

# LEGISLATIVE AUDIT ADVISORY COUNCIL

## Minutes of Meeting January 25, 2010

A meeting of the Legislative Audit Advisory Council was held on Monday, January 25, 2010, in the St. Charles Club of the Louisiana Superdome in New Orleans, Louisiana.

### CALL TO ORDER AND ROLL CALL

Senator Murray called the meeting to order at 10:00 a.m. A quorum was present with the following members in attendance:

#### **Members Present**

Representative Noble Ellington, Chairman  
Representative Anthony Ligi  
Representative Cedric Richmond  
Representative Neil Abramson  
Senator Nick Gautreaux  
Senator Edwin Murray, Vice Chairman  
Senator Ben Nevers  
Senator John Smith

#### **Members Absent**

Senator Willie Mount  
Representative Charles Kleckley

### ELECTION OF OFFICERS

Senator Murray explained that the committee is a joint committee whereby every two years the chair rotates between the House and Senate, and Representative Ellington had been the chairman for the previous two years. Senator Gautreaux made the motion to elect Senator Murray as chairman and Representative Noble Ellington as the vice chairman, and with no objections, the motion carried.

### APPROVAL OF MINUTES

Copies of the minutes for the meeting of November 4, 2009, were previously emailed to Council members for review. A motion was made by Representative Abramson that the minutes for November 4, 2009, be approved and with no objections, the motion passed.

### JEFFERSON PARISH GOVERNMENT

Senator Murray explained that the Jefferson Parish Government's new interim president Steve Theriot made a request of the auditor's staff for assistance to review contracts of Jefferson Parish. He explained that Mr. Theriot had retired as Legislative Auditor a few months previously and under the statute the First Assistant becomes the Interim Auditor until the Legislature selects a permanent auditor, so Daryl Purpera fills that position and leads the office until the process to select another Auditor is complete.

Mr. Daryl Purpera, Temporary Legislative Auditor, stated there had been a lot of information regarding the contracts and insurance of Jefferson Parish in the media. He said their Compliance Division began working in Jefferson Parish regarding the insurance and other contracts as well as their Recovery Assistance Division working on contracts related to the FEMA work. Mr. Purpera stated that Mr. Theriot met with his staff and asked the auditor's office to do additional work.

Jefferson Parish Interim President Steve Theriot stated that when he left the auditor's office two months ago he expected to go into retirement. However, he appreciated the opportunity to come before the council. He said there was much publicity regarding the federal investigations relative to operations of the Jefferson Parish Government, primarily revolving around contracts and insurance deals. Mr. Theriot said since serving as Interim President for less than two weeks, he has tried to get his arms around the situation. He requested that the auditor's office review all of the contracts that are at the center of the controversy primarily to be sure that the contracts were good contracts, and secondly from the standpoint some of the contracts were used for reimbursement purposes from Katrina, Rita and Gustav and other federal reimbursable programs that are out there. He stated that he hoped to correct them so that in the future they will not have to worry about having disallowed costs on projects that are going for reimbursement which may cause citizens to pay the cost rather than be reimbursed with federal funds. The council had discussed a couple of contracts and he recommended doing away with some in an abundance of precaution and rebidding so that there is no problem as they move forward with potential contracts that might have been illegally done or perceived to be illegally done.

Mr. Theriot said they have taken initiatives to have employees disclose whatever business interests they may have or their immediate families either by ownership, or by receipt of any income from any vendor that is doing business with the parish. He is looking into posting online a list of employees, salaries, job descriptions, parish contracts, budgets and ongoing expenditures - something similar to what the state has done to make operations as transparent as possible going forward.

Mr. Theriot said to his surprise it was uncovered that the parish's internal audit function had been dismissed three to four years previously. Mr. Theriot requested the LLA Advisory Services Division evaluate the accounting function in the parish and find possibly an internal audit function from personnel or be created. He said some of these issues they are confronted with might have been handled on the front end as opposed to the back end. Mr. Theriot said as an example, a federal grant of some \$3.5 million that the parish had received with about \$2.9 million to be for administrative costs, with only \$600,000 going to the end recipient, and he stopped it to review a better way to handle that grant. He stated there are many other instances that they are beginning to uncover. With the help from recommendations from the auditor's office as well as initiatives brought to the council for their input and approval, so the people of Jefferson and the state will know that whatever business activities are going on will be made as transparent as possible. Mr. Theriot stated that three of his councilmen were also available to share more insight since they were there when this was becoming known.

Senator Murray asked Mr. Purpera to tell the council the extent of the requests that Mr. Theriot had made, and how it fits in with the ability of the his office. Mr. Purpera said that all of the work that Mr. Theriot requested would be work ordinarily done, and they had made the decision previous to his request that they would review the contracts. The issue related to the FEMA contracts and whether or not all of the federal regulations were being met is done on an ordinary basis with the Recovery Assistance Division, through their work with the Governor's Office of Homeland Security.

Senator Murray asked if any members of the Jefferson Parish Council wished to add anything. Chris Roberts, of Jefferson Parish Council District 1, said he just wanted to reiterate when President Theriot said with relation to their request of the state and also the Legislative Auditor's office. Mr. Roberts said that many of his colleagues would agree that some of the most recent revelations have been quite disturbing and they would like for the auditor's office to have unfettered access to all of the contracts, documents, anything that they would need to further review various business operations in Jefferson Parish. He said he wanted to reaffirm their commitment that they openly welcome their input and inquiries, and are hopeful to learn from this, and make sure that safeguards are put place in the future to prevent similar circumstances from happening again.

Representative Ligi told Mr. Theriot that he was not able to attend his last Audit Advisory Council meeting as the serving Legislative Auditor, so he did not get the chance to publicly thank him for all the hard work done for the state for the past five plus years. Representative Ligi thanked him for taking on a pretty tough job over the next eight months, and as Senator Smith said jumping from the frying pan into the fire was a pretty good description. He said that the people of Jefferson Parish are pretty upset and rightfully so based on the revelations of events that took place over the past several years. He stated his opinion that Mr. Theriot was the right guy to start the process rolling to get citizen confidence restored, and that he was taking a good step right out of the box. Representative Ligi welcomed Mr. Purpera to Jefferson Parish, and told him that they will be counting on him to do a real thorough job and was sure that he would.

Representative Ligi asked what else would Mr. Theriot be looking at besides FEMA related contracts. Mr. Theriot stated all of the contracts and that they will provide the compliance auditors unfettered access to everything. He said specifically whatever contracts they have in place that were dealing with reimbursable event from FEMA relative to GOHSEP that not only that state as the guarantor is responsible for, but also the Parish of Jefferson is important because those things do not normally happen when they start bringing them up to get reimbursed. Representative Ligi said so basically will be a no holds barred comprehensive audit. He asked Councilman Roberts if he had any recollection of the internal audit position.

Mr. Roberts said he did not and assumed that was a decision made by the parish administration without council input. He stated that their intention by following the Legislative Auditor's advice and using Mr. Theriot's expertise was to put internal controls back in place. Mr. Roberts stated that even though the internal auditor duties were relieved three years ago, the parish has still been in compliance with their required annual audits and that their recent audit by external auditors actually received recognition and praise for being in compliance. He said that the internal audit control is to prevent some of the policy issues that have been violated from happening because that is something which would not fall under the purview of the external auditor. Representative Ligi asked who did the external audits. Mr. Theriot stated Reebo to be the lead auditor, and two other firms that participated as a joint venture. Mr. Robert said he believed Wilson- LaGraize, and Vincent .

Senator Murray said that the auditor's office, especially since Mr. Theriot became the auditor, has tried to be proactive with helping local governments to make sure they avoid these mine fields. He said that the auditor's office stands ready to help find out what is going on today, and also make sure it does not happen again, just as they have been very helpful with local governments around the state.

Representative Ligi moved to approve the request from Jefferson Parish President for the Legislative Auditor to go in and review the contracts of Jefferson Parish, and with no objections the motion passed. Senator Murray said he would like to suggest to Mr. Purpera so people will know, and want things to proceed in the open, to give the council a timetable and to put this back on the agenda, to report back what he can publicly. Mr. Theriot said he appreciated being allowed to come and for allowing the auditor's office to assist in hopefully rebuilding back the confidence of the people of Jefferson Parish, as well as to provide those vital services that are continually looked for by the citizens.

## RECOVERY SCHOOL DISTRICT

Mr. Purpera informed the council that the auditor's office had performed an audit of the Recovery School District to look at the internal controls, compliance with federal programs and regulations, as well as to look at compliance with laws and regulations that affect the entity and the financial statements and the comprehensive annual financial report. This report includes seven findings that are primarily concerning the internal controls and compliance with federal programs. He stated the auditor's office would like to acknowledge that the RSD started in a disaster environment, and RSD as a newly formed entity had to hit the ground running. In addition, the RSD is functioning in a state agency environment but it is functioning much like a local school district, so sometimes they are placed into a situation of following some regulations that a school district would not have to face.

Mr. Paul Pendas, Director of Financial Audit for the Legislative Audit, said last year there were eight findings within the Department of Education and all eight were related to RSD. He pointed out that one of those findings were resolved, two were combined and therefore the rest were repeat findings. Mr. Pendas discussed the first finding regarding lack of payroll support documentation and over payments and how RSD went to positive pay to try to remedy this issue. He said the next finding was inadequate internal control over relocation and retention incentive payments. He stated that RSD may not be required by the federal program to get the money back from a teacher who does not complete the required three year of work, but the state will have to pay the feds back.

Mr. Pendas continued that the next finding was noncompliance with federal and state equipment management regulations. He explained the RSD's problems with tagging and tracking property as a state agency rather than a school board. The next finding was noncompliance with circular A87 payroll certification regulations and the lack of necessary accurate documentation. He said the next finding was inaccurate annual fiscal report, and explained where RSD had not reported certain things in their annual fiscal report as well as reported several things incorrectly, such as netting out between receivables and payables, which is not done in accounting. Mr. Pendas said also they misclassified interagency receipts which they agreed with. The next finding is inadequate control over coding federal expenditures which he stated is a dilemma for them, admittedly.

Senator Murray asked how many of these relate to the way that RSD is set up as to whether it is a state agency or a local school district. Mr. Pendas said it impacts at least a couple of the findings, maybe three - it impacts the federal equipment and the relocation assistance. He stated they do have some barriers to climb with that dichotomy of being a school board and being a state agency. Senator Murray said he remembered one issue about procurement where they changed the law to allow RSD essentially like a school district some years ago. He stated this is the year that they must decide whether RSD will continue. He asked Mr. Pendas if they were to decide that RSD should continue then should the law be changed to allow them to operate as a local school district, and if RSD should then be able to be in compliance by doing that. Mr. Pendas said he believes it would be appropriate to answer with an accurate answer and that will require some study.

Mr. Pendas said the only other comment he wanted to make was a forensic report that went public today from Postlewaite & Netterville on Langston Hughes where one of their employees stole \$673,000 over a period of time and they have caught the person. Senator Murray said it was in the paper locally about that, and members may not be familiar with that. Mr. Pendas said that is an RSD charter school.

Senator Murray stated that just one of the audit findings had been taken care of, and the rest are repeat findings. Mr. Pendas said we believe the finding last year on school activity funds was substantially resolved, and all but one of the other findings was repeated. Senator Nevers asked if RSD were aware of the findings and did nothing to correct them. Mr. Pendas said he believes based on what they saw, each of the findings is improving, but they are not resolved. Senator Nevers asked why do we have these audits if they will not resolve the problems.

Mr. Pendas said one of the problems with findings that they hear from agencies is that they work on the finding over a period of time and report at a point in time, which is into the next fiscal year, which sometimes causes a repeat finding by the nature of the timing of our audit. But when it is over three years, you would think that there would be correction, and several of these were more than one year repeats. Senator Nevers said when elected officials do not perform their duties as required, there is a term called malfeasance in office they can be charged with, are you aware of that. Mr. Pendas said, yes sir. Senator Nevers stated I guess I would have to ask Superintendent Vallas why that would not apply to him.

Senator Murray said before we get there, some other members have questions with regard to the audit. Senator Nevers said we will go on through the audit, and would defer his question. Senator Gautreaux asked the auditors regarding the recouping of payroll or overpayments, if there are journal entries done over time that can be tracked and do you know the total that they are trying to recoup. Mr. Pendas said his office found errors in both the overpayments and the recoupments in that report. Senator Gautreaux stated that most of this is just sampling, so if you actually did a full blown audit most of your numbers would actually be a lot larger than what they are. Mr. Pendas said that is correct.

Senator Smith questioned if the issues covered could be reconciled through the accounting process. He asked Mr. Pendas if from 2007– 2009, the audit reflected \$654,000 in overpayments and netted \$575,000, so was the recoupment \$78,000. Mr. Pendas said the \$575,000 is still not recouped, only the \$78,000 is recouped. Senator Smith asked if there are any procedures that might give any hope of recouping the remainder from two years past. Mr. Pendas suggested that the superintendent could address that better but stated he understood the Attorney General could recoup some of the moneys. Senator Smith said it will be very difficult presuming most of those people may have departed the state. Mr. Pendas said that is often the case - they leave, the dates are put in wrong, RSD continues paying them, and then they have to try to get the money back. Senator Smith asked if an accounting procedure can be done to write it off as a bad debt. Mr. Pendas said he believed by state law they cannot write off bad debts, but must keep a record of it and continue to seek recoupment.

