the city has not had good numbers for four years that audit will probably be a balance sheet only audit to get good numbers to start going forward with. We can have good payables numbers, good receivables numbers, finally reconciled bank statements which were not done for quite some time. This audit will set the stage for me to not have to be there much longer because the city has good personnel in place.

The Legislative Auditor's Investigative Division issued an investigative report in October 2018 showing utility payments of approximately \$30,000 were collected and not deposited in the bank, and there is still an ongoing investigation. Also, the city did not pay federal and state payroll taxes for nearly three years - \$182,000 worth - but have since made those payments. There is also a civil penalty for not filing 2014 W2s of \$149,000 that we should get abated but the IRS applied the payments we made against that civil penalty. So I am still trying to work with the IRS to get that straight. And then the city was collecting witness fees from the parish but not paying them to the police officers. Those were the three critical points in the Legislative Auditor's report which are still being investigated by others not from the auditor's office.

Mr. Greer stated that Jeanerette's accounting and record keeping was in shambles. The bank reconciliations had not been performed and when they were performed they were not entered into the books. The city now has a new city clerk and a new city treasurer and both are very competent and doing an excellent job. We are getting it cleaned up. The city has a new mayor, Mr. Carol Bourgeois, Jr. We have new members of the board of alderman. They are working together and the meetings are good. We have a finance committee that's trying to be very active and making good progress.

Jeanerette had to change its water system and source system operators. We also have an administrative order from LDH on various issues but we are working to get those corrected. The water system was losing about \$17,000 a month based on the rate structure so we adjusted the rates. We increased the rates from \$10 base rate to \$14 base rate for the first 2,000 gallons and an additional \$3.40 for the increment of a thousand gallons used thereafter. We are meeting projections to generate approximately \$1,700 per month for the commercial and \$18,000 per month for the residential, which will cover that loss. It also includes some reserve money for necessary expenses.

Sewer rates were losing approximately \$9,000 a month. We did increase sewer rates which should generate sufficient money to fund the sewer system. My monitoring of that today says that's falling a little bit short, so I am watching that carefully to see if I need to do more.

For garbage services the city was piggybacking on a contract that the parish had with Waste Connections, but the city was also trying to do its own bulk waste pickup at roadside. The cost of the operations of garbage services were losing

about \$12,000 a month, so we increased the garbage rates and we included in the Waste Connections contract the bulk waste pickup at curbside for a minimal cost.

For accounts receivables, the city was not collecting utility bills or tax bills. The city made mistakes allowing people not to pay and still retain services but we have fixed that. There were some payroll issues we have corrected for W2s and 941s.

The city has two debts with USDA. We were making our debt service payments to pay the debt service but we weren't funding the reserve as required but are now funding the reserve as required. The city operated a housing assistance program and it wasn't being run properly. They couldn't document the files and did not comply with HUD requirements. So, basically we have transferred the entire program to Lafayette Housing Authority with the vouchers to remain in Jeanerette.

Regarding infrastructure and property issues, the city spent some money on repairing the water system and cleaned the water tower. They had a sewer line collapse. A lot of the pipes and lines are old, fortunately they are holding up without many leaks. There are some infrastructure issues we need to consider those reserves that have been accumulated and will accumulate to make those necessary improvements.

The city adopted budgets for both 2019 and 2020 that are balanced going forward. We are monitoring the budget and the board gets copies and the finance committee reviews. We have made a lot of progress and I believe that we will be good in Jeanerette.

Chairman Stokes commented on the pretty interesting work done by Mr. Greer trying to help the city get out of a mess. She asked when the new mayor was elected. Mr. Greer said he took office July 1, 2019. Chairman Stokes asked if the issues stretched from the former administration. Mr. Greer answered it was the former administration who had all these issues. I think it started in the administration before that but it continued through these past four years of administration. Chairman Stokes stated they had to have an audit every year but every year it was a disclaimer. We passed a three strikes rule where if it fits under one particular administration then it can be considered malfeasance in office. In your opinion, would this have met those requirements? Mr. Greer answered there is an ongoing investigation related to the operations of the city both from the standpoint of money being stolen, people not being billed properly, meter readers not reading meters, and the non-payment of taxes.

Mr. Cryer stated that LLA advisors worked with the city over a period of two or three years identifying a large number of problems. Those were provided to the mayor on numerous occasions and the problems were not fixed. So if the three strikes law would have been in effect in 2014 or 2015, then some of those things could have been brought to a head much earlier. Certainly the law is in place now to deal with some of those recurring problems which dealt with general operations, not reconciling bank statements, not reconciling receivables - some basic things that we tried to assist with before it reached the point of fiscal administration. Those were known problems and they existed for a period of three or four years before it ever got to a critical point.

Chairman Stokes asked who is investigating Jeanerette. Mr. Purpera answered we are working with the district attorney in that area since the very beginning of this process. Mr. Cryer commented that because LLA did not receive reports during those three-year periods, the city did not receive any state funding. They had some existing capital outlay before they reached that point and the contract was eventually paid.

Senator Claitor stated it seems we are rewarding both malfeasance and incompetence by going in there to straighten these things out. I appreciate the work that you do but what is the alternative if we do not go in and provide these services. Is bankruptcy an option? Mr. Purpera answered he does not know if that is a solution. We do need to figure out a solution but then you run into the problem with who takes over the debt. How do you get a parish to take over the debt or the failing system? So that just hadn't been figured out. Senator Claitor stated it's just frustrating to sit here and listen to this and just makes me admire the work that you do. Tough job, keep up the good work, but hopefully we get to a position to where there is no work for you. Mr. Purpera stated that was the reason why we have the three strikes bill - that if an administration or mayor does not do what they are supposed to do that there's something to go back to

them with. We have been bringing those before this committee and having discussions and when this committee gets involved they start getting their act in gear.

### ***Town of Sterlington***

Mr. I. M. “Junior” Shelton, Jr., fiscal administrator for the Town of Sterlington (Town), former Mayor of Central, testified next. Mr. Shelton commented that it has been cathartic to hear the other administrators going through the same issues that I am. He said Senator Walsworth has been a great support and has helped him tremendously. I was appointed on August 6<sup>th</sup>, so barely a month starting the work there. Daunting is a word to use here as I knew very little information about this Town.

The Town has \$21 million in long-term debt and only 1,800 residents. The first key job that you realize you have to do is change the culture of doing government. They just sort of were able to do their own thing. There are three basic financial issues: trying to start a water company, the sewer system, and the ballpark.

Town leaders were trying to start a water company and Mr. Shelton told them to stop. Because of their issues and wanting to start a water company, they were left with \$2 million worth of debt for a lease purchase for two water wells – one that was built on private property. I am having difficulty finding out if it’s a legal contract. I found out there was about \$36,000 of franchise fee checks for the water company made out to the Town that either was returned or not cashed because the franchise agreement had run out and they were afraid that if they cashed the checks they’d be held to that same level of franchise. I set up a meeting with Greater Ouachita Water Company and got a check for \$36,000, so we had some money to operate and get through the month. The Town has no way to pay the \$2 million debt because they don’t have water system revenues coming in.

The sewer system is approximately \$11 million in bonded debt. These bonds started coming in about 2011 and it’s a dilapidated system. I don’t know where the money went. I think it was used to operate the system. We have taken care of the issue of servicing that debt. We raised the sewer rates two or three months ago. We have a new board of aldermen and a new mayor. The board of aldermen have taken aggressive steps to try to remedy the situation and agreed to voluntarily raise the rates for the sewer where we not only paid for the operations but have money to put aside for emergencies.

The ballpark is a spectacular tournament ballpark that was built with absolutely zero thought about how to operate it and with about \$8 million in debt. It’s all beautiful turf fields. They have a former alderman and his wife volunteering to run it. There’s not enough income coming in to pay for the debt, so we have some things that we’re going to do. There’s absolutely zero signage out there. We can bring in significant money – \$300,000 to \$400,000 – of recurring income for advertisements on the 10 ball fields. I’m looking for somebody to run the entire park that’s well versed in dealing with events. The Town has tried but don’t know how to do it.

With the ballpark and sewer system, we have about \$15 million of the debt taken care of that we can service. But we have the issues with the \$2 million water debt and some debt at the ballpark that we just don’t have an answer for yet. Although, I have a meeting set up with USDA to talk to us about refinancing the park.

Mr. Shelton said he has only been there a month and is the first non-CPA fiscal administrator and the former mayor of the City of Central. I look at things from the practical side of how you run government, how you take care of your citizens. It’s something that we have to get creative with, think outside the box. I am very encouraged with the progress that we have made - it’s been significant. It’s going to be a long road and a task that is not easily done but we are up to the task.

Chairman Stokes said thank you for being up to that task. They have \$2 million in debt for? Mr. Shelton answered \$2,064,000 in debt because they were going to buy 420 water meters and other equipment to run filtration system from Capstone Meters. It was being financed by Government Capital Corporation who sold that loan to Spirit Bank. They made four draws total. Two draws were for \$516,000 each. One they listed about 170 water meters and the next one they listed about 70 order meters. The third draw was over \$600,000 and all they listed was about 40 water meters. It does not work and when I start to ask for particulars, I am really not getting any information.



I got a phone call from the lady from Government Capitol, who has sold the note to Spirit Bank, and she tells me that the examiners are in the bank and they have some financial questions they'd like to have answered. I asked why call me and not the bank. I asked them to send me documentation that says this loan as the lease purchase was supposed to pay for two water wells and I have not received anything. So we have sent a demand letter for them to pick up their equipment and to give us an accounting of those draws and what it covered. I cannot find out where that money went and there are a lot of issues with each of the draws. Every time you turn a rock over there's more.

Senator White stated the Town has a population of 1,800 with a \$21 million debt. How long was Mayor Breland mayor there? Mr. Shelton answered I believe he was in his third term when he resigned, 10 years at least. Senator White asked when you left as mayor of Central, what kind of debt did they have? Mr. Shelton answered none and had \$43 million in the bank.

Mr. Shelton said he is trying to find an operator for the sewer system and has two or three firms that are interested in bidding, which will help us with the expenses, and it gives us somebody with expertise and more ability to take care of the problems. They have 70 people on staff as opposed to the two the Town has.

Senator White commented he got into some arguments with Mayor Breland over privatizing local government and privatized school systems services as a different model. The Town was totally mismanaged, and I do not know how you get that much debt within 10 years.

Mr. Shelton stated the first meeting I had with the bank, my first question to them, what was so attractive about this transaction that you made this business decision? The answer I got was it was not so much a business decision as much as it was a relationship decision because they'd always worked and done business with the Town. Senator White stated that Mayor Breland wanted Century Lake in city limits, no telling what his debt would have been if he'd got them in city limits. Anyway, it's just a terrible case of mismanagement. Anybody can have a bad year and a bad tax base but that's almost unbelievable. Eighteen hundred people have a \$21 million debt in 10 years.

Chairman Stokes asked how often we get updates from fiscal administrators. Mr. Purpera answered whenever you ask for them. I think we have had maybe three times over the last year we have brought in the fiscal administrators but I like what I am hearing today. Chairman Stokes stated she would like to hear back from them sooner rather than later.

Senator Walsworth told Mr. Shelton, "Welcome to God's country." You got some great people there and I think they really want to get that fixed. Senator Walsworth said thank you and glad you are here.

**Review of Louisiana State University System's Affiliate Relationship with the Louisiana Health Information Technology Foundation – Audit Issued July 18, 2019**

Mr. Barrett Hunter, Financial Division Assistant Director, and Mr. John Thiebaud, Financial Division Audit Manager, presented the financial review. Mr. Hunter stated we were requested by the LSU president to do this review. LSU's internal audit division did some work in this area and had some significant concerns so they wanted an external review. We interviewed approximately about 30 individuals. We looked at a vast amount of documentation and evidence, this spanned over multiple years. We would like to thank LSU and all of the individuals that assisted us in this review.

The LSU intellectual property software was developed by LSU back in the 1990s. It was called CLIQ, its actual name was CLIncial InQuiry. By 2006, the software was in all of their safety net hospitals and clinics. The software recorded and shared electronic medical records. LSU saw the potential for other physicians to be able to use this, look see what worked in treatments and diagnosis, what didn't work. So it appeared to be good software. There were multiple attempts over the years going back to 2011 that were unsuccessful. The attempt that they got the furthest with is the one in our review today. But they went outside a lot of the regulations and it caused many issues.

Mr. Hunter explained they grouped those issues into five areas. The first issue was the fact of them setting up an affiliated organization called LaHIT (Louisiana Health Information Technology Foundation). It appeared to be structured properly on the law but using them to try to be the middle entity basically to commercialize was not something that LSU normally did and seemed to be outside their regulations. LSU's regulations require that LSU

contract directly with the companies that are commercializing it and in this case they didn't. LSU licensed the software to LaHIT and then allowed LaHIT to sublicense that software to a for-profit company. This allowed LSU's returns and gains to be diminished. The consideration LSU received was royalty payments of 5% and they didn't receive the whole 5%. HarmonIQ is the for-profit-company that was chosen to commercialize. They would pay LaHIT off of the sales of the commercialization, 5% royalties. HarmonIQ would pass 90% of that through to LSU. So LSU was going to get about 4.5% on royalties but LSU actually didn't get anything. This was written in the contract but no commercial sales ever happened.