Representative Richmond said some of these are repeat findings, which happens several years such as the finding of inadequate control of payroll for the third consecutive year. He stated that it appears to not be a timing problem, but a competence problem. He questioned if using better payroll controls could it be resolved with some effort. Mr. Pendas said RSD's change to positive pay was a good move, but most of their problems were documentation and that is people gathering the right information to not have an overpayment. Representative Richmond wanted to review the audit's test of employee's timesheets. Mr. Pastorek told the chairman he hated to interrupt, but suggested it might be helpful for the committee to hear their response before going into detailed questions because it could help clarify some of this. Senator Murray said if the auditor cannot answer that was fine, but he wanted the members to have a chance to give the auditor some questions on this report, then they would go into his response right after that.

Representative Richmond stated that the Langston Hughes issue was a serious issue and that they had a number of charter schools now. He questioned if RSD, BESE or OPSB had adequate controls over the charters' finances such as checking their financial statements to catch something ahead of time. He also asked how often do they have audits and receives those.

Mr. Purpera said each one of those entities has an annual audit, subject to the same audit requirements as RSD. They are audited by CPA's that are approved by the Legislative Auditor's office, so certainly in those audits they are looking at controls to determine whether those are adequate to produce accurate financial statements to comply with all the same laws and rules that we are talking about here today. What we are finding here, that proper documentation and termination documents do not always make it to where it needs to be at the right time, as a result your accounting system is going to generate additional paychecks and then as Senator Smith said, you have paid individuals money that they were not entitled to and it is very hard to recover those funds after we have done that. The short answer would be to improve the process of getting the right documents to the right people.

Representative Richmond asked if audit extensions for charter schools were being approved and asked if those would also come before the council for approval. Mr. Purpera said yes, it would. Representative Richmond suggested that for any charter school audit extensions, a board member and the CEO of the charter appear before the council, verifying that their financial statements have been received and learn why they need an extension before allowing them the extension. He explained his concern that more Langston Hughes type issues or situations could exist if the boards are not meeting or catching problems in the financials.

Senator Gautreaux asked the auditor based on his experience what normally happens to the department or agency when they have consistent inadequacies, and if there are any penalties. Mr. Purpera said that through the reporting and relationship with the entity, they strive to get the issues corrected and to ensure the public dollars are taken care of. He said that his office is working very closely with Superintendent Pastorek and Superintendent Vallas to incorporate changes into the organization, but the finding for the previous year may not be rectified by the next audit year, but when it gets to three years, it indicates they are just not taking the right steps to correct the problem. Senator Gautreaux asked if they have done an audit on management to see if they are apt or inapt. Mr. Purpera said this is an audit on management per say, because it is an audit on the transactions and the processes. He said the management must continue to take a greater level of persistence at getting these documentation issues corrected. Senator Murray stated that if things do not improve at some other school district it could end up on the list audit extensions where you do not recommend that we are going to proceed anymore and then it is up to this council to decide if they should get additional time to clear up mistakes, make improvements, whatever the case might be.

Mr. Purpera said regarding charter schools, in the past this council has given the legislative auditor the authority to grant an extension for the first 90 days. He explained that the audit is required to be submitted to the auditor six months after year end, and if my office is working very closely with the CPA and closely with the entity, and we see progress being made and we see the intent to comply with the law, then we will grant that extension. Thereafter, if there is another extension needed, then that comes to this council and you have required in the past that they all come before you to ask for those extensions. Now if you recall at the last meeting because of the frequency of meetings we gave the chairman and the vice chairman the authority to grant an administrative approval of any extensions beyond 90 days, so that addresses the extensions. As far as considering an entity to not be in compliance with the law because they have not corrected a finding, that has not been the way we have interpreted the law, as long as an entity is receiving an audit regardless of what the findings are in that audit, we have always interpreted that to be meeting the statute of law and therefore would not go on the noncompliance list that you are talking about.

Senator Nevers stated that a few years back several current council members dealt with the issue of people receiving checks that did not even show up to pick them up. He commented that now we are still mailing checks to employees who have been terminated. Senator Nevers said he is expecting this committee to put a stop to what is going on with this RSD school district today, and stated that this is embarrassing to the whole state of Louisiana.

Senator Murray said he agreed and said that a few years ago he held a similar position and they met in New Orleans to allow citizens to attend and make statements on these things. He said there were many issues about the local administration at the time, including paying people that did not exist. This is the reason the council is here today to hear this audit, which RSD will give a response then we will open it back up to questions from the council members. Senator Murray said that as long as he is a member and the chair of this council, they are going to make sure some things happen.

Mr. Pastorek said he thought it is unfortunate to rush to judgment before hearing all sides, and he really would appreciate the consideration of the committee in that respect. He stated this is actually a document that was just released publicly today so the governor has not even had a chance to look at this document, which is very unusual actually for this committee to have a meeting on the same day. Senator Gautreaux said but the findings have been over a three year period, with all due respect. Superintendent Pastorek said he would respond to each one of these points. Senator Murray said so that you will know and the public will know this audit has been pending for several months and we asked to have this thing completed a few months ago. The information that was given to the members of this council is that RSD wanted more time to respond, so the auditor's office extended the period of time to be able to get a response from the RSD.

Superintendent Pastorek commented that it is unusual to release the audit on the same day as a committee hearing. He said that he got this audit himself the middle of last week and had an opportunity to meet with the auditors to review it. Senator Murray said he spoke to Mr. Purpera regarding this issue and his office said they were instructed by the RSD to talk to Mr. Vallas about this audit and at some point that changed to where you wanted to be consulted. Mr. Purpera directed their attention to the responses in the back of report where their response was dated back as far as November 30<sup>th</sup>, so his office did provide an adequate time for response to this report, in which they had been asking for responses all throughout the audit. Mr. Pastorek said he was not suggesting that, only simply stating a fact.

Mr. Pastorek said the issue of overpayment occurred before he and Mr. Vallas took positions to lead the Recovery School District, and the reason that it occurred was because the Recovery School District was using a negative time entry system which the Department of Education used. It is a terrible system to use for a school system, so in the first year of operation of the Recovery School District there were numerous over payments, and the problem was significant and severe. He said they were not aware of this problem when he first took over in May 2007, and Mr. Vallas actually took over July 1, 2007. When the auditors found the problem well into the first year of their involvement regarding the audit in October 2008, they agreed the answer was to put in a new positive entry time keeping system where paperwork must be filed in order to get paid.

Mr. Pastorek continued that the auditors had determined around \$91,000 in overpayments for the period that they were talking about and it is because they were in the process of training and developing the capacity of the people in our system to be able to follow these new procedures. Superintendent Pastorek pointed out that originally the finding was due to the negative entry system, but the nature of the finding is different as it is now about training our people and the magnitude of the problem is significantly reduced.

Senator Murray asked if the negative entry system had been changed department wide or just for the RSD. Superintendent Pastorek said it had only been changed for the RSD because it was not really a significant risk in the department, but when you have 70 schools out all over the district and having to monitor people coming and going in a very high state of flux it is a different situation. Senator Murray stated that this is one of those issues that will relate to the RSD operating as an independent school district as opposed to the state agency. Superintendent Pastorek said this is one of those issues

where the RSD is being impacted on by the audit findings as a result of being a school board / school system like activity and yet being a state agency.

Mr. Paul Vallas, Superintendent of the Recovery School District, said prior to the creation of the school district, there was some published numbers of overpayments approaching \$3 million in one of the newspapers stories that actually did an analysis on what had not yet been recovered. When he had first started, the initial audits identified overpayments RSD first year inherited as high as \$1.2 million, and since changing to positive time entry there has been a significant reduction. My staff has put the unpaid obligation since the introduction of positive time entry at \$67,000, that is a significant improvement. Mr. Vallas explained that they allow principals the autonomy to hire and make decisions, so the issue is in timely documentation and paperwork processing. He stated that sometimes salaries are immediately cut off but their benefits are not necessarily cut off, and there has been a number of occasions when we downsized and allowed people to keep their benefits for another two weeks, so all of those types of things will fall into this whole thing of individuals getting paid beyond their termination date. Because you have to remember we have hired well over 1,000 people in the last three years, and we have probably terminated also a large proportion so there is constantly individuals falling in and out of the 70 schools. He stated that they have made significant progress in reducing not only past liabilities but also in limiting the number of new liabilities occurring, and the progress has been impressive. Now that does not mean that we want to continue to have findings, but again we are functioning as a school district with 70 different entities.

Senator Murray told Mr. Vallas he should take this as an opportunity to provide some suggestions to try to resolve this. This upcoming session will be important in the Recovery School District issue. Senator Murray stated that he voted against forming RSD because he did not think a real plan was in place. He noted things had gotten better, and apparently there are still some issues out there and they just needed to take this time to try to figure out how to make this a much better system or systems.

Superintendent Vallas said he agreed and wanted to be forward looking. He stated that he found no fault in anything the auditors did because the auditors are following the guidelines to evaluate them. They took recommendations seriously, and work to eliminate the problem, and already had a positive impact in controlling costs. Senator Murray said pre-Katrina this same council held meetings here because that administration that was in existence had lots of issues. The council stood strong to try to make some corrections and suggested that Senator Murray take these comments to be constructive in nature to try to help improve this situation.

Superintendent Pastorek said he would like to make this point - the order of magnitude of issues on pre-Katrina OPSB is absolutely significantly higher than what we are talking about here- it does not compare. You know we had almost \$100 million issue around federal funds in pre-Katrina, we had a whole host of issues so I do not think it is fair at all to make that comparison. The issue here is the way the Recovery School District was set up at the outset, it was set up in an emergency circumstance – it was done very hastily when it was originally constructed and very candidly we are cleaning up a lot of the problems that were created by that very hastily constructed piece. And I think we are making it much better, and I think it has much greater integrity than at the beginning, and I am very proud of the work that we have done because not only have we had to take a system that was very hastily set up and a lot of problems with it right out of the box, but we are now fixing that and even more importantly we are educating children at levels which far exceed the levels of low achieving schools in our state. So we are doing two things at the same time, we are improving the financial circumstances and we are improving the academics in ways that we have not seen in the history of Louisiana

Superintendent Pastorek said now on the HEAP program, we have worked very closely with the federal government – these are federal funds and this was also an issue that was created before we came on board. This is a program to give bonuses to people who would come to work in our system because it was very hard to attract people to work for our system, and the real challenge here was documentation that was needed to be received from individuals who would assure us that they would stay for two years.

Senator Murray asked to be clear, you said before the two of actually came on board RSD, this problem that was inherited from the former RSD leadership, is that what you mean when you say that. Mr. Pastorek said this is an arrangement that was created before we actually took place, we did come on board in order to implement this. Senator Murray said when you say we, this is something you inherited when you became the superintendent of education. Mr. Pastorek said yes, this process of trying to bring on teachers who would be paid bonuses in order to come here. Senator Murray asked so this is something you inherited from the prior superintendent and the prior RSD superintendent. Mr. Pastorek said yes, and so what I want to say is then subsequently the federal government gave us funds through HEAP and we were trying to marry that funds with some of the prior actions that were taken where commitments were made but documentation was not supplied. So I think the important thing I want to say here is that we have worked with the federal government, because they have raised this issue with us and we have now worked this issue out to their satisfaction, and I do not think that this will be one which you will see it back again because it has now been resolved.



Mr. Paul Vallas, Superintendent for Recovery School District stated that he has the ultimate management responsibility and will be the one that will take the heat for this. We created an incentive program a half year before HEAP was even enacted. That incentive program, which incidentally I inherited and I am not suggesting was not a sound incentive program, but we had literally 500-600 teachers that we hired in 90 days as we were opening up two dozen schools and believe me there was a question whether or not we were even going to be able to staff. That program was going to be funded through an MFP, the HEAP program is enacted 6 months later and we say, let's try to secure HEAP funding to cover that program. Well the HEAP pools are a little different than the incentive rules set down by the initial program. Now, despite that we have secured \$7 million in HEAP money, that is \$7 million less in MFP that we are paying on incentives to bring the teachers into the system, so there are going to be some informational issues because yes, the incentive program was not created after the HEAP program was enacted. This was us trying to align, like we have tried to do on Medicaid, trying to get more permission to bill more for Medicaid so we can take advantage of the millions of dollars that are out there, that is us trying to fit an MFP funded program under a new federal program and that has been enacted after the fact. Now the reason the federal government when they went in and secured, or allowed us to take \$7 million was not because our program was perfectly aligned with HEAP, but because the spirit of the program, the spirit of our incentive program reflected the spirit of the HEAP program. So they have been neutral on this whole issue of payback, they said yes, it is not in alliance, but no, we are not going to ask you to pay us back. But the bottom line of this is this is us taking advantage of the federal program after the fact and securing \$7 million in federal money saving us \$7 million in MFP. So when I look at this, I view this as much more of a positive than a negative.

Bob Fulton, recently appointed Chief Financial Officer of the Recovery School District, stated that this particular issue of HEAP, the incentive program was developed and the incentive were paid over a two year period, however, you will that these individual employees were asked to sign a three year commitment. What the biggest reconciliation issue here was that after receiving all of these incentives for over a two year period, these people were to have worked for three years, but a lot of them left the RSD to go work at charters and other schools here in the state of Louisiana. So while we were not losing these teachers, it became a reconciliation issue between this relocation incentive package and the HEAP requirements of the three year commitments, so after about two years somebody would leave and then they were no longer eligible for HEAP, but they had received all of their HEAP money, and a lot of it was for relocation and for rent and housing rentals and very difficult to go back to these people who had spent this money for relocation and housing.

Representative Richmond asked Mr. Fulton regarding his January 13<sup>th</sup> letter where he mentioned about the seven employees who received HEAP funding. You have in there that the RSD cannot force employees to abide by the three year commitment, and that you all are not required to recoup the funds. He asked if the money is given to relocate and with the understanding they would stay here for three years, we paid them the incentive over two years, so after they receive the incentive, there is no requirement that they finish the program and if they do not finish their commitment, no one has a responsibility to get that money back.

Mr. Pastorek said so that we can be clear, most of the incentive money was to get them to come here, so it paid transportation, relocation cost, and it was to pay some bonus money for the time that they served. The amount of money that would relate to them not staying is not relatively small by comparison, the point I want to make is this, many of these folks are working elsewhere in the city or the metropolitan area, that is why when we talk to the federal government about it, their response was that the purposes had been served largely for the \$7 million that we had put into effect. We still would have no real way of recouping the money, even if they had signed an agreement, it was really a documentation issue as I understand it, that we did not have a document from them saying that they would go through this problem, but you still have the recoupment issue no matter what

Mr. Vallas said we would have been requiring that they do this after the fact, remember the program was created, which we inherited and it did not have all the documentation, all this mandated guarantee three year requirement, that is part of the HEAP program. The program gets enacted, we filled teacher vacancies, we actually generate surpluses. Within two year some of those teachers actually moved on to the charter system. We cannot count them because the charters are their own individual LEA's (Local Educational Agencies) so technically they do not get counted in our count, but when you consider 38 of our 68 schools are charters, I would submit to you that a lot of these teachers have stayed for third, or fourth or fifth year. HEAP comes out, we try to maximize our federal reimbursements under HEAP, we get most of the money approved, and a small amount of the money denied. HEAP basically though takes the position that there are going to be kind of agnostic on the whole payback requirement because we implemented the program within the spirit of HEAP, so we score one, we save \$7 million of MFP money, we get more teachers than we need, we are able to staff our schools effectively, and reduce our need to use MFP money to incent teachers to come. What I have designed, the original program definitely, absolutely, but hindsight being 20/20, the program was being highly successful, and what was not anticipated when the program was enacted was that there would be a federal program that we be able to secure \$7 million in replacement money for.

Senator Murray asked Mr. Vallas if he has a letter from the Federal Department of Education that says you do not have to pay the money back. Mr. Fulton said due to the various issues that occurred in the beginning there was this CAROI (Cooperative Audit Resolution Oversight Initiative)

agreement that was executed with the federal government which requests us to return \$1.2 million, we are in the process of totally reconciling this and we will be reporting back to the auditors but the initial indications on this reconciliation that we are performing was that there were errors made both by the feds and by the RSD and others and we may not have to owe them \$1.2 million. Senator Murray said once again you still owe the \$1.2 million.

Mr. Pastorek said regarding the movable equipment, this is another one where because we are a state agency, we are operating under different rules than local districts I think the auditor pointed out that. Part of the challenge for us we have so many, we use laptops in a very large way, in fact we have laptops all the way down to first graders in our schools. This movable equipment is some of what the issue was and this movable equipment would fall under the \$5,000 threshold. The point I want to try to make here is that we insure these computers, we insure against theft and loss and damage, and so we have a process which we believe is the process which adequately protects the district from doing this. Other districts have similar approaches, so this is one Mr. Chairman, where we say should we do something differently, and I would ask you to consider doing this.

Senator Murray asked Mr. Pastorek to make a list of those things where you think that would help to treat you differently other than the state agency versus a local school district to be able to make decisions, and forward to our staff so we could have a chance to consider them. Not saying that we will buy off on all, but so we can just have an idea, for discussion purposes going forth.

Mr. Vallas said I appreciate your indulgence in allowing me to respond to these things, but this is an open forum and things are put out and statements are put out, and then you know, it may create the wrong impression that does not exist. Like the HEAP, when we say we have lost \$1.2, we have not lost \$1.2, we gained \$7 million where the incentive program could have cost us \$8-9 million. Senator Murray said Mr. Vallas, I think we really have that point, I just wanted to get to the point to say, I have been on this committee for a very long time and I did not want it to get out here that the auditors had a report that said this money was still at issue if you had a letter saying it was not. They just do not do those kinds of things, and I understand you are working to resolve and it may end up going away.

Mr. Vallas said I am just making the point that we picked up \$7 million that we did not anticipate, you can view it as a \$2.1 million bill, or an \$8.2 million bill. Let me say one thing about property, we have 68 different schools when you include our alternative schools and transition schools. All of our teachers have laptops and we have retrofitted all of our high school laptops that were retired and distributed 3500 to primary grade children, so we have like 1.2 laptops for every child in the district. Because all of these schools are responsible for property accountability, sometimes there is going to be property moving around, there is going to be property that is going to be in possession of a teacher that was not turned in at the end of the year. We take steps to ensure and what I call lo-jack our computers, because there is going to be property that is damaged, and property that is lost, but the bottom line is we are not like one single state agency, we are an agency of 70 schools and all of our charters operate as their own LEA's some someone could say that we are not holding the charters accountable for their own property, but yet state law says charters are their own LEA's.

Senator Murray said let me just say this, Mr. Richmond and I probably are the most familiar with this and have lived with this for the longest period of time and I know that my other colleagues have become very familiar with this and RSD issues that are out there. We would like to do something to try to resolve this stuff because these audits come out, it does not make any of us look good to say there is this money out here that cannot be accounted for. All I want to do is try to get to those things to try to resolve this stuff because the findings need to stop happening - that is just the bottom line.

Mr. Pastorek said on this business of the inaccurate financial fiscal report, this is the product of trying to work out the result of local taxes and whether or not they are to be distributed to the RSD and whether or not there are moneys due back to the Orleans Parish School Board, and we have been in extensive and extended negotiations over the last two years. This issue has been existing for more than just this audit period. This is the first time this audit period has picked this up as an issue, which I am puzzled by because this has been a problem for some time. And I think we all understand exactly what the issue is, the issue is there is an amount of money that is due the Orleans Parish School Board, and there is an amount of money that is due the Recovery School District, and mostly we have been able to determine what the numbers are and we have an agreement on that, but we are down to just a few things at this point. So I am a little perplexed at why this becomes an issue at this particular moment of time, when we pretty much resolved the whole issue, and could be in a position to restate it. I think the good news is that this really does not result in a financial impact one way or another to the RSD.

Mr. Pastorek said the coding issues regarding the Restart money - this is a problem that will be with us for some time, and all the good management in the world is not going to be able to resolve this particular issue. This has to do with how the money was originally spent at the outset of the Recovery School District formation and the way that RSD handled the expenditures of Restart monies. Now we originally coded the monies that were being spent under the RSD at the outset to Restart, which was a federal fund to restart the school systems all over the southern part of Louisiana, but because of the magnitude of the restart effort in New Orleans, a lot of money was used to restart and what has happened we have now had to go back as we have begun to figure out where all these moneys were



spent and recode the money. In fact, we do not want to use restart money for that, it should be a MFP expense, in fact we do not want to use Restart moneys for that, it should be a Title 1 expense, so we have undertaken and really the Department of Education has undertaken a massive effort to reclassify appropriately the different expenditures that were made over the last several years, but the bulk of these expenditures were made in year one. And I think we are now at a point where we are fairly close to finishing that, but it could very well be that we are going to have these coding issues happen over the next couple of years because it is the nature of the magnitude of how this was done at the outset and I think the auditors would agree with that.

Mr. Pastorek said I will go to delinquent payment to vendors. This is a problem that is another product of the way that the Recovery School District was formed. It was not capitalized at the outset and so cash flow is an issue for the RSD, it will continue to be an issue for RSD until we can get similar authorities that other school systems have, for example, short term borrowing is something that schools systems have the ability to do. We do not have that ability and if we had that ability we could make this finding go away. So in summary, Mr. Chairman, many of these findings that we have here are impacted significantly by the fact that we are being governed by state agency rules and we are not given the same flexibility as the local school districts. And the one that I think is really material and important for us to focus on and I will not disagree with anyone on this, is the overpayment issue. But what I will tell you is, we have put in a system to fix that and we are now in the process of training people so we can get it to work in a better fashion, and I think we got the problem well under control and well in hand at this point.

Senator Murray asked Mr. Pastorek if he had passed the information regarding those things that you think could impact by changing the designation from a state agency to a local school district to the Jindal administrator, and have they given you a response in terms of coming forth with legislation for this session to try to correct those. Mr. Pastorek said I have passed it on since the time I took this position to different people in the administration and we have been able to resolve some of these things, but we are working on these as well as now with the administration and we are working on this with legislators, and I would appreciate your support in that process. Senator Murray said to send the council those things that you think we could help. Mr. Pastorek said they are included in my letter, but I will send you a very specific list.

Senator Nevers asked Mr. Vallas who he works for. Mr. Vallas said I work for Mr. Pastorek. Senator Nevers asked so if Superintendent Pastorek did not know about this audit and the findings of it, it would be your responsibility to let him know. Mr. Pastorek clarified that he got a copy of this particular audit on Wednesday and had an opportunity to meet with these individuals. He said we had provided a lot of additional information to the auditors after we made these responses, and I would like to have seen that additional information be a part of this audit. So when I asked to see the auditors, I wanted to see what additional information, how was it responded to. Mr. Pastorek said he met with the auditors about six months ago to talk to them about the status of the audit at that time. Senator Nevers said I just wanted to be sure that all of us understand that you did know, and there are responses to the audit findings in the back of the report, so it is not some surprise that has been brought to the public. Mr. Pastorek said it is not a surprise - what is unusual, Senator, is that these audit reports are usually issued in advance of the audit committee hearings- now I understand and I was not aware of the scheduling issues here, but the only point I am trying to make is that I would have responded to you earlier as the ultimate person responsible for the RSD about these findings.

Senator Nevers said I just received this report myself prior to this meeting. Senator Murray said let me just go back once again, and I do not want to beat this up a lot, but you recall this issue of the RSD audit was on our agenda a couple of months ago. We did not proceed with it, because we were told by the auditor that the RSD wanted additional time to respond, and some members objected, that is correct, and we did not take it up on the agenda for a couple of months since that time.

Senator Nevers said if you remember that I made the request that we hold the meeting in New Orleans in the fall of last year. Senator Nevers asked Superintendent Vallas if Mr. Fulton worked for him. Mr. Vallas said yes, he does. Senator Nevers said Mr. Vallas if I had a CFO that gave people incentives to come and work for me, and paid them bonuses to work for me for three years and failed to sign a contract with them, he would no longer be my CFO, so I am telling you that we have operated based upon - if you will come to Louisiana, we will give you all these things, but you do not have to worry about staying three years, and we are not going to do anything to recoup the money is what you are saying in this letter and your response. We have not made any effort to recoup the money when they did not stay three years.

Mr. Vallas said let me explain that this program was not enacted by us but established prior to our arrival, so whatever agreements were made, were made prior to our arrival. What we then did was we then sought federal funding for that program and we were successful in securing about 90% of our costs through the federal government, and I believe this issue will be resolved and we will not face any liability, but let's assume the federal government wanted to recoup that money. This program which - well, they cannot but - this program which would originally cost us \$8-9 million, would have ended up costing us \$1.2 million dollars, so it is beyond my comprehension to figure out what went wrong with that program.

Mr. Pastorek said that these individuals who we hired and paid them to come down here did not commit to three years - it was a different arrangement with the prior administration. Now what we said was we were trying to marry this new program which had different requirements on it, and tried to marry that, but it did not line up well, that is what Mr. Vallas has said. So we really are not in a position to go back and recoup money from these people, we may have to pay back the federal government some money because at the end of the day, that is what they wanted, and those people did not stay for that period of time, but that actually is a benefit to us, because if we would not have used the HEAP money in the first place, we would have been out of pocket \$7.2 million, but now the worst case scenario is we may be out of pocket \$1.2 million but that is a benefit to us. So really is due to the creativity of the RSD in being able to use this money in this way that we are able to make money go farther. Just as far as the CFO is concerned, Mr. Fulton arrived in September, so neither he nor I was here when this original program was developed.

Senator Nevers said it is not meant to be personal against Mr. Fulton, it has to do with whoever you hired as the CFO and I think good business practices of anyone that we expect to stay in a system for three years, there should be a piece of paper saying that they agreed to that. Mr. Pastorek said I would agree with that if that was the agreement, but that was not the agreement with these people. Senator Nevers said it seems as though that was the way the money was disbursed, I mean, we have the audit finding and it talks about that. Mr. Pastorek said it is because the federal program was different than the program we were using that had been created before us and we were trying to marry the program which did not fit perfectly together. And that is why at the end of the day, but what is even more important, Senator Nevers, is that many of these people that no longer work technically for the RSD, work in the charter schools. So we really have the benefit of this all the way around.