Chairman Stokes asked is there a number that they should have received if they would have gone through the channels that would be more proper. Mr. Hunter responded not necessarily. I think every agreement stands on its own and depends on the intellectual property. LSU works those kinds of deals all the time. In this deal, LaHIT was going to be getting 5% royalties that pass down LSU. We saw in earlier negotiations that were unsuccessful the royalties were approximately 50%, so this seemed kind of undervalued. However, this agreement did have an equity share built into it that was 40%. So that equity share was there to protect LSU in case there was a buyout of HarmonIQ, which they figured would happen if this thing was successful. What was going to happen with those proceeds, they were going to sit with LaHIT, and LSU would be able to use those proceeds for educational purposes but that money would not flow to LSU. It was a mechanism to keep the money off LSU's books and keep their budget basically from being cut.

Chairman Stokes asked if there are rules and regulations coming from the federal level that deal with how intellectual property that gets invented by professors at a university has to be handled. Mr. Hunter responded yes, LSU has extensive procedures. LSU procedures are the developers of intellectual property get 40% on any money coming into LSU. On this equity share, the developers were not going to get their share as the regulations require because this money was going to sit with LaHIT rather than LSU. It gave LaHIT full control over the proceeds and over the sublicense agreement between them and HarmonIQ. By allowing LaHIT to have all that control, we noticed the 40% got taken out of the final agreement within three months.

Chairman Stokes stated typically, this sort of transaction where once the software's privatized, 40% of the proceeds from the royalties would go to the professors that had invented the software and then another percentage supposedly would go to the university for furtherance of these sort of projects. Mr. Hunter responded the developers would have got 40% of the 4.5% that LSU got from the sales that HarmonIQ would have made. If LaHIT wouldn't have been the middle entity, the equity share would have gone straight to LSU then the developers would have gotten 40% of that.

Chairman Stokes stated there was going to be the equity share but it got taken out of the contract. These are confusing transactions, but in essence whoever developed this program and this program is used in the safety net hospitals for many years. What caused the desire to prioritize it the first time in 2014? Mr. Hunter responded they tried it in 2011. They saw potential in the software to improve patient care. You were going to have physicians be able to look at diagnosis, look at what treatments worked, what treatments didn't. It was going to strip the personal information out on patients but everyone could see if you had a certain treatment and you were taking maybe other medications, did that work, did that not? I think they had a good product. There are a lot of systems out there now like that, I think they were almost ahead of the game.

Chairman Stokes asked in 2011, they tried to prioritize it and that was when LaHIT was formed? Mr. Hunter responded it was formed later in 2014. Chairman Stokes stated why did they create LaHIT? It wouldn't be required. But the thought was that if you don't have that revenue flowing into the university they can't take it away. Mr. Hunter responded Dr. Frank Opelka, Vice President of LSU, was involved in these negotiations. He told us that LSU kept getting their budget cut and they thought this was going to produce significant gains and this was a way to be able to use those funds for LSU purposes and not have their budget cut.

Chairman Stokes stated they set up LaHIT, LaHIT does a deal with HarmonIQ to have them try to sell the software out to the larger universe. But then LSU is only going to get 4.5% as opposed to what it probably could've gotten if it went through LSU, which would have been between 40 and 50% from HarmonIQ? Mr. Hunter responded if LSU would have contracted directly with LaHIT, they probably would have had the 40% in the contract and would have noticed if it was taken out since it should have gone through their controls. Chairman Stokes stated that's a different 40% though because there's the 40% that you would have getting paid to the professors and then there's the 40% that represents the

equity share that was supposed to be put into the HarmonIQ deal. Mr. Hunter responded yes, unfortunately they're both 40% so it's confusing. Chairman Stokes stated that's what I wanted to clarify. What concerns me is how does something of that massive get eliminated? Mr. Hunter responded no one was able to answer who did it, why it was done. It's like they didn't even notice it was done. LSU and contract attorneys thought it was in.

Senator Claitor stated as you go through this process make sure that you frame it in what the timeframe is so that we have a good appreciation of who the administration of our government is. Is it the Jindal administration and also the administration at the university? I'm also interested in the legal advisor for the university that's participated in this. The prior administration pushed, through a group called the Innovation Council, within the government to create standardized agreement for this type of technology transfer. The University of Texas published the agreement and you know what the deal is and it's something to be followed and done. It's easy to understand, no subterfuge. I can understand the university feeling like the legislature was taking all of their money but that doesn't excuse this type of subterfuge. I'm glad that you've gone through this to lay it out for us but I want to know who are the key players. Don't shield them or the timeframe.

Mr. Hunter stated we made recommendations for LSU to continue to run these types of technology transfers through their Office of Technology Management Departments and that all proceeds from these types of arrangements should be under LSU's control and not outside entities' controls and management agreed.

The second issue is a legal cost that was paid to contract attorneys in the amount of \$410,000. It was for the formation or the benefit of two for-profit companies that were going to be used in the commercialization. One of the companies didn't get used and got dissolved quickly and the other company was HarmonIQ. There were no agreements in place that outline obligations between the parties for giving up this state fund or what LSU's benefit would be for giving up state funds. We felt like this was a violation of Article Seven of the Louisiana Constitution as a donation of public funds. We recommended that they clearly define when they can assist and what type of assistance they can provide in these types of arrangements and that they enter into these written agreements outlining obligations and what benefit LSU would receive. Management concurred.

Chairman Stokes asked who is this other company. Mr. Hunter responded it was Harmoniq as well. One was spelled with a small iq and the other was spelled with a large IQ. One is called Corp. and the other one is called Corporation but they are run by different people and incorporated by different individuals. Mr. Thiebaud stated the first Harmoniq was incorporated around September, October, 2014 and dissolved around December 16th of 2014. The other HarmonIQ was incorporated December 17, 2014.

Chairman Stokes asked do you do we have a list of board members for each of these entities. Mr. Hunter answered little iq had no board members, none were ever established. Chairman Stokes asked who founded it. Mr. Hunter answered Mark Whitfield, he's an attorney with Taylor Porter, who is the contract attorney that LSU used in this arrangement. They provided a lot of guidance and determined how to do this. I did not see how much legal guidance came from LSU's in-house attorneys but Taylor Porter was heavily involved. Chairman Stokes asked at that point LSU did have in-house attorneys but they also had this agreement with Taylor Porter. Mr. Hunter responded they use Taylor Porter for a lot of their business.

Mr. Hunter stated the board members for big IQ went through many amendments to the Articles of Incorporation. December of 2014, the board members were Oscar Diaz and Beverly Moore. In September of 15, Henry Miller was added and Beverly Moore came off. In March of 17, Shelly Digiacoimo was added. Chairman Stokes asked do these board members have relationships to LSU? Mr. Hunter responded only Beverly Moore, her father was on the LSU board. Chairman Stokes asked have they ever worked for LSU. Mr. Hunter responded not to his knowledge.