Ms. Louella Givens stated she was the BESE (Board of Elementary and Secondary Education) representative for the 2<sup>nd</sup> BESE District, as such representing over 90% of New Orleans and about 20% of Jefferson Parish. I am really glad that you are finally here. As you know gentlemen, I was here during our pre-Katrina sessions when the Orleans Parish School Board was the focus of your examinations. We did not necessarily agree, and we may not necessarily agree now, but one thing I am concerned about is assuring the people of Orleans Parish that our money is going where we want it to go, and that is to the education of our children. The gentlemen are correct in that they both came into office after some of these agreements were made, however, I was the BESE representative then and I am very glad to hear Superintendent Pastorek tell you that the initial arrangement was not funded through HEAP but I thought to be done with Restart money. There was a lot of discussion at the time that Orleans Parish and RSD would be - not the Orleans Parish School Board but the RSD would be able to raid surrounding parishes because it was offering an incentive for people to come into Orleans and teach, and there was not a three year agreement in place. Some of these people were being recruited from out of state and they were guaranteed moving expenses, rent expenses and also a stipend for the first year that they were here. So I thought I was in the twilight zone listening to people being asked to give back money when that was not the term of their agreement, so I do not know if I can settle this argument other than to say there was no CFO that first year, and that this was brought to BESE by Superintendent Pickard and Robin Jarvis, who was the first RSD superintendent, and they thought this would help them get these schools standing up first. The rest of this is kind of alien to me because I do not know about the HEAP reimbursement plan. I know that we have been told that the Restart dollars that were spent and that all schools concerned, the Orleans Parish School Board, and the charters have received their share of restart funds. So I do not know at which point the decision was made to go after this HEAP money and I do know that the people who signed contracts the first year, did not sign to work three years.

Senator Never said that is very helpful and one of my major concerns is if we do have to refund the \$1.2 million, where will it come from. If it comes out of the Department of Education then that effects every school district in this state. Mr. Pastorek said it does not, this is an RSD obligation, in other words the people who were brought in and were paid an amount of money to incent them to come here would have been paid initially by the MFP, or by Restart, but if it would have been Restart it would have been reimbursed by MFP.

Senator Nevers asked who wrote the check for the \$1.2 million. Mr. Pastorek said the RSD. Senator Nevers asked if the money came from state dollars. Mr. Pastorek said from the MFP, so in other words, the point is that what we were trying to do is have an incentive program to bring in 100's of teachers after the storm, which was almost impossible to do, and we were looking for funds to do it, but initially the funds would have either come from Restart or from MFP. Now even if coming from Restart they would have ultimately offset MFP, so at the end of the day, what we did was we found a third source of funds, and to the extent that those funds can be used, it makes the impact on MFP less, but to the extent they can not be used, then we have to pick it up with MFP. So there is actually nothing, no negative in the federal government saying you cannot use all of HEAP for this purpose because these people did not sign a contract, the negative is that we have to, it would have been not using HEAP in the first place for this, and not using it at all, we would have not been able to use any of the money. It turns out we are able to use a lot of these monies and take the burden off the MFP. It is actually a victory for us, it is a complete victory for the kids in New Orleans to be able to get this money and it is not a loss for anybody at the end of the day, it is a complete victory.

Senator Nevers said I am not good with spin doctors, Mr. Pastorek, but sounds like you put a different spin on it, than what the legislative auditor did, that is not what he is talking about, he says we probably have to pay back \$1.2 million. Mr. Pastorek said well he does not see it through the operational eyes, he is looking at it from the technical issues around whether or not there was a contract, and again I would point out that these contracts did not exist because the predecessors did not put them in place. This issue is going to go away, however, that is the good news, it is not going to be an issue going forward.

Senator Nevers said I am very thankful to the legislative auditor for their office bringing many of these things to light. He asked the Superintendent of Education if he would consider giving the RSD school district one year to correct these deficiencies, and if they have not make whatever changes are necessary to see that they are addressed and taken care of.

Mr. Pastorek said I agree with you, we should correct them as promptly as possible and many of these are being corrected as we speak, but I am going to say this again, that some of these cannot be corrected over the long haul unless some changes are made. Some of these are not going to be able to be done, but the ones that are really important to me in terms of whether or not kids lose money around this overpayment issue. This is one that have been very aggressive on moving on, and I can assure you, Mr. Chairman that we are going to resolve this issue to everyone's satisfaction in the coming year.

Senator Murray told Mr. Pastorek that when he said that bringing these couple hundred teachers in was very difficult to do, and just only because I remember being at the table and having passed the bill to say that we should give a preference to the teachers that taught in the school system before Katrina. There was, and it was not you, because you were not in the spot where you are today, but there was an obvious movement to not hire the teachers who were here pre-Katrina. We could have done this a lot without having to do this, that people were willing to come back to work, they just were not welcomed back.

Ms. Givens said Mr. Murray, I would like to say that you and I were both at that table and you are absolutely right, there was an intense desire not to rehire teachers, and the legislature, if you remember, froze the New Orleans MFP so there was no MFP money, and Restart had to be used eventually. To begin, I believe, the RSD had to borrow money to get these teachers hired, but still with no disposition to returning people who lived here to their jobs and that is how this whole kettle of worms began.

Representative Ellington said just a statement I think, and Paul one of the of the things, I think good management should act instead of reacting and it seems like sometimes we have to react to the legislative auditor and the findings that they have rather than picking up on these things through our own management and being able to take care of those things. And one of those things that concern me is the delinquent payment to vendors and this is the second year, and I heard you say that cash flow was a problem. But from that vendor's standpoint, he is going to have a cash flow problem if we are paying him 120 days or whatever late. And you made the statement that in several of these instances that they could not be corrected if something was not done. My question to you is what needs to be done, is that something we can do, is that something that be corrected, so that we can pay our vendors on time and do some of these other things that you made the statement "something has to be done" - what has to be done.

Mr. Pastorek said we have been working very hard to be proactive and not reactive and we know about these problems long before the legislative auditor. At the very outset, I will tell you though that when Paul and I first came on board in May 2007, we did not know about some of these problems, and they were pointed out to us by the legislative auditor, but I will tell you and I will assure you that we have been pushing very hard to correct it, that is why we changed from the negative pay time entry to the positive time entry and I think we are going to continue to be proactive. On the issue of the 90 days, what we worked out last year was - the big 90 day problem was exacerbated by the fact that we are under way with a capitol problem, one of the things that people do not understand because we got to communicate well is in addition to running 70 schools that are very autonomous schools, particularly a lot of charter schools. We are underway with about \$300 million in construction of new schools in the city and this construction exacerbates our problem to be successful, so let me just share this with you, we have to use sometimes operating funds to be able to float construction because FEMA is not paying us as quickly as we need to get paid, but we must move forward with construction because if we do not, it will not be classrooms for kids and we have had lawsuits filed against us because we do not have adequate space for kids, so we are in this extreme pressure cooker. On the one hand, providing seats for kids, filling classrooms, having to recover money from FEMA, we do not always get it as quickly as we need, and have to float money with operating expenses, which cost us really dearly in being able to pay people on time. Now we were able to correct that problem last year by coming up and we did ask for some relief and it was not because of the auditors, we asked for relief with the GOHSEP and LRA and we got actually some legislative relief from the Federal government which allowed us to cash flow better our capital programs. Now we have operating expense problems that are still challenging us, so actually we are working with the Orleans Parish school Board because they had the ability to float short term loans and we do not have that legal ability. We actually went to them many months ago to try to

solve this problem because the legislature was not in session and we were not able to go get some legislation which would allow us to do this.

Mr. Pastorek continued saying unfortunately that effort broke down and we are not able to borrow through the mechanism that the OPSB has, so now what I have had to do is say to the Governor and his staff and to Senator Murray when we have talked about this, I will need some kind of legislation in the upcoming session to be able to allow us to do what other schools boards do, so I was hoping to be able to resolve this, and again I am trying to make it absolutely clear we do not want to be reactive. I do not want vendors to be waiting on receipts of money- that is the last thing in the world we need. We have been religious about paying people but I do not like the fact that we are in this cash flow situation and we are going to work to try to come up with these alternatives.

Representative Ellington said so you are saying that you need legislation to allow you to be able to borrow short term money. Mr. Pastorek said all districts have cash flow issues, but they can do short term borrowing, we cannot, we are a state agency – we cannot lease, we cannot do short term borrowing. So as a result – we literally operate from MFP but from FEMA reimbursement to FEMA reimbursement, so we have a choice. We either do not stock our classrooms or for that matter, we do not begin renovating the schools, and wait until we actually get the money allocated to us, or we use other funds to do that, so as a result our operating budget which started with no fund reserve, which started with no cash on hand, which started with a loan that operating budget obviously not only needs to finance our operations, but also needs to finance any fiscal improvements we are making to the schools or even contents that we are putting into the schools. So this whole issue about coding as well as the issue about the 90 day payments, the auditors are exactly right, we have coding obstacles and there are certain vendors, usually the larger vendors that are not being paid within the 90 days, and we tell them if you are going to do business with us, you are going to have to wait for payment because we have never missed a payroll, we have been able to fully equip our schools, our schools operate on an 11 month school year, and 8 ½ hour school day. But we will continue to have the coding problems as we have to spend money on hand and wait for the actually money to come in because you know, that is the way we can recode is at the end of the project. We will continue to have those issues and we will continue to have 90 day delinquency issues because there are some vendors that are going to have to wait because we cannot do short term borrowing during this lull period where the money is not coming in, and were our payments spike.

Representative Ellington said something needs to be done, asking if the answer to that question is we need to pass legislation to allow you to borrow short term money, and once we do that then your problem will go away. And to me that should have been part of your answer in your response to the Legislative Auditor, that was the way it was going to be fixed rather than we are going to continue to have this problem. We should not have to continue and most of the businesses that I am involved with, when you have finding, you have to figure out a way to solve those findings, and if you need our help, from a legislative standpoint, that is what we are there for. We want you to be successful in what you are doing, and we want to help if you need us, but do not keep saying it is going to continue to be this way, let's find a way to fix it.

Mr. Pastorek said, Mr. Ellington, I appreciate that and on this particular issue I do not think we are going to continue having this finding provided we are able to get some relief. The one that I will say that we are going to continue having problems on it, is this coding issue. But I do not think that this is ultimately material in terms, and the auditors can tell us, but I do not think it really undermines the integrity of the organization, we are going to get it resolved and it is going to take some time, but I just want to be very candid with you about that one. But about the 90 day issue, I think if we can get this legislation, I think it will solve our problem.

Representative Ellington said one more thing, and just so I think everyone in the general public will know, but how much MFP money is being spent in the Recovery School District per student versus per student throughout the rest of the state. Mr. Pastorek said we get the same MFP distribution that everyone else gets based on the same formula, so you know, we get a similar MFP distribution, frankly, as the Orleans Parish does. Representative Ellington said everybody gets the same, so the same amount of money is being spent in Franklin Parish on students that are being spent in the Recovery School District and Orleans Parish. Mr. Pastorek said no, the MFP is actually distributed by the relative wealth of kids in the district, so some children and some districts get more money than other districts, so in Franklin Parish get a lot more than they do in Orleans, and the kids in Orleans get more.....the kids in Jefferson get a lot less than the kids in Orleans. So it depends on the relative wealth of those kids with respect to the MFP. Representative Ellington asked so no more money is being spent on the Recovery School District than being spent on any other school district in the state, based on that formula. Mr. Pastorek said based on the formula, it is based on the distribution and every district is a different amount. Senator Murray said let me try to help real quick, there is a base amount of MFP, and there is some weighted factors that can increase the amount that does per pupil, so they use the same formula, but is not the exact same amount spent in every school district. Representative Ellington said that is about the only part of the MFP that I do understand.

Mr. Pastorek said the only additional funding we get beyond the formula funding, the only additional funding is the state still picks up the insurance costs, in part because there are 50 closed buildings that we are not getting MFP for. And the question is about FEMA federally reimbursed, and

there are some reimbursable issues in that that are trying to be resolved, but the only other funding that we get for the RSD statewide is the, and it has been cut in half, is the 4.2 million in funding that we got for after school extended day programs – that has been cut in half. Mr. Pastorek explained that next year that will probably be gone because obviously all state entities have directed that there be reductions and that may not be there - it may be displaced by something else. So other than that, we are funded by the same formulas that everybody is funded in, but let me amend it by saying in contrast though, the Recovery School District, in fact the Orleans Parish Schools in general, have received very little if any stimulus money because the \$200 million in stimulus money that was allocated to schools in Louisiana used the '07 census data and that was when very few if any kids were in the district, so where some districts were getting \$300 more per pupil, we are getting maybe \$25 more per pupil. So that more than offsets any supplemental appropriation that has been allocated, but that is it. Some are only funded through the formulas with the exception of that after school grant that has already been cut in half, and that is to fund RSD activities statewide, not just in New Orleans. So there is this perception that we are getting a windfall from the state, when we are not, and I am not criticizing, this is not meant to be a point of criticism, I just want to say that with the exception of that supplemental after school program, that is the additional money we are getting and when you consider that did not get hardly any stimulus money through the stimulus plan because of the census data used at the federal level, you can see that more than offsets any additional money from the state, I just wanted to point that out.

Representative Ellington said I want you to know that I was not criticizing any other additional money that we might have got from the state, I recognize the problem and what we have been fighting with Katrina and what happened with the Orleans Parish School System, so I am not finding fault with that, I was just simply asking the question to try to see if we were in fact funding this at a greater level than we were some of the others, and if we are not, we might ought to be, that is all I was trying to say. Mr. Pastorek said I think it is simply safe to say that under the MFP we get no special consideration one way or the other. I think we should, but that is another discussion for another day.