The third issue was them going outside their normal practice. They have the Office of Technology Management and procedures for all of this technology transfer and commercialization of intellectual property. They use standard contracts and the regulations require any deviations from those should be documented and justified. We did find deviations. We found that they worked into the license agreement the option for LaHIT to buy the software. They also had a deferral from HarmonIQ not having to pay royalty payments for two years. There was no justification for these changes that was given. Chairman Stokes asked what were these deferred payments. Mr. Hunter answered that's the

royalty payments, the 5% that was going to go to LaHIT and then pass through to LSU. Chairman Stokes asked who allowed this deferral. Mr. Hunter responded the contract/license agreement between LSU and LaHIT. Chairman Stokes asked was this to build up reserves for some purpose? Mr. Hunter responded not sure if it was that or if it was more to let HarmonIQ get their business going. Chairman Stokes asked did the professors that invented this program step forward? Mr. Hunter responded not to my knowledge.

Mr. Hunter stated they have checklists they complete and certifications, these were not done. These are areas where they document conflicts of interest, how successful the commercialization will be, evaluation of the company they plan to use, the value of the intellectual property. These are important documents to determine how successful the program is and to keep in-line with the policies but they did not document these, they went outside that. Chairman Stokes stated creating LaHIT was not necessary and was outside of the norm. Could there have been a more proper way to set up LaHIT or is it an exception or an impropriety in itself to have created LaHIT? Would there have been a more illegal or a preferred way to set up LaHIT that would not have created some of these exceptions? Mr. Hunter answered LSU has affiliated organizations, all universities do. So setting up LaHIT to further a mission of LSU would not have been a problem but doing it in this arrangement caused them problems. They did not bring this to the board for recognition or approval and it goes around the policy.

Chairman Stokes asked who are "they"? Mr. Hunter responded that's hard to say. I can tell you who signed contracts but I do not know who all knew what and what their intent was. Chairman Stokes asked what year was that. Mr. Hunter responded they signed the agreement in February 2016. Mr. Opelka and the LSU president signed some of the agreements.

Mr. Hunter stated our recommendations are that they follow their policy, contract directly with corporations that they are going to use, that they use these standard forms, document justification, basically follow their procedures and they concurred. The fourth issue was we identified three contracts/affiliation agreements, signed in February 2016, that we felt should have been brought before the board. One affiliation agreement was just not brought before the board for recognition as required by board regulation. The other two we felt had a fiscal impact and board bylaws require that those be brought for formal approval of the board. One was the license agreement between LSU and LaHIT and the other was the Accountable Care Service Agreements, which were between LSU and the partners that run the hospitals. They assigned the contracts over to HarmonIQ and they ended up paying a million dollars on those contracts.

Chairman Stokes asked what are the Accountable Care Service (ACS) agreements. Mr. Hunter responded it is contracts that LSU had in place with the partners that were running the hospitals. The agreements were trying to convert the hospitals' IT systems and data to use with CLIQ. The partners were paying LSU for the IT conversion. Now they assign that over to HarmonIQ, who did a portion of that IT conversion, and LSU then paid approximately a million dollars for.

Chairman Stokes stated HarmonIQ was paid by \$1 million by LSU to do this programming. The safety net hospitals used CLIQ. Then at the time that the public-private partnerships were entered into, the public-private partners started paying to use CLIQ and they were paying LSU until 2016 when they tried to have it go to HarmonIQ with a license agreement back to LaHIT that would then send 5% back to LSU. Mr. Hunter responded yes but I don't think that's what stopped the payments. The ACS contracts were all canceled when a new administration came in with the governor's office. Chairman Stokes asked what did they do at that point because then the hospitals aren't using CLIQ, they're doing something else? Mr. Hunter responded the hospitals weren't using CLIQ. Chairman Stokes asked I thought they had agreements and they were paying for CLIQ. Mr. Thiebaut stated they continued to pay for some services related to the master service agreement that they had for the initial privatization. The hospitals continued to use that software because it was the imaging of patient records and they needed access to it. But some hospitals were converting to widely sold systems while this was all happening. Chairman Stokes asked so they were using CLIQ but not to its fullest? Mr. Thiebaut responded the hospitals were using it only to the extent they had to.

Chairman Stokes asked in 2016 when the public-private partnerships renegotiated the contracts with the governor's office that's when they just stopped using CLIQ altogether? Mr. Hunter responded that's when they didn't want to be paying for something they felt like they shouldn't be paying for. I think LSU wanted to be able to use that data into the

CLIQ because those are still their patients. The partners felt we have our own systems and we can manage our own systems so why do we have to pay this?

Chairman Stokes stated these payments for the ACS contracts that went from the public-private partnerships got paid directly to LSU. Some of them were using CLIQ and some of them weren't but they were paying for it, how'd that work? Mr. Thiebaud stated I think the best way to answer it would be everybody was paying what they contracted and agreed to pay but not everyone was using the full capabilities of the system. Chairman Stokes stated because they were contracted to pay for that but they were also using EPIC, which is more or less the same kind of software. Mr. Thiebaud responded depending on the hospital. Every hospital was in a different point of their implementation of these new systems. It was all kind of a transition period for everyone but the hospitals were willing to pay to the extent that the state was paying for them to pay it to LSU basically. Chairman Stokes stated so they're putting these payments for this software on the cost report. Mr. Hunter stated we didn't look into the cost reports.

Senator Claitor stated I'm getting confused like Chairman Stokes and this tends to read like a Grisham money laundering novel. When we say that LSU is being paid, was it going into a foundation, to a particular thing or into the general fund? Mr. Thiebaud responded that it would go LSU's Healthcare Services Division. Senator Claitor asked but direct to a particular division not into the general fund where it'd be easily identified? Mr. Hunter responded I think it would that's not money that they were trying to keep off the books that was actual revenue coming into LSU. Healthcare Services Division gets rolled into in the financials of LSU. Senator Claitor asked it's easy to identify where it came from? Mr. Hunter responded yes.

Mr. Hunter explained the fifth issue was two conflicts of interest. The Healthcare Services Division's CEO entered into some contracts that may have violated the Louisiana Board of Ethics. He was one of the developers and stood to gain from royalty payments. He entered into two contracts that were going to help benefit the commercialization. One was to a corporation that was going to help standardize coding so that others in the nation no matter what system they were on the coding would be similar and that was going to help them commercialize and be a selling point for CLIQ. The other one he contracted directly with HarmonIQ, the company that is commercializing. So with those two contracts together Healthcare Services Division paid over \$500,000. The other conflict is with the programmers. There were five programmers that went to work for HarmonIQ and it appeared they did the same work at HarmonIQ that they did at LSU. So they may have violated a two-year rule where they can't work for someone else and do the same work or have the appearance of doing the same work for two years and be paid for it.