Senator Gautreaux said in the report concerning the delinquent payment to vendors, it says for the second consecutive year RSD failed to pay vendors within 90 days of the invoice. A comment made by you, Superintendent and I quoted it just to make sure because I know when Senator Nevers was talking to you, you had said that was not exactly what you said, but I did quote you right here – “long before we have been knowing about these problems” – so my question to you is once again, and I think Senator Ellington just said it, tell us what you need and you did tell him what we need, but why hasn't it come forth before, and it may not be you, maybe you told the Governor's office this needs to be changed, I am not sure who you told, but to me if you had knowledge of it, then we could have fixed this a long time and you would not have this finding is what I am getting at.

Mr. Pastorek said that is a fair question, and Senator, we believed that the problem was originally due to the FEMA timing issue, in other words, the reason why we were having difficulties was because we were having the backfill back to the FEMA issue. Senator Gautreaux said I am glad that you brought that FEMA issue up, because I do have that on my list, so we are going to get to that right now while you are talking about it. He asked if he would say that a lot of these problems we have throughout these audits are documentation problems. One thing that I learned about FEMA and this goes back to management, I know you can appoint someone but you cannot micromanage, and I think you have done a maybe a great job in not micromanaging; however, when you have these problems with documentation. I notice with FEMA with our local governments that if you do not documentation, you are not going to get paid.

Mr. Pastorek said actually with FEMA we are doing really well- we are not having documentation issues, we get paid. In the last 6-8 months, we have seen improvements in the whole FEMA cycle that have been stunning, frankly. And that is the point I was trying to make, Senator, we did have a FEMA problem, which was exasperating our operational expenses. We thought once we fixed the FEMA problem, the operational expense issue would ease. We did fix that, we are not having any documentation issues with FEMA, we are getting money on a reasonable basis, and I mean it really has been working phenomenally well, but what has happened, it has now highlighted the problem that we have on an operational basis. That is why we reached out to Orleans Parish and we thought we could resolve it without having to go get legislation, but that did not work.

Senator Gautreaux asked how long it was taking FEMA to pay you prior to doing whatever you did. Mr. Pastorek said it was generally running not more than about 60 days. Senator Gautreaux asked if it has reduced now, by how many days now. Mr. Pastorek said I do not know that we can tell you, but there is a guy in our office who can tell you, we can get that for you. Senator Gautreaux said what I am relating, and it goes back to business, and you just related it for me, the relation of the time – before you were having problems, let's say 60 days that FEMA was paying you, now let's just say that they are paying you in 30 days - that reduction is at 50%. We are still having a problem paying the vendors, and you are still beyond that period, to me you should have had a reduction in that time period also, if initially you were telling us that FEMA was part of your operation problems, you understand, there has been no reduction at all, is what I am getting at.

Mr. Pastorek said the original problems we were having around 90 days were related to the FEMA contractor payment issue and it is kind of complex but I can explain it, I will try very simply. The problem is not only FEMA reimbursing us, but the timing of getting an invoice from a contractor, and



processing that invoice for payment, and then turning around and handing it over to FEMA, and that collective process if a very long time. So what we were having to do, was backfill with operation, so what I am saying now is that problem has now been compressed, has been resolved, but now we still have this operational issue, and it is exasperated because of grant moneys we are trying to get in, which are owed to us, but we don't have those grant moneys. I will give you for example, the E-Rate grant that we are due, we put out millions of dollars two years ago for technology to be put into the schools and we are waiting for that federal grant money to come back in. And we are trying to get the feds to pay that, so the FCC is the grant making agency, and we have been working very closely with FCC to get that money. Mr. Pastorek said that Mr. Vallas has personally gone to Washington to meet with Ernie Duncan, to meet with the FCC Commissioners, to meet with the Senators and Congressmen up there to try to get that resolved. Now we have finally gotten FCC signoff on that but the money will not get here for about 120 days.

Senator Gautreaux asked for the reason we are having problems getting the money. He asked if you already spent it, and had the approval to spend it. Mr. Pastorek said well no, you spend it because you need this kind of technology in the classroom, but you believe that you are going to get it approval by E-Rate. Senator Gautreaux asked what their reason was for not giving you the money.

Mr. Vallas said the bulk of these reimbursements were actually pre-Katrina, believe it or not, and the commissioner has now signed off. In fact \$40 million of that money is going to Orleans Parish School Board. The biggest reason was after the hurricane, when the schools were reopened, they were all reopened as new schools, many of them under new names, and believe it or not, the FCC staff had issues with that. So it was a very laborious process.

Senator Gautreaux said you do not have to explain it anymore, but now we have narrowed it down again, you have grant money that you were waiting for, that you still have not gotten reimbursed for, and you also were saying the FEMA part was part of your problem as far as paying your vendors, so now it went from just the FEMA part, now it was the grant money. So that is the two components, I am fine. The one thing you were talking about, Mr. Vallas, was how many employees you have and how many processing like hiring and I guess you have to rehire because there is a lot of rehires. He asked what is RSD's turnover rate. Mr. Vallas said I will have to get you that number. Senator Gautreaux said you said it was significant. Mr. Vallas said well, early on, in the first two years we might hire 200-300 people a year and there might be 150-200 leave. Mr. Vallas said there was an evaluation process set in for when teachers returned to the district, that were predating me, and there were requirements for their being readmitted to the district, but there was a turnover.

Senator Murray asked Mr. Vallas if he will get the information to him. Senator Gautreaux said the other question was regarding the dollars that went down from \$2.3 million, to \$1.2 million, to \$500,000, was that the overpayments, and was the only recoupment about \$70,000. Mr. Vallas said right now I believe what we have outstanding is an excess of \$500,000, that covers all three years including the year that we inherited, but what I am saying since we instituted positive time entry, we significantly reduced that number. Senator Gautreaux asked when he implemented that. Mr. Vallas said I believe in June 2008. Senator Gautreaux asked Superintendent Pastorek what type of commitment letter and contract do you have people signing and when was the effective date that you implemented that policy for them to sign coming on for incentives to come over to work as a teacher. Mr. Pastorek said we did not have a letter that people to sign at the outset, at that beginning period. Senator Gautreaux said since you have been on board. Mr. Pastorek said I do not think we are offering incentives at this point.

Senator Gautreaux asked do you have anything in place that is a contract or letter. Mr. Pastorek said no, we do not offer incentives. Senator Gautreaux asked Mr. Purpera if there were any letter commitments or contracts that he reviewed that would have been prior to or after their arrival. Senator Gautreaux said it was pointed out in the audit about the cooperative audit resolution oversight initiative. He said it states something about the amount represents the funds that were paid to individuals who were ineligible failed to remain employed by RSD have refused to sign a commitment letter and/or failed to sign a commitment letter by a certain date. Senator Gautreaux asked if they implemented this type of process after May 8, 2009. Mr. Vallas said that program is over. Senator Gautreaux said so between 2007 – and whenever the program ended, we never came up with any type of commitment letter or anything, that is the argument that you are arguing there was not commitment letter. Mr. Vallas said the point is, that program was implemented so obviously we struggled so we could secure all the HEAP money so that we could bill the entire program to HEAP, we tried to get people to do commitment letters, but if they were going to do commitment letters, it had to be voluntary because they were not required when the program was initially enacted. Let me point out though that I discontinued the incentive program, hindsight being 20/20, we may not have even needed an incentive program, but at the time, with 500 teachers needing to be hired, the judgment was made to do that, but we don't provide...we recruit teachers the same way the way districts now across the state now recruit teachers, so do not provide any incentives, any travel vouchers, or things of this nature, it is just a normal.... I do not want cleaning it up, because the program was successful and we were able to fund it largely through federal funds not anticipated, but the bottom line is we are stilling trying to reconcile a now terminated program.



Senator Gautreaux said asked Mr. Purpera if there was anything that he reviewed when doing your audit that showed prior to getting here or when the program started that required them have any commitment letters signed. They are saying no, and I am just wondering through your audit... have you gone back that far to see that.

Wes Gooch, Financial Audit Manager with the Legislative Auditor's office, stated that he is the audit manager over the State Department of Education audit. In our 2008 audit report, we did have a similar finding to the one on retentions, we did specifically quote their policy on getting commitments for three years, we did test whether or not they had those commitments, we tested 30 and 19 of them did not have it, but 11 of them did. Senator Gautreaux said so there was a policy. Mr. Gooch said there were some commitment letters for the 2007-2008 school year that this audit applied to. Mr. Vallas said once the HEAP program was enacted, we then went in and we began the required commitment letters, but it was after the fact. Mr. Pastorek said in other words, you cannot get people to sign something that they did not need to sign in the first place - that was the problem, there was no obligation for them to sign these things in the first place. Senator Gautreaux asked so you do not think they had an obligation if you gave them moving expenses and all these other things.

Mr. Pastorek said that was not the program that was set up before we got there, it was just to get people in. Senator Gautreaux asked once you started you basically abandoned that program, or did you waited a period of time before you abandoned it. Mr. Vallas said I stopped it. Senator Gautreaux said when you got there, did you use any of these commitments or incentives to hire teachers while you were currently the superintendent. Mr. Vallas said that first year I was operating under that program, during the '07-'08 year. Senator Gautreaux asked so you were aware that we were doing that. Mr. Vallas said the program was in effect and I was not going to go back and changing it all around, and the minute we identified the HEAP program and it became available, we then began as people were coming in demanding those letters. Senator Gautreaux said you were operating at the time, I guess their findings came out maybe 9 months after the fact, so once you find out the findings I do not know what you did to adjust it, but you eventually stopped it, that is what I was after.

Senator Gautreaux questioned their insuring of the computers – you said you insured against theft and loss. There is a report of \$50,000, are there any reports prior to that of theft of anything. Mr. Pastorek said there were 20 that were lost last year. Senator Gautreaux asked the Legislative Auditor if he was able to verify whether or not the insurance company actually reimbursed them for that, because he said they were insured, so I am assuming there was a check that would be incoming for the payment of the stolen computers.

Mr. Vallas said he believes the computers the audit is referring to are insured through the state. Senator Gautreaux asked so basically it is self insured, would that be correct, the taxpayers ended up paying for that. Mr. Vallas said we our insured directly, but the classroom computers we use are actually insured directly, and computers that have been damaged, we have replaced. Senator Gautreaux asked so the computers that were stolen were classroom computers, that were insured by you or the state. Mr. Vallas said I believe most of the computers that they are referring to in the audit were computers that were insured through the state. But when I mentioned our ratios of laptops, smart boards, we insure them all through the companies, and for example: the classroom computers that have been damaged or lost have all been replaced by the provider. Senator Gautreaux asked if that was part of the problem for the auditors, that they were not identified whether they were state or not, therefore, you would not really know as far as the tagging system goes. Mr. Gooch said during our state department of Education audit in 2007-2008, we did not look at that issue at all, that was something that came up this June. Senator Gautreaux said but you are under the assumption they are all state computers.

Mr. Fulton said no matter whom funded it - it is insured through the state program, the property program. Senator Gautreaux said so what you are saying, you do not pay for insurance. I misunderstood the Superintendent when he said they insured against theft and that they are reimbursed. Mr. Vallas said our insurance is part of the contract. Senator Gautreaux asked if they are paying private insurance for theft because if you are they should be filed under the private insurance policy and not the state, where taxpayers have to pay.

Mr. Pastorek said let us find out - I do not want to play guess work here. I understand we have a program with certain suppliers of computers that they replace lost or stolen or damaged computers, we do have a program like that; however, I do not know which computers we are talking about here. But to the extend that it is not in that program, we do have the state insurance, so one way or the other, but there are two different pieces to this, and that is what I was trying to explain. Senator Murray asked Mr. Pastorek to get the council an answer as to which computers are mentioned in the audit, and the insurance coverage.

Representative Richmond asked if Carver High School is a charter school or RSD. Mr. Vallas said it is an RSD school. Representative Richmond said while I was teaching a class at Carver, I asked the students about efficiencies, how we could save money, and one of their suggestions was to not have desktop for the teacher and the laptop because she never used the desktop, so I thought I would give you that, and the teacher was in the classroom and did not object to that. Representative Richmond asked Superintendent Vallas as we talk about the cash flow problem, which is a big concern

for me, when you talk about the payments to vendors and I was just looking at your letter, your last sentence was that the vendors that contract with RSD have to take that into account when they contract with you. And I understand you are looking at it strictly from the RSD standpoint, but if we are going to improve this state and we are going to help small businesses compete and grow and get larger they cannot float payroll as long as bigger business, and I think we have to keep that in mind as we try to help, because all of those things go to support the state of Louisiana. You specifically point out on the first page that you all are not getting your grants approved from the DOE, and I think one of them is the Alternative Education Grant and the LA4 Grants, that they were not approved, and that is a sum of \$10 million - have they been approved yet. Mr. Fulton said yes in December. Representative Richmond stated you applied for those grants in August. Mr. Fulton said correct. Representative Richmond said Mr. Pastorek that would go to your department to approve these grants - who approves that grant. Mr. Pastorek said Beth Scioneaux, ultimately. Representative Richmond asked why is there a gap between August and December to approve those grants because that goes toward their cash flow problems. Mr. Pastorek said because it is a competitive grant, and so what we do is we receive applications from around the state, we review those applications and make a determination on a competitive basis as to how to distribute that, and RSD was one of the recipients. But it was not awarded until the latter part of the quarter and then we went through the documentation process which would have given them their grant in December. What they had done, they needed to have the alternative school, so they began to provide the alternative services in the hopes that they might get the grant. So part of the challenge is we are trying to provide services to kids who desperately need them. We really do not have adequate funds to do it. And so we move as quickly as we can, we go after as many resources as we can, and sometimes we move out and provide those services to kids even before we have the dollars to do.

Representative Richmond said I understand that, but now you are telling me if I am interpreting that answer correctly, that we go and do it not knowing whether we are going to get the money for it. Mr. Pastorek said no, you do not know in this particular case when you are going to get the money, but you do have an expectation that you are going to get the money, and the reason was is that the number of people who applied and the places that they applied from, it was clear that the RSD would get the grant, but it was going to take some time to go through the process.

Representative Richmond asked what about the major title grants, which according to Superintendent Vallas, represents about \$30 million, which were approved in October - were those competitive grants. Mr. Pastorek said no, those are not competitive grants. He said this whole area of title grants, and IDA grants has been a problem in the Department of Education for a long time, the timeliness of these grants has been a problem and what I have done since I got into the Department of Education is made a significant change in the processing of these grants and this is the first year that we approved Title 1 grant applications across all districts by October. Last year when I began to see this problem, I demanded that we change it. We were not approving grants for Jefferson Parish until February of the school year, so Jefferson Parish were having to put up MFP funds to float this grant and you see that is the challenge here, is that the RSD cannot live on this kind of using my MFP, or using my reserve because they do not have a reserve and they are the only district around here because they have been so undercapitalized and under funded, so they have to live on the grants being approved timely. But Jefferson could afford to. But regardless of that, we have now fixed the problem on Title 1 and IDEA grant applications, and we even moved to the additional step this year. We can actually prefund these grants, and this year for the first time we began to prefund small amount of grants to districts that were challenged by it. So this problem should alleviate itself over time.

Representative Richmond said I am looking at the response for this finding - it says until the RSD receives more timely approval of the title and other grant funds we are entitled to, so we are working to resolve that. Mr. Pastorek said yes sir. Representative Richmond said state provides them with the cash reserve which is something that would take legislative approval.

Mr. Vallas said we have sought to get that in the past through different ways, for example, when we purchased all of our technology, we sought to lease the first generation of high school computers, all of our high school kids have laptop computers. We actually were told we would have to go state bonding commission, and because there was the state disallowed us from leasing, we had to go out and I had to spend, I think \$14 or \$15 million, where if I had leased it, it would have cost me maybe \$3 million per year. So I will provide the committee the instances in which we sought some cash flow relief by getting flexibility to do borrowing and do leasing and things like that, I just wanted to point that out.

Representative Richmond asked if they have had a conversation with BESE with doing the exact cash flow problem and your ability to go forward with the cash reserve and short term borrowing. Mr. Pastorek said we have had conversations because we reviewed these audits with BESE each year and so we have had this discussion and I actually have had quite a few conversations about particularly the FEMA challenges we have experienced. What we were hoping to do is come to BESE with an approved approach with OPSB, but that fell through, and so we are going to be going back to BESE to talk to them about that very issue.

Representative Richmond said I have numbered the things that Superintendent Vallas has pointed to obstacles vendors within the 90 day period, the third is that RSD has given the opportunity to a more suitable accounting system than ISIS, is that underway now. Mr. Vallas said yes, the ISIS system is not appropriate for schools, and I need Bob to explain why that is the issue, but I will submit to

the committee a suggestion or a rationale for us migrating to a more appropriate system. Mr. Pastorek said we have not done it yet. Representative Richmond said I do not need to know why, I just need to know that you are going to migrate to a more suitable system. Mr. Pastorek said we would hope to, but right now we do not have the funds. Representative Richmond said this part and even when we talked about payroll earlier, I am alarmed and I will tell you why, because when we had the conversations with OPSB a long time ago and those Superintendents, everything was an Oracle problem. Now we are hearing that ISIS is a problem and I just want to make sure that the committee knows and I am sure Senator Nevers and Senator Murray was here as we talked about that and maybe Representative Ellington. If it is that much of a problem, what do we need for you all to get to a more suitable system.

Mr. Pastorek said can I say in the issue of the payment, again, there is undoubted proof that before we got here we were using a system that was not designed to do this job. That system has been replaced and fixed and is in place, and now it is an issue of getting people to learn how to operate that system. Mr. Vallas said I will not blame ISIS, I think the problem can be addressed independent of ISIS, but I think we need to migrate to a different accounting system, a more appropriate accounting system for a whole bunch of reasons. That said and done, I think we have already said ad nauseam that we significantly reduced the problem that was inherited, or that even predated us, pre-Katrina. But let me point out that ultimately what it is going to take is to get all the principles following the rules and regulations, because as we have given all the schools their own individual autonomy, when it comes to staffing, with it becomes.. we have to exercise even stronger accountability and it was much easier if you are doing all the hiring centrally and assigning teachers per school based on a certain formula, what we need to do is, I think we will, over the next year or so we will correct the problem by working with our principles to adjust to what we refer to as the site based selection when it comes to staffing – hiring and termination. Besides obviously the relevancy of the accounting system, I think that is the biggest administrative thing. We have 70 different entities and we need to make sure that they are all following rules.

Representative Richmond said specifically I am going down my list of things that you itemized as being obstacles in the 90 day payment, and the third was the ISIS problem, which would be migrating to a more suitable system. Mr. Vallas said but I am not giving ISIS the same type of blame that Oracle got, bottom line is ISIS is somewhere down the list of things that we need to do. Representative Richmond said but that is something that we are going to address - do we have plans to address ISIS in terms of not being the obstacle in vendor payments. Mr. Vallas said yes. Representative Richmond asked regarding a BA-7 that you all were trying to do, did that ever get approved. Mr. Pastorek said yes, in the December meeting.

Representative Richmond said I do have a concern that it was initiated in September and it was approved in December, was that an administration problem, or 4<sup>th</sup> floor problem or just the time span in which it takes to get it done. Mr. Pastorek said I do not think it was a 4<sup>th</sup> floor problem, I cannot tell you precisely what the delay was but I can get you that info. Senator Murray asked if that was on the construction side. Mr. Pastorek said yes. Senator Murray said I will tell you what it was, an after the fact BA-7 that came to us and we had questions about amending a contract by a substantial amount and there were a lot of questions about that.

Representative Richmond said that will sum up my 90 day payments to vendors because I think that is a problem. But I heard someone say in the process that we are taking money from the construction side to handle payroll. Mr. Vallas said it is just the opposite - our operating budget has to in effect provide the cash flow for the construction budget because, we cannot bond so we operate under federal reimbursement. If we could bond, you could create a bond reserve fund and you could do that to provide cash flow. Representative Richmond said so we are talking operating money to fund construction cost because we cannot bond and you cannot do all those things you just mentioned. Mr. Vallas said you are correct, a classic example is the roof was damaged on the Berhman school in Algiers. We had to use operating dollars to in effect repair that roof, had to come out of the operating budget because we do not have a construction reserve account to provide for those basic repairs. Now we are going to try to get reimbursed for that, but we had to fix the roof.

Representative Richmond said I guess these goes to the fundamentals and the initial legislation that was crafted, and my impression and I think the goal of RSD is to come in and turn around failing schools and that would be staffing them, that would be the implementing changes in curriculum. I guess I am at a loss for why the school districts would not handle instruction because they have that ability to borrow and to do all of those things. Why wouldn't we allow that districts to oversee, to manage the construction aspect of school buildings. But ultimately the building goes back to the district.

Mr. Pastorek said ultimately, it does back to somebody, I do not know who, but in any event, I cannot tell you why the legislation was done the way it was done. But I can tell you that we are in the midst of a \$700 million construction program in the RSD, and I will tell you that from the construction side of the equation we are in good shape. It is the operating side that is now no longer challenged by the construction side. Representative Richmond said except for where you have to wait on project worksheets and reimbursement from FEMA, you have to go borrow from your operating side. Mr. Pastorek said that is not an issue at this point and time. Project worksheet, FEMA reimbursement –

that is not an issue for us – that was an issue and we had to do those things before, but that is not an issue for us.

Representative Richmond said a few minutes ago I heard that as an issue why we cannot pay people within 90 days because we have a cash flow problem because we are taking operating money to fund construction, so it is a problem if it is preventing 90 day payments. Mr. Pastorek said what I said, that was a problem early on and that was really the problem that was leading to the original audit, but that is not really a significant factor at this point. The factor is that we do not have cash flow, and do not have access to cash flow, and some of these grants we need to be able to provide these services, or we have already provided the services, and we need to get them paid, but there often in a reimbursement. I think that is a greater problem than the construction issue at this point. Mr. Vallas said our response also is covering the period why during that period audited why we were not able to pay within 90 days. Representative Richmond asked so it is not an ongoing problem, but it was a problem at that point in time. Mr. Pastorek said FEMA construction is not a problem at this point and time.

Representative Richmond said he also heard you say that you had an arrangement with Orleans Parish School System because you did not have borrowing ability. He asked if they borrowed money for you or did you borrow money from them. Mr. Pastorek said the arrangement was that they were going to go to a bank to provide for cash flow for us because they could it, we could not. Mr. Richmond asked if he has borrowed money from the Orleans Parish School System. Mr. Pastorek said no.

Representative Richmond said the inaccurate annual financial report in the money, and I believe Superintendent Pastorek said that he did not understand why it was on there, and I am not sure if I understand why it is on there. He asked the auditor to explain does somebody owe someone some money.

Senator Murray said before you all answer this, Stan Smith the CFO for the Orleans Parish School District is next up and he can weigh in on this issue. He said Superintendent Kilbert is also here in case he wants to weigh in. Representative Richmond asked again does someone owe someone some money, if so, about how much.

Mr. Pendas said what we did, we looked at the financial statements, which are required to be done under full accrual, now what that means is, everything somebody owes you and everything you owe somebody needs to be recorded. We said we looked at the House Concurrent Resolution as an estimate of what was owed related to taxes for '06, '07 and '08, and after what they calculated in the reconciliation versus the payment of about \$23 million that Orleans had paid, it ended up being \$32 million owed to the Department from Orleans for those two years. Then in '09 the reconciliation was not done until late in '09, but when it was done they owed back for that year \$12.9 million, in addition of those two amounts related to the reconciliations and the House Concurrent Resolutions there was also amounts for expenditures that Orleans was incurring for RSD. Now when we talked to both superintendents about it, what they said is all this is uncertain – we are still working together to resolve this and the net is only about \$2.5 million. But the problem is we have estimates and financial statements all the time. Medicaid is a very uncertain number and there is an estimation process, we test the estimation process and we record the receivable or the payable. You do not net in accounting, you do not net what is owed from what you owe. So what we said was we should have recorded receivable, a payable and the other payable. Now net it is about \$2.5 million, but you should record those transactions as they occur.

Mr. Pastorek said if I could, Mr. Representative, I do not have a problem ultimately with us having to do something, if we have to estimate then so be it. But I guess the problem that I had was we have been dealing with this ambiguity. We have been dealing with this uncertainty for well over a year and a half, two years, since I arrived actually. And I was not aware that this was something that we needed to do as a change the way we reported until this audit came out and said that. It is – if this would have showed up in a prior audit we would have been done those kinds of things but it did not. Now it is coming up now, OK, fine, and I respect the auditors' position, if we are not supposed to net it out, then fine, we won't net it out. But to me, I do not want to say this is not an insignificant issue, because I do not want to ever say an audit finding is not an insignificant issue. But had we known that this was the position that the auditor would take on this we would have done this and we would have been able to satisfy it. We do not disagree except to say that there is still some uncertainty if we are supposed to estimate it, and we can do that then, you know, we will go forward and do that.

Representative Richmond said I just have two points, it sounds to me like you are saying now that we know we are going to correct it. Mr. Pastorek said yes. Representative Richmond said that is the reason we have the audits in the first place, so that we can have the finding and in an ideal world it works just like you said, they have a finding, they say it should go this way, you say okay in the future it will go that way. The second part I want to know is at some point in time, that either on a yearly basis or some point that the two parties settle up, whether it be OPSB owing you, or you owing them, at least once per year settling up so that the transaction is complete, and I guess I am hearing you say, that is what you all will do in the future.

Mr. Pastorek said yes sir, and as a matter of fact we actually entered into an agreement before this fiscal year that we are talking about here began. In that agreement we said here is how we are

going to resolve this issue. We are going to do these things, you are going to do those things, and by the time this particular fiscal year that is being audited begins we will have it all resolved. Now that was what we had hoped, had we been able to resolve it, we would not even be having this discussion. It turns out we were not able to resolve it. We are trying very hard to resolve it. I think we got the ambiguity narrowed down to a very small amount, so I do think it can be resolved and will be resolved shortly.

Senator Murray asked if he can add this insertion so you will know, the reason they go back and forth is because the same thing discovered since this law was passed that they did not contemplate a lot of these things, so there is uncertainty in the statute as to who is obligated to whom for what, and that is why they keep negotiating. Not always on an equal basis, and that is why when we go into session this year, we ought to make this clear because there are some huge amounts of money that the Orleans Parish School districts is owed, some for some legacy costs, a whole bunch of things, we ought to try to get it straight. Mr. Pastorek said I have offered many times with OPSB to work through whatever issues they have. The only ones that I know of are on this list that we have been working on so far, but if there are others, I stand ready, willing and able to do.

Representative Richmond asked are we close, and this is completely off the subject, but are we close to dealing with the retiree health care issue that has been ongoing for ever, that is a concern that I hear about almost daily. Mr. Pastorek said we worked very hard on this issue and worked out an understanding with the Orleans Parish School Board on this issue just prior to their decision to go forward their millage. And at that time we worked out actually a number of issues, one of those issues was the borrowing, and how we would try to be able to resolve this issue of cash flow. One of the issues was the healthcare retiree issue, and there were a number of other issues as well. Now I cannot speak of what has transpired with OPSB at this point.