Chairman Stokes asked did HarmonIQ have other business. Mr. Hunter responded yes. Chairman Stokes asked so it was a going concern at the time that the LSU/LaHIT agreements started. Mr. Thiebaud responded it was a startup company at that point but within a couple months of LSU agreements they had some mergers and those mergers brought them other customers beyond what they were already pursuing outside of LSU. Chairman Stokes asked that entity has continued to operate as a going concern and it has other business and not created for this one deal? Mr. Hunter responded no they're still operating. Our recommendations were that they review potential conflicts of interest before they enter in these types of agreements. We also asked for ethics opinions.

Mr. Hunter stated in March 2017, LSU terminated the license agreement with LaHIT and entered into a contract directly with HarmonIQ, which could have been done that way the first time. They worked a 20% equity into that agreement, so that they were going to get the full 5% and 20% equity share in the new contract. In December of 18, they canceled the contract with HarmonIQ. No commercial sales have happened and I'm not sure if they have intentions to do anything else with CLIQ. We have LSU's response in Appendix A, the Healthcare Services Division CEO's response in Appendix B, Dr. Frank Opelka's response in Appendix C, and a timeline of the more significant dates in Appendix D. We'd like to thank the committee for allowing us present our report.

Chairman Stokes stated there's the final report that was dated July 18 but then there is a revised report dated June 6, 2019. Is it standard practice to have the original and revised reports on the website or just have the revised report? Ms. Nicole Edmonson, Assistant Legislative Auditor for State Audit Services, responded our standard operating procedures when we reissue our reports, we send out an email to everybody who we initially sent the report saying that this report has been reissued with verbiage saying why. Then within that report we put the new issuance date and the

changes that we made from the previous report is denoted in that report. In this case it's Appendix C, Dr. Frank Opelka's response. We do not keep the old version of the report on the website, only the new version.

Chairman Stokes asked for Dr. Frank Opelka's job title when all of this was going on. Mr. Hunter responded he was the Executive Vice President for LSU and Medical Education Redesign. He also oversaw the Healthcare Services Division. Chairman Stokes asked what years was he at LSU. Mr. Thiebaud responded from 2012 to 2016.

Chairman Stokes stated in Dr. Opelka's response he mentioned a New Orleans businessman that he referred to HarmonIQ's board but that doesn't appear in the report.

Ms. Edmonson responded that ties into your earlier question about reissuing the report. One of processes when we conduct audits, before we issue a report we always send our report draft to the entity that we're auditing and let them look at it as part of our quality assurance process. What happens when we do that is things change that's why it's called a report draft and that's why it hasn't been issued. We take the information that they provide and make sure we know where we agree and we can agree to disagree where we need to disagree. We had five auditees that we sent our draft report, we got responses back from all of them with issues that we needed to look at further so things change from the first draft to the last draft. We give them the opportunity to respond to the reports and have a choice of whether or not they want their response included in the report. We sent Dr. Opelka revised drafts and asked him if he wanted his response included in the report. He did not respond affirmatively that he did. When we went back and did our due diligence some finding changed. He did not respond to the final version of the report and that's the responses that we include in the report. Apparently Dr. Opelka talked to the media and said that he had a response, so they asked us about it. In the guise of making sure that we were being fair and equitable, we put the response in the report noting that it was not to the original report it was to an earlier draft. Our audit standards required that our audit information is sufficient and reliable, the earlier draft there was mention of a New Orleans businessman but based on the evidence and the information that we got back from auditees responses it did not rise to the level of being a finding. Our audit report drafts are also confidential. We have no control over those drafts being shared with whomever. We always have our drafts watermarked confidential and the email that we send out says that this report is confidential. All the information in a draft report had not been vetted through our quality assurance process and it's not an official report until we have issued it.

Chairman Stokes stated the draft report would not have been seen by the general public. Ms. Edmonson stated it would have been seen by the people that we sent it to. We have no control over who they send it to. We asked that it remain confidential. Prematurely giving that report to others is a disservice to the people who were involved in this process. There were five entities involved to get responses from. It's a very complicated process. It took us interviewing 30 people several times. It took us about a year. We wanted to make sure that we were accurate in what we put out.

Chairman Stokes stated that draft report has been kind of bantered about. Ms. Edmonson responded the responses that we got back from all entities - there are different sides of the story. All sides of the story gave consistent information that we looked at in deciding that there was no longer an issue. There was nobody not in agreement with there being no conflict of interest. Mr. Hunter stated there was a portion of the contract we thought that individual applied to but all parties came back and said, no, it's to this other part of the contract. So it changed completely what we thought we were looking at. Ms. Edmonson stated we have our due diligence so we don't put out information that's innuendo. We try to be fair and make sure that the information that we put out is sufficient and reliable. Not only do we want to do that because that's who we are in our office those are the audit standards that we must follow. Chairman Stokes stated she understands and greatly respects that and completely understand how these things can have a big impact and we want to be as diligent as possible.

Representative Edmonds stated I have a headache and I'm dizzy. Dr. Opelka who was an employee of LSU handled this business and LSU paid approximately a million dollars to HarmonIQ. Was that approved by the Board of Supervisors? Mr. Hunter responded no, we wrote that in our report that they did not bring it in front of the board for formal approval. Representative Edmonds stated that's a lot of money to spend. We're supposed to have something in place to protect our dollars that are spent. So they violated getting outside of their own bylaws to do this. It's just not innuendo. So this employee took it upon himself to be able to be responsible on his own? Mr. Hunter responded I wouldn't be able to answer to that because these payments flowed through Healthcare Services Division. Representative Edmonds stated

then you go to the legal services, you spend \$410,000 of monies that can go to the possibility of public and private dollars mix, which is a significant violation. Mr. Hunter responded agreed.

Representative Edmonds stated we're talking about the possibility that LSU "may have" violated the Provisions of Article 7, Section 14 of the Louisiana Constitution of 1974 by using public funds to pay this. Why is it a "may have" violated, why is it not they violated? Mr. Hunter responded because the evidence that we received was not detailed enough to itemize out exactly what was paid for what. We could tell from descriptions that Taylor Porter was advising LSU. Representative Edmonds asked did you make specific request for the itemization and not receive it? Is there a reason there can't be a clear path to following the money? Mr. Thiebaud responded we received it in a format that had descriptions but it was not itemized by project. We use the descriptions on the invoices the best we could piece it together. Representative Edmonds asked you could not determine whether there was actual violation of the constitution or not? Mr. Thiebaud responded not for every dollar that's mentioned, there's no way to get it. Representative Edmonds asked is there resistance to get that or there is no one that can clarify those kinds of subjects? Mr. Hunter responded for example, one of the descriptions had 10 things that the lawyer did. One of those things within a description was maybe reviewing some of the corporate documents for HarmonIQ. All we see is this block of what the description is and the amount they're charging. So a portion of that cost we could say was probably for the benefit or the formation of HarmonIQ but we can't say how much exactly it is.