Darryl Kilbert, Superintendent of Orleans Parish Schools, said that CFO Stan Smith and he would like to come in and bring to clarity in regards to those questions of being asked, and regards to moneys that have been forwarded to the Recovery School District, so I ask Mr. Smith to talk about particulars with that. Stan Smith, CFO with OPSB, said to address a number of the issues around the settlements between us and Recovery School District. We are continuing to work to resolve those issues and a lot of ambiguities that we are dealing that resolve around some of the legislation, what it really intended, as we continue to work through that. And there are a couple of items that we are still in negotiation on, I guess is the best way to put it. I did want to clarify one item with respect to the financing situation, we actually borrowed since the RSD was set up with the way funding works in education, a major portion of our funding is tied to ad valorem taxes that we do not get until the January, February, March time frame. We have been in essence paying, based on an estimate of local revenues shared to the Recovery School District on a monthly basis from July forward in anticipation we were going to collect those revenues. This past year we reached a situation where we could not do that anymore, we did not have the cash flow to be able to do that, so we went out and took a \$35 million temporary revenue anticipation note to continue that Recovery School District and our charters agreed to share in that cost, so we are providing some temporary financing.

Representative Richmond said I do not want too much information at once, so you all usually receive your ad valorem tax and all that money around January – March as it starts to come in, but you all operate knowing that it is going to come, so you all, do you normally go out and borrow money based on the fact that you are going to get the money in. Stan Smith said we did this year, it is the first year in my three years with the district we have had to do this, so you we do not normally do this. Representative Richmond said so you borrowed the money, you just make due until then, but do you have to make payments to the RSD monthly. Mr. Smith said that is correct. Representative Richmond said so you borrowed money so you can make your month payment to the RSD. Mr. Smith said that is correct. Representative Richmond said so they can have cash flow, and well technically you could make them wait until January – March when you receive the money to give them the money. Mr. Smith said that is our position, I think that is one of the items of legislation that needs clarification. Mr. Kilbert said we did that initially and have been doing it, we just do not have revenues to do it, but it was with the understanding that it will provide services to young people in Orleans Parish. Representative Richmond asked who is paying the debt service on this. Mr. Smith said it is a shared cost, it is being share between the RSD and our charter schools and OPSB on a per pupil basis. Representative Richmond asked what is the amount of the debt service. Mr. Smith said \$35 million worth of funding. Representative Richmond asked the interest. Mr. Smith said the interest equated, I know it on a per pupil basis, about \$20 per pupil, it is about \$350,000, and there were some closing costs and things associated with it, the total is about \$500,000.

Representative Richmond said I am sure Ed or somebody else will go into that. Now that the Superintendent of RSD and Mr. Pastorek, do you all get or monitor to make sure that the boards of charters are meeting, do you require them to submit the minutes of board meetings as they have them. Mr. Pastorek said we audit charters but we do not require them to submit board minutes, to my knowledge, but we do audit their minutes and their records. Not audit in the financial sense, but audit their activities, audit their meetings to assure that they are meeting in a public way, etc. Well if you want me to answer about financial, I can answer that as well. Representative Richmond said I am really looking all of the charter schools. Mr. Pastorek said on the financial side state law requires that an annual audit is done, in addition to the auditor reviewing those, we review those as well. Now we also



have in the case of Langston Hughes, we all know that sometimes some people go bad - whether it is in the charter school, the traditional school or school system, it does not matter. So you have to have controls in effect to try and avoid that kind of thing. And you have to have protection, so the good news is there are insurance policies, one which clearly covers for a good portion of this amount, and there is another that may cover, and we believe it does cover for the full balance of this amount. One of the things we are looking at from a policy perspective if recommending to BESE that all charter schools have insurance policies, in fact, all schools should have insurance policies for defalcation – which is what we are dealing with here, and I don't believe the school districts in all cases have defalcation policies, so we should look at the prospect of making that apply across all schools, because if we do have this, we don't want kids to be effected by the results. The final thing is we also decided with respect to the RSD charter schools, we are going to be doing a spot audits during the school year, because right now the law requires an annual audit, and the problem with this particular situation, this was going on for a very long period of time. In fact, the really unfortunate part about it is if the simple process would have been followed which was actually recommended by the charter school board, by the Office Administration this never would have happened.

Representative Richmond said I would assume a simple bank reconciliation would have caught this. Mr. Pastorek said that is exactly right, a simple bank reconciliation would have caught this at the outset, that is the sad part about this, and there was actually directions and instructions that were given, specific ones to the administration of the school to do that, and that was not done.

Representative Richmond asked when you say the administration of the school, do you mean the business manager of the school, because we have a company that does the finances right. Mr. Pastorek said there is some company that handles the finances, for this particular charter school there is a CEO, or principle, then there is a business manager, and it is the business manager who was involved in the theft.

Representative Richmond said I guess I am going back to the basic structure of charters, I thought it was an education component and you had to team up with somebody. Mr. Pastorek said no, there is no third party involved in most of our charters in New Orleans, there is this impression that there are third parties involved for profit but there is only two out of fifty schools that are charter schools where a third party is involved. So you have a traditional board, in fact, on that board is some very prominent business people who are on that local charter school board. They directed the CEO of the school, who is the head master or principal who oversees both the financial and academic side of the equation. What happened in this case was the business manager was writing checks, the checks should have been reviewed by another party, either the CEO or another person in the organization. That CEO was specifically told by the board to do that, and that was not done and that is why the problem occurred.

Representative Richmond said we can get together, this is outside the scope of this meeting, but we do need to get together to make sure that we have some controls in place. Senator Murray said we will look at this charter schools at the next meeting. Representative Richmond said I am going to be firm about not recommending any extensions for charter schools in terms of audit extensions, and I would hope that Mr. Purpera would make sure that he brings it to our attention when a charter is asking for an audit extension, because to me that is going to be an initial red flag to figure out what is going on and why that is in place. So I would hope that is going to be a policy of the committee and we can deal with that at another meeting, so Mr. Chairman I am done.

Senator Murray asked Mr. Smith and Dr. Kilbert if they had anything else to add before a few more people want to speak on this issue. Dr. Kilbert said we want to just add to Representative Richmond that we do audit our charters annually and it includes a financial as well as legal areas so that we can see if they are meeting those particular requirements in regards to extending the charter, and that is on an annual basis. Mr. Stan Smith said I might point out the results of this last charter evaluation we did, we actually had charters that we were at the point of where we had to make a recommendation of a two year renewal on those charters. We had charters that because of concerns we had about some of their financial issues, and we gave them a one year extension to deal with those issues. Representative Richmond asked if that was Ben Franklin.

Ms. Karen Harper Royal said I am a parent in the public school system, parent of a graduate school system, my son attends an OPSB charter school. However, I work with many parents of children in all of the schools. I live in the Gentilly section of New Orleans. I really felt compelled to come here today because I heard about the serious financial issues related to the Recovery School District. When the Orleans Parish School Board has similar issues, I had something to say about it so I felt it would be only fair that I would express my concerns about these issues. My main concern is that the legislation that created the RSD, and I am actually talking pre Katrina as well as Act 35 post Katrina, in my opinion has some serious flaws in it that would lead us to this point, so it is my hope that as we move forward and you go into the next legislative session that we would be looking at a lot of the problems with RSD legislation. The biggest problem with me is the inequities that are created because of the deficiencies in the legislation that does not allow for enough oversight and enough follow up to make sure we are actually accomplishing what we intended to accomplish with this legislation. We have inequities in terms of the services that are being provided to children while true some children are in better places academically, we still have serious problems with services being provided especially to children with



special needs. I know that my own child gets far more talented and gifted services than a typical child of his age in an RSD operated school and even in some RSD charter schools, and I do not think that you all intended to set up this type of inequities, but a lot of these problems are due strictly to finances. It is not right, and not fair that my child would be entitled to more services than someone that does not have the option to go to a select admission charter school such as my child. So as you go to your next session, I am asking if you all have a process where you set up some type of study of where we are, what the RSD school district, again that is Act 35 as well as pre Katrina when we first moved those initial batch of schools into charter, I know that in that initial batch before Katrina, several schools in my neighborhood, in my area of Gentilly are not yet up to their pre Katrina school performance score. Again, I know that was not what you all intended, when you created this legislation, but what kind of oversights do we have in place to not only look at the finances, but also do an apples to apples comparison of if we are really and truly educating children better and again I am not going to take too much of your time. I just want to ask that we look at this moving forward and creates some kind of commission to address what may be flaws in the legislation, so that we are truly providing an equitable education for the children who happen to be in the RSD whether that is charter or not. And lastly, regarding the charter schools I think I heard that the charter schools are subject to the same type of audit process as the district as a whole has gone through. I do not believe that the RSD has the kind of financial systems in place that would allow them to seriously look at if these charter schools are experiencing some of these same kinds of problems before it gets to a situation where you have audit findings. Oversight is paramount here, and we just do not have enough oversight before you get to audit findings in order to make sure that children are not being harmed in the process, and I do believe that while we are educating some children better, as long as we know that other children are still getting a less than quality education, that is a problem. And thank you for giving me a chance to speak here this afternoon.

Senator Murray said let me just make you aware of this, next meeting we are going to put something on the agenda to deal with the charter schools and their accountability with respect to the audit findings and you should know that Senator Nevers chairs the Senate Education Committee and I am sure that all these changes that we are looking at about the RSD going forward will go before his committee, he is a member of this committee and makes almost every meeting so, you have somebody listening. But I would say the same to you, as I said to the RSD staff, if you have suggestions we should look at please feel free to forward them to us, so we can take a look at them.

Dr. Reynard Sanders said I work with a group called Research on Reforms and our educational research group does research on the New Orleans public school systems post Katrina, and we basically inform the public through published media and through public radio what is going on with public education. We have been noticing the audits like you guys have the last two years and serious concerns about the fiscal management of the Recovery School District, what is also puzzling not just to us who look at this every day, but to the general public. The RSD in it's legislation and I have you all talk about whether or not your state department of LEA, does not require them to have a transparent process in their budgets and how they report and how they spend money so consequently the RSD has no transparent or open process about the budget, no one in New Orleans knows exactly what is going on in terms of the budget. We don't know what is being spent, how it is being spent and the public has never had that opportunity to even comment on the budget post Katrina. All of the moneys that you all are talking about in this budget, including all of the Restart moneys that came in excess of \$730 million from the federal government and more money from foundations and foreign countries. The people of New Orleans have no idea of how this money was spent in terms of how this money was spent. There are reports that they have about \$6,000 more per child than another other school district, yet they do not give you those kinds of results. We find also that their test scores are some of the worst test scores in this school district charter and non charter. Additionally, we find out that even with spending about \$6,000 or \$8,000 more per child, in the Recovery School District they have cut teachers, cut nurses, cut social workers, so we have reports that have gone on in the Times Picayune and also from the teachers as some of you may have heard, we have 56 students in one class, in a math class. And so it appears as if that in terms of the way we run our budget with the RSD that the classroom is not the sacred cow and that the students that are supposed to be receiving the benefits of the RSD are not receiving those benefits and the schools are actually acting on a bare bones operation. In relationship to charters, I would like to encourage you to get a better handle on charters, when you look at the history of the charter schools which is not 20 years old, it is not a proven entity to improve test scores, you will find that many charters around the country where they have had the proliferation like we have going on in New Orleans, there has been rampant theft, rampant mismanagement, a lot of folks indicted and we really need to get our handles on the auditing of that. We have about 40 or 50 charters, that means we have about 40 or 50 different boards that are accounting for money and if we don't have a handle on that we will have more situations that happened at Langston Hughes school, and we will have schools that will close in the middle of the year and a lot of things will happen if we do not get a handle on the charter schools and how they are going to operate and whether or not they are providing the kinds of services that they said they are supposed to provide. I heard Representative Richmond talk about what the RSD was supposed to do in post Katrina and we find they failing in areas in terms of academic achievement, in terms of fiscal management and the biggest thing is that there is no open process and a lack of civic engagement, so the RSD there is no one from New Orleans that can go and talk to anybody, complain about anything, there is no open process in terms of how they open or close schools, open charters, no public evaluation in terms of how the charters are doing, so fiscally I think we have some issues that all impact the citizens of New Orleans. So we would encourage you to continue

to look at that and we would also like to request an audit of all of the recovery money that come from the federal government, foreign countries and also foundations – where exactly that money went and we also like a full blown, as the gentleman here said, I cannot see your name sir, audit of the RSD's budget and financials, because the public does not have accounting for that.

Senator Murray said Dr. Sanders, let me just say this once again, if you would send that request to me and to the council, we will ask the auditor, he may have a lot of that information already, I am not sure, but we will make that request. And once again, I will say this will be on our agenda for our next meeting as well. Once again, as I said Senator Nevers chairs the Senate Education Committee where all of these bills will go through I would imagine since next session to deal with restructuring the RSD. Senator Murray said before you leave, Representative Ellington, I know you asked about the dollars that are spent, Dr. Sanders said that there was about \$6,000 more spent here, and I do not know if you want to go into any details to see what he is referencing. I know you asked that question earlier, you are not just talking about MFP dollars. Dr. Sanders said I am talking about total funds, RSD just has much more than many other school districts in the state. Representative Ellington asked if he meant \$6,000 more. Dr. Sanders said yes, on an average, maybe some school districts may have much more than that.

Walter Goodwin said I represent 8,500 employees who were terminated and also the individuals who were forced to resign after Katrina. What I am asking is that prior to, well right after the storm, former Superintendent Pickard wrote to Margaret Spelling and asked for about \$450 million, out of that \$450 million, \$100 million came to the state to be given out. The picture that was painted was that you had all these employees who were devastated by Hurricane Katrina. And the money we asked for in order to keep teachers on the payroll to pay for their insurance and to pay them while they were going to restart or reopen the public schools. Not only did that not happen, what I am trying to find out is what happened to the money, and I heard the question if moneys are asked or appropriated for one thing, how do you get to do something else with the money. The money that was requested was for the teachers and administrators, the other employees of Orleans parish to continue working in the Orleans Parish. People were spread out all over the country, wanting to come back, but they had no place to come back because what was said was that we would be terminated. But instead of being terminated right away we were placed on what they called an emergency leave. So people had no way of knowing whether to come back, whether they would be terminated or what. But the bottom line was the money was supposed to go to the employees who were already employed by the Orleans Parish Schools prior to Katrina. Everyone thought we were going to come back, but that did not happen. So my question is, if the money was allocated for those teachers and other employees of the OPSB, the money was asked for them, then what happened to the money because we never got any of the money - so I am just trying to find out what happened to the money.

Senator Murray asked Mr. Purpera is it possible to go back and take a look see to follow those dollars, to see how and why we received them and how they were spent. Mr. Purpera said yes, sir, it is possible. Senator Murray said this has come up any number of times, and if you could do that, try to get something, maybe do a letter to all members on the council to track those dollars and how they were spent, to try to follow them. I will tell you as a member, that I live here in New Orleans, the people in the education community raise this issue all the time. As I have said before, there was a concerted effort, at least in my opinion to not even hire the former teachers here in Orleans Parish and other employees after Katrina. These dollars are a source of a lot of discontent that they came here for that purpose, and I guess so we can just put this whole thing to rest to see how and why they came in, and how they were spent. Mr. Purpera said let me suggest that after this meeting we get with Superintendent Pastorek and Superintendent Vallas to work out a formulation of how we can do that and report back to this committee. Senator Murray said that would be great.

Mr. Pastorek said first of all with respect to Restart, we have provided detailed information on how the Restart dollars have been spent, the gentleman is operating under some misimpressions about how it was distributed. It was actually distributed to 34 school districts in the state of Louisiana, and Orleans Parish got additional funds from that, and we have accounted for all of that and the Office of Inspector General did a complete audit of all these funds and found not one finding with respect to the Restart funds. Over \$450 million was appropriated by Congress and almost 90% of that came to Louisiana and was spent, that is actually something that we can provide you with plenty of information on if you like. As far as the transparency process on the budget of the RSD, we conduct the budget meetings in New Orleans each year and we also conduct budget meetings in Baton Rouge, but the entire budget is subject to a complete open process. Here in the city we have done that and all of the processes that we use are done in New Orleans around the budget, I have been very intense about doing that. All of our budgets are available to anyone that wants them- they can get them. We have very detailed budgets that we provide and have provided. As far as Ms. Royal's comments on oversight, we do provide oversight and I think we do a very good job on oversight. We oversee all of our charters, we review them annually, we visit with them during the year, we do surprise inspections around things around things like special education and a host of other things, so while... and I have dealt quite a bit with Ms. Royal. And I think we have been able to address a number of her concerns over the course of the two years that I have been superintendent, so I really think that we will continue to reach out to all of these folks, and continue to work with them, and try and answer their questions, but at the end of the day, it has been a very transparent process. The final point I will make with respect to hiring of former teachers, I think it is really unfair to characterize efforts made to exclude former teachers from being

hired. In fact, if you go look at the numbers you will see that there were very large numbers of former teachers that were rehired back into the RSD. And I will tell you that we followed the law which said that we had to give a preference to those teachers in the process, so I think the numbers will dispel that, and we can provide those numbers if you would like.

Senator Murray said that was why I said that was my own opinion. I was not speaking for anyone else, but myself. Mr. Pastorek said I am not speaking to your opinion, I speaking to the commentators here earlier today. Senator Murray said we will get some other information on this issue.

Senator Nevers said members I feel that it is necessary for the Legislative Audit Advisory Committee to forward this on to the appropriate people in the legislature. Senator Nevers said I would like to make a motion that the Legislative Audit Advisory Council forward to the Joint Legislative Committee on the Budget and to the Joint Senate and House Education Committee the Legislative Auditor's findings of noncompliance with the law in the financial audit of 2008-2009. Senator Murray said you have heard the motion by Senator Nevers, asked if any discussion of the motion, and asked if any objections. He said hearing no objections, the motion carries and we will forward the audit unto those respective committees.

Senator Smith said before we leave this subject, there was a comment made that there was \$6,000 per student and I would like to hear the Superintendent's comments on that. Mr. Pastorek said I am glad that you reminded me of that. The gentleman said that he has heard information to the effect, and that is certainly not an accurate statement. There was a point in time with the addition of Restart dollars in the first year of the Recovery School District where schools that were getting resources were getting resources which exceeded other parts of the states. The highest district for total per pupil spending was St. Bernard Parish at about \$18,000 per child. The second highest district was Plaquemines Parish at about \$15,500; and the third highest district was RSD at about \$15,000. Now that was with the injection of an additional amount of money from Restart, and in fact Bogalusa, Vermillion, Cameron – all of these parishes got huge amount of increases on a short term spike, but that money is almost all gone, that has all been spent. The one time money is gone. The RSD just had to reduce its budget by \$40 million coming into this existing school year in an effort to avoid reliance on one time funds. The numbers now are in the neighborhood of the state average, so the MFP we were talking about before, Mr. Ellington, that is what we get, but we get very little additional resources beyond that as Mr. Vallas said, so now we are at the average with all the rest of the school districts. I think I did a calculation for the Joint Legislative Budget Committee, or House Appropriations Committee during the session, where we showed that the average per pupil spending by district was around \$10,500 and the RSD was around \$10,400. When you took out the peculiarities of the hurricane effect that are still impinging on the district, so it really is no \$6,000 that is out there that bears on this issue.

Mr. Vallas said that \$193 million of that money was spent just fixing buildings, you have to remember half the buildings were destroyed, and the other half of the buildings were heavily damaged and when you combine that the decades of deferred maintenance, we had to spend literally – I think the first two years alone \$168 million doing basic building repairs so we could meet code standards to get kids in school. So that balloon did not necessarily go into the classroom, that balloon went into fixing buildings and getting buildings up to speed, the first year we had to open 22 buildings. We had to open 11 modular campuses because there were not enough adequate buildings for us to secure.

Senator Nevers said once again because we are discussing this, I just wonder how it is that the RSD can pay many of its principals over \$100,000 each, plus salaries and benefits, and when we have superintendents in our state that doesn't make that kind of money. Mr. Vallas said I do not know how many principals we have that make over \$100,000. Senator Nevers said 37 in your department, Mr. Superintendent, that make over \$100,000 and some of them work for the RSD, I will be glad to bring my list to you. Mr. Pastorek said I will be happy to go over that with you, but I do not think that those numbers are very high in the principals. Mr. Vallas said there are a few in the charter schools.

Senator Nevers asked Mr. Vallas for his salary. Mr. Vallas said my salary is about \$250,000. Senator Nevers asked plus benefits. Mr. Vallas said plus benefits. Senator Nevers said plus automobile. Mr. Vallas said let me point out that since you are raising my salary as an issue and when someone is raising personal issues and I consider these to be personal issues, when someone throws out the word malfeasance, I just feel that I need the courtesy to respond. Senator Murray said wait, we are not in court, this is not a trial. You happen to be a public employee, Senator Nevers asked you a question – he did not in his question did not mention malfeasance, I just listened, he did not say anything about that. Mr. Vallas said he said earlier. Senator Nevers said I asked would you consider it malfeasance. Mr. Pastorek said the answer is absolutely not. Mr. Vallas said absolutely not. Senator Nevers said he did not answer. Mr. Pastorek said I will answer it right now and I find the whole commentary offensive.

Senator Murray said Mr. Pastorek, if I remember correctly, he was talking about people that were employed by the RSD, it was not about him directly. Mr. Vallas said he is questioning my compensation level, I would like to respond. Senator Murray said wait Mr. Vallas, his questioning of your compensation level has nothing to do with malfeasance in my opinion. Mr. Vallas said he made it earlier. Senator Murray said he did not - he made a question about people who worked for the RSD if they did not do something. Mr. Pastorek said that is correct, Senator. Senator Murray said that is what I recall him saying, the bottom line is this, you were called to come here to talk about the audit, he has

asked you a question about salary of other employees, he did not say that you committed any malfeasance.

Mr. Pastorek said Mr. Chairman, I agree with you, he did not say that, but what I am saying and I want to be clear about this, I do not think that any of the findings that we have here have any hint of malfeasance at all, period – much less associating with an individual. And most of the challenges, and I will go back to this again, most of the challenges that arose and that are the product of this situation arose before our tenure. Now we are here and we are trying to clean it up, and we are trying to fix it up because the legislature in it's infinite wisdom created an entity which was not properly capitalized, did not really have all the resources that it needed in order to be able to do the job and we are fixing it, and fixing it without cash flow, without the ability to borrow, using the rules and regulations of an agency that are inappropriate to apply to school boards, and we are doing all of those things and we are trying to do them the best we can.

Senator Murray said Mr. Pastorek if you want, we used to get reports from the auditor, where the auditor would speculate as to whether or not a crime had been committed and it used to be forwarded to the District Attorney and the U.S. Attorney. We have stopped that process. Now if you want Mr. Nevers to amend this motion to send this audit to the D.A. and the U.S. Attorney to see, we would be happy to do that. We stopped that process though, that why I am suggesting to you, he did not say he committed malfeasance or you did anybody else. We do not know if that took place regarding this audit. The auditor did not say that either. I would say there was a time when these reports came to use and they automatically the report recommended sending to the D.A. and the U.S. Attorney, we stopped that process. So if a law enforcement agency wants to pick it up and take a look at it, they can, they are welcome to do so, we stopped doing that. Mr. Pastorek said that is a good thing, and I appreciate that Mr. Chairman. Senator Murray said we did not just stop it because of this audit, we stopped it about five or six years ago. Mr. Pastorek said I understand, thank you Mr. Chairman and thank you members.

Senator Gautreaux told the members of the committee and the chairman there is a statute on the books and I had Daryl and them research it about doing an audit on a nonprofit organization and it takes the vote of this committee to do that. And at this time I would like to make the motion that we do an audit on the Louisiana High School Athletic Association. Because by statute, there was a statute that was passed that prohibited from doing it unless the Legislative Audit Committee voted on doing this, and that is what my motion is. Senator Murray said you have heard the motion, hearing no objections, so that motion carries. Representative Richmond said now does this mean they are going to audit. Senator Gautreaux said this gives them the right to audit. Representative Richmond said remember we had legislation that did that, and asked so it has never been done. Senator Gautreaux said it has never been done because it takes the statute says it takes this committee to vote on it, and that is all we are doing just approving.

## **LOUISIANA CITIZENS PROPERTY INSURANCE AUDIT**

Mr. Purpera said the next audit, the Louisiana Citizens Property Insurance, we performed an audit of this entity, and to give you a little brief background, maybe bring us back to where we have been. As you know we have brought various issues regarding Citizens to you on many occasions, and to put it in a framework, as you also know, one of the issues was that the current management inherited a computer system that was broken and was unable to produce accounting records, was unable to properly manage the claims system and I think you recall that that was a \$15 million expenditure and over time this administration is working and striving to correct those issues. However, what you will read in this report is that during the year under audit, the system was still in play and the system is still somewhat broken and as a result, the auditors were unable to render an opinion on these financial statements, basically what that means is, we conducted an audit, but we cannot perform enough procedures to come to a conclusion on these particular financial statements. Mr. Paul Pendas is here to report.

Senator Murray asked if many of these findings were the same as what we had before. Mr. Pendas said some of these were found by LaPorte, but we did not, it was a CPA firm. Mr. Pendas said as discussed in the exhibits on the findings, Citizens internal control information systems and accounting records contain major inadequacies. These inadequacies in user access controls, other weaknesses in its computer systems, a lack of monitoring of the access of Citizens and service providers, deficiencies in the processes to develop loss liabilities, receivables and other financial statement information and other matters are partly discussed in the exhibits do not provide adequate safeguards over Citizens assets or insure the proper recording of transactions. Their inadequacies made it impractical to apply sufficient auditing procedures to enable us to express an opinion. And so we did not express an opinion. There was no opinion expressed on Citizens in '05 and '06, and in 2007 they disclaimed on the statement of revenues and rendered on the statement of net assets, so now if you want to proceed to the findings.

Mr. Pendas said the first finding is lack of controls over administering and monitoring user access, Citizens granted employees and nonemployees excessive, inappropriate access to their LPMS (Louisiana Plans Management System) and Fiserv, that is the accounting system which allowed users to make changes to critical data and exposing Citizens to potential error and fraud. Most of the accesses below have been in place since October 2005. As of May 2009, 137 were granted broad

access to LPMS database allowing users to make changes to data, including but not limited to policies, agents, claims, claim payments, percentage commissions paid agents, policy holder addresses, billing history, and premium amounts received or owed. Of