Representative Edmonds stated you made recommendation, are we going to get a response from LSU? Ms. Edmonson responded a representative from LSU is here and their written responses are in the report.

Senator Claitor stated he had some questions for the auditors but we should consider going into executive session because of the confidential information.

**Senator Claitor made a motion to go into Executive Session at 1:05 pm. With no objection, all visitors and unnecessary staff left the committee room and recording stopped. Chairman Stokes called the open meeting back at 1:30 p.m.**

Chairman Stokes stated we went into executive session because we wanted to ask the Legislative Auditors Office something pertaining to the report. We feel like that answer was adequately covered.

Representative Harris asked who are the board members of the LaHIT. Mr. Hunter responded in September of 14, the board members were Mr. Frank Opelka, Ms. Beverly Moore, Mr. Henry Miller and Mr. Tim Barfield. In June of 15, they removed Mr. Henry Miller and added Mr. Bobby Yarbrough as a non-voting member. In February of 16, they added Ms. Jane Olds.

Senator Claitor stated the LSU president asked the Legislative Auditor's Office to start the initial investigation and LSU has accepted the recommendations. In his response, he said circumstances were unfortunate but placed it squarely on somebody else that is no longer within the university. Is that correct? Mr. Hunter responded yes that was his response.

Mr. Tom Skinner, current General Counsel at LSU, went to the witness table to respond to questions. Senator Claitor asked Mr. Skinner if he was representing the university and what is the university's position? In the president's letter, he says it's not me, it's unfortunately somebody else. I'm interested in any aspect of the hierarchy and the succession in your office.

Mr. Skinner responded I am here to explain to you, not defend what happened and what went on, to fill in the gaps to the extent that I can. I joined LSU in January of 2015. I came on the tail end of this and have been piecing it together ever since. Somebody was asking about the players and the timing and who is "they"? Dr. Alexander King became president of LSU in 2013. Shortly before that LSU switched from a system approach to a one-LSU approach, which means previously there was a president and then a chancellor for the A & M campus. Those roles were combined and Dr. King was the first person to occupy that role.

Dr. Opelka had been at LSU since 2005. He was with the Health Science Center in New Orleans. He was a surgeon and head of the Faculty Practice Plan and took on another role after Katrina. Then there was a parting of the ways and

he came back under Governor Jindal and was designated as the Executive Vice President for Healthcare Reform to privatize the hospitals and reform the healthcare system as Governor Jindal had laid out. So Dr. Opelka actually predated Dr. Alexander.

Mr. Skinner said that Dr. Alexander does refer to Dr. Opelka in the response and I think that's a fair reference. There was nothing that we were able to find that indicated that Dr. Opelka or anybody else was in this for personal gain. But that's why we turned it over to the Legislative Auditor and why we waived the attorney client privilege. We wanted them to have access to all of our records so that somebody objective could thoroughly review the matter.

Mr. Skinner continued testifying that Dr. Opelka held a unique role at a unique period in time. There are only two Executive Vice Presidents at LSU now. Dr. Opelka was the third Executive Vice President for Healthcare Redesign, an extraordinarily powerful position. An Executive VP is second only to the president in the administrative structure. He was very close to the Jindal administration and was given a great deal of autonomy by the administration. He was the architect of this project. His response to the first draft, he goes on about being a simple doctor and relying on LSU lawyers. He's selling himself short, he's being overly modest because this was Frank's project. I think he saw a role for HCSD going forward if it could commercialize CLIQ and bring in the revenues that it potentially would and fund health care quality improvements over the course of the ensuing years. So I think his intentions were fine.

Mr. Skinner said we are not here to blame it all on Dr. Opelka. We made mistakes in our process. There were steps that were skipped and circumvented. There were procedures and safeguards that were not adequately in place. It's in part because of Dr. Opelka's push to get this done. He went around the process because we did not have a general council for a period of time. The general counsel we had between Mr. Ray Lamonica and me was a partner at Taylor Porter, Mr. Shelby McKenzie, but he was not a general counsel in the same way that Mr. Lamonica or I am. We now have the requirement that the general counsel has to sign off on anything that goes to the president for signature that has this kind of significance, which was missing before and was one of the mistakes that was made. As you can imagine, if an executive vice president walks in and says LSU legal has signed off on this and it is good to go, you are probably not going to question him if you trust him and I believe that is what Frank did. But he meant the outside lawyers he had been working with had told him that the project was ready to go and he left it intentionally or unintentionally unclear to the president. We accept the recommendations in the Legislative Auditor's report. We recognize our shortcomings in our process and have fixed that step.

A confluence of circumstances led to this. There was a transition in the presidency. There was a transition in the general counsel's office. There was a lack of the proper procedures in place. And you had somebody who believed very deeply in a project and pushed it too far and too fast. Our auditors had concerns that they couldn't get answers to all of the questions that may have existed. So we asked the Legislative Auditor to come in and we waived the privileges and the report is what you have. I wanted to provide the foundation for whatever other answers I may be able to give you.

Senator Walsworth stated when you say this project - it was more than just this project. We were in the middle of moving health care. LSU's medical schools were all together and they were separating the hospitals, it was transition that we have never done before. We were the only state in the United States that had a statewide charity hospital system. All of healthcare was moving away from a statewide charity system into a privatization system which we now have. We moved pretty fast. So it's not just this one issue, it was the entire issue that LSU was looked at upon to get us where we were trying to go to make sure that they could live with the two medical schools working together with the new system.

Mr. Skinner stated I do not mean to minimize or undersell the massive nature of the privatization project. Dr. Opelka and others were charged with executing something never done in Louisiana. They were creating the map as they built the road. The CLIQ or HarmonIQ or LaHIT project came in at the end of that process and most of the hospitals had been privatized by then. HCSD, which Dr. Opelka ran, used to run the charity hospitals. I think the next step in Dr. Opelka's mind was to commercialize, monetize technology that had been developed at LSU that in 2011 probably was on the cutting edge in the medical field when they started to put these deals together. By 2016 when the final deal came around it was no longer on the cutting edge. There are other products out there, which is why HarmonIQ has not been



as successful and why we didn't get the payoff we hoped for. We would not go down this road again certainly not in this way and not without the safeguards that we are implementing.

Senator Walsworth stated I was trying to clarify when you said this project. The overview, LSU was who we looked at to make sure that we went from the charity system into a system that you could work with the medical schools and the new privatization. Mr. Skinner responded I don't mean to lay this all at Dr. Opelka's feet but he was the key player in this. He did some great things with regard to privatization of the hospitals. This project just did not work and he took some shortcuts and went around me as a new general counsel because he believed that this was something that was going to be a good thing for LSU and give HCSD a role going forward.

Senator Claitor stated we were trying to come up with standardized templates that would work across the country because we thought we were missing opportunities. So we wanted to be able to move quickly and be clear with our faculty on what you get, what the state gets, what the university gets in return. We are definitely finding fault in the way this went but I think we've made big advances on the template side like with the purple rice, we've done great with that and it's easy to understand that template. I understand the political environment that was happening as far as LSU feeling put upon on the cuts and things of that sort. But that doesn't in my view justify what occurred here. I hope we can take the lesson and become better across the spectrum with other opportunities for the university. All of us keep waiting for Pennington to come up with something that's just tremendous. We don't want to be stymied with something that looks like a money laundering operation out of a Grisham novel and not something for us to be proud of because of the way it works. I do appreciate that you came here not to defend it but to explain it. I know there'll be others that'll continue to look at this more closely. There are some issues that we're still not satisfied that they've been addressed completely but let's learn from this and get better at it.

Chairman Stokes stated in the re-issued report, Mr. Opelka's letter refers to HarmonIQ's board and my referral of New Orleans businessman to the board. This is also not my recollection - HarmonIQ received that referral from LSU but not from me. I was recruiting the individual to the LaHIT board when HarmonIQ contacted me and asked if the gentleman could instead serve on their board to which I agreed. I did not ask that individual to serve on HarmonIQ's board or to represent LSU. And at no time was that individual a public employee as one of the draft report states. This aspect of the report is not consistent with my recollection. What is this about? Mr. Skinner responded I wish I knew. It goes back to what you were discussing with the LLA earlier and that they do an initial draft and they send it out confidentially for response from the affected parties. Then they take that information and they refine the report and they drop out things that aren't necessarily what they thought they were. I think what happened was Dr. Opelka got an initial draft of the report and he responded to that initial draft and somehow it was disseminated to some individuals in the community and they came up with a bunch of questions based off the initial draft. I don't know what he's talking about. I wasn't involved in this part of it but I cannot imagine anybody at LSU recommending someone to be added to the HarmonIQ board if it wasn't Dr. Opelka because this was his project. I don't know what he's talking about there. I understand he was integrally involved in putting together the LaHIT board but I don't know if he had any involvement in the HarmonIQ's board.

Chairman Stokes asked who was on the LaHIT board? Mr. Skinner responded Dr. Opelka wanted to appoint to the LaHIT board three or four individuals. He was going to be the chair. He wanted to appoint, Mr. Bobby Yarborough, who sits on the LSU board as an ex-officio member. He wanted to appoint a very accomplished lawyer who used to serve in the Jindal Administration, Ms. Beth Moore, who happens to be Mr. James Moore's daughter, Mr. Moore being another board member. I don't believe there is any conflict of interest with Mr. Yarborough serving ex-officio on an affiliate board. I don't believe legally that is improper and it's something our board is talking about doing on a regular basis with the other affiliates. I have no idea other than she's qualified why Ms. Moore was put on the board except that she has connections with the administration and she knows the healthcare practice. This was on the board agenda for our board of supervisors. It was pulled off the board agenda because my advice was not to put Mr. Yarborough and Ms. Moore on the board. We weren't comfortable not because it's unlawful or improper just because it was going to raise questions. Ms. Moore was taken off of the LaHIT board in 2015 which was around the time that we had this discussion. Mr. Yarborough may or may not have stayed on ex-officio. He doesn't even remember being on that board.

Chairman Stokes asked the auditor's for a list of who was on the board? Mr. Hunter responded it changed over time. It ended up being Dr. Frank Opelka, Ms. Beverly Moore, Mr. Tim Barfield, Mr. Bobby Yarborough and Ms. Jane Olds. Mr. Yarborough, this is in the restated articles in February of 16, gave us a resignation letter from that board that was

certified and he came off that board in 15 also. Initially in September 14, it was Dr. Frank Opelka, Ms. Beverley Moore, Mr. Henry Miller and Mr. Tim Barfield. Mr. Bobby Yarborough came in June of 15. He was there for three months. He said there was no activity or no meetings.

Chairman Stokes asked this gentleman being referred to the HarmonIQ board by LSU, is that person affiliated with LaHIT? Mr. Skinner answered the unnamed person - I don't know who he is referring to. Chairman Stokes asked Mr. Hunter do you know if he's affiliated with LaHIT because my understanding, was that the unnamed person hadn't been associated with LSU. Mr. Hunter responded I'm not sure, give me a second to find out.

Senator Claitor asked when we were talking about the composition of the report earlier the response from Dr. Opelka, was his response to the original as opposed to the amended report? Mr. Skinner answered that's certainly my understanding of matters. I'm trying to make sure that we have that in context.

Mr. Hunter stated yes, he was one of the initial but then he came off. Chairman Stokes said she was still confused about a few things but instead of belaboring this point we'll take it offline and I'll try to figure out. If I feel that it needs to come back here, we can bring it back here.

### **Louisiana Department of Health's Medicaid Managed Care Dental Program**

Ms. Jenifer Schaye, General Council, LLA stated in response to a request from the Joint Legislative Committee on the Budget (JLCB), we went through the law on the process and appeal for RFPs. The two documents, one is the process for RFPs for social services contracts and the other is a flow chart for the appeal of solicitation if there's a question. RFPs are not subject to public bid but there is within the law and the state procurement code a process that executive state agencies follow. The flow chart details that process from the creation of the RFP by the agency and through the various steps, we created it, we advertised it, we accepted and opened the proposals, we had a group that was designated to evaluate them and then there was a final selection by the agency. The agency submits that executed contract to the Office of State Procurement (OSP) for a quality control check. If there are issues in the process for the RFPs, protest in regard to the solicitation, the agency can go back and have a stay of the RFP process while that protest is being decided. After that suppose the proposals where there but the agency felt like those proposals were not what they thought they were going to be or there's just been a change of circumstance there could be a notice of cancellation on all of those proposals even after the proposals are evaluated. There could be a rejection of all proposals by the agency or they could cancel all proposers or they could retain the open proposals however the agency decided. It's a process that by statute and rule affords the state the best entity to respond to the RFP but also to give due process.

Senator Walsworth stated the big question was when Mr. Russo was at JLCB stated that the process was fine until someone decided they were going to open up a bid early. Local government knows you don't do that and I was trying to find out and couldn't get an answer. He asked Mr. Russo to explain how we would open up one bid early.

Mr. Steve Russo, Executive Council Louisiana Department of Health (LDH), responded the bids were due on a Tuesday. One bid came in on Friday before the solicitation protest. The RFP lead opened up that bid to begin checking whether or not they were the appropriate number of flash drives. We interfaced with OSP and decided to grant the solicitation protest so we modified the RFP and gave an extra two weeks. At that time the proposer exercised their right to come in and retrieve their prior submitted proposal. The RFP lead then looked into the proposal that was submitted to make sure that the person that came to pick up the proposal was the authorized representative. My team did some research and there are two types of processes you can follow. One of them is a competitive sealed proposal process and then the other one is a sealed bid process. The sealed bid process is based on cost and awarded to the lowest bidder. Statutes are clear that you shall not open that bid before a date and a time set in the proposal. This bid however was a competitive sealed proposal and there is not a like provision that I could find in the statutes that would prevent the opening of a bid before a set date and time.

Senator Walsworth asked how many bids were there altogether. Mr. Russo answered there were three bids. Senator Walsworth asked were the other two opened early. Mr. Russo answered the other two were not submitted until the new deadline. I don't have any knowledge as to what order or the timeline they were opened up. Senator Walsworth asked

but it was okay to open up that one bid early? Mr. Russo responded it is not illegal and not a violation of the procurement code which is the discussion that Representative Bacala and myself had.

Senator Walsworth asked is it normal that we opened up one particular bid before we open up all of them at the same time. Mr. Russo answered I don't know. Senator Walsworth asked is there a new procedure that you're going to use from now on. Mr. Russo responded we are going to learn from everything. Senator Walsworth stated everybody was shocked that we opened that one bid early and then we backed off and said nothing was looked at but why would you open it if you're not going to look at it? It looks like the department wiped the slate clean and said let's start from zero and no harm, no foul. Most of us are used to the other procedure and there's probably some merit to that other procedure that everybody's treated fairly. But to open one up because they sent it early gave a glimmer of impropriety done for that because the other two were not opened up. We need to make sure everybody's treated fairly and equally and if that procedure is changed, when you come back to Joint Budget Committee, you might want to tell us what that new procedure is. Mr. Russo responded okay.

Senator White asked it was all sealed bids? Mr. Russo answered it's a contradiction in terms, this one was done as a competitive sealed proposal and not a sealed bid. The rationale is you don't want to open a bid early because of the cost but with these types of bids you dealing with a list of criteria that they would need to meet instead. Senator White asked those bids were to be evaluated and they get points? Mr. Russo answered yes they're currently scoring now.

Senator White stated I've participating in a lot of seal bids where the entity would open them one at a time with everybody there and you knew who got the bid. Mr. Russo responded that's the seal bid process where you deal with money and they have to set a time and a date with everybody there so everybody knows that person won. Senator White stated it caused a lot of confusion by opening that one early. Have any of them been opened earlier before? Mr. Russo answered I don't know. Senator White stated I don't think they have in 16 years because I'd probably heard about it like I did with this one. Right, exactly

Senator Walsworth asked why is it called a sealed proposal. Mr. Russo answered because they are sending them in sealed. With the statutory construction sealed bid process the legislature has made it clear that you shall only open those on a date and time set forth in the RFP and that was left out of the process dealing with competitive sealed proposals. I must make the assumption that with statutory construction that was done for a reason.

Representative Edmonds stated on the Friday when this first bid came in it was the singular bid that came in and the others were not in at that particular time. Did you say there was already a protest that was beginning? Mr. Russo answered no, and there is a process by which you can protest the solicitation and you can do it two days before the bids are due. I want to say about four o'clock that day we got notice that a protest did occur.

Chairman Stokes asked was the fact that it was going to be a competitive sealed proposal identified in the RFP. Mr. Russo answered to my knowledge yes. Chairman Stokes asked how did someone know to contest it. Mr. Russo answered it's in statute and it's in state procurement's rules that you have the right to do a solicitation protest. Chairman Stokes asked how did somebody know that there was a reason to contest it. Mr. Russo answered they get the proposal. The proposal had a requirement that in order to bid and get a contract the bidder had to have their certificate of insurance already from the Department of Insurance. We had one group said I've had my paperwork on file for a while with the Department of Insurance and I still don't have it back and that shouldn't disqualify me. We believe it should read that they need that certificate before they enter into a contract.

### **Legislative Auditor's Budget**

Mr. Purpera stated I want to make everybody aware of our budget issue. The auditor's office used to have a fund balance. Our general fund funding and allocations were less than what was needed to operate the office so we have been using that fund balance. We are projecting at the end of this year that we will have \$1.4 million left in the fund balance but would need about \$4 million to operate so I am going to be short about \$2.5 million dollars next year. In 2008 my general fund funding was \$8.3 million and in 2015 it was \$10 million. In the middle of one session, they swiped \$2 million out of my general fund which took me down to \$7 million in general funding and then up to \$8.1 million. My general fund funding in 2020 is less than it was in 2008 and the office cannot operate at that level. If that is not

corrected by June 30th next year, the office will decrease in size and be able to do less work. We use general fund money for very specific purposes. LSU pays me for work but the work that I do in your districts and your local governments, investigations that we do into fraud, waste and abuse, actuarial notes dealing with retirement bills – that is all general fund. I cannot charge the agencies for that work so if I do not get additional general fund monies I will just have to reduce what I am doing in those areas. I do not want to wait till spring to start saying I am in a crisis situation.

Chairman Stokes asked if efficiency or procedural audits are paid for by the entity or paid out of the general fund. Mr. Purpera answered efficiency audits are performance audits. They used to be general fund and we did not bill the agencies. About four years ago we started adding those audits in our calculation of the allocation since the law states that I have to do a performance audit on each agency every seven years and then Louisiana Department of Economic Development is so many per year. But we do more than that and most of that is by request from the legislature.

Senator Claitor stated I appreciate the work that you and your staff have done and that I expect you will continue to do. It's been an honor to work with you guys from this position.

Senator Walsworth asked how much have actuarial notes cost over the last four or five years. Mr. Purpera answered we spend a little over \$1.2 million a year on actuarial work. The work happens in a 45-day period right before the session. A bill passed several years ago says I have to have all the actuarial notes done 10 days before the session starts. I hired a firm out of Miami, Florida, they do all the crunching and I have an actuary that works with them and brings it to you during the general session.

Chairman Stokes commented that we probably want to make sure you are adequately funded to do your job because it is a very important one.

### **Other Business**

Mr. Purpera pointed out a newly revised audit law book which has all the laws that changed in the last year included in their folders.

No other business was discussed.

### **Adjournment**

Senator Walsworth offered the motion to adjourn and with no objection, the meeting adjourned at 2:25 p.m.

***Approved by LAAC on: November 21, 2019***

The video recording of this meeting is available in House Broadcast Archives:  
[http://house.louisiana.gov/H\\_Video/VideoArchivePlayer.aspx?v=house/2019/sep/0912\\_19\\_LegislativeAudit](http://house.louisiana.gov/H_Video/VideoArchivePlayer.aspx?v=house/2019/sep/0912_19_LegislativeAudit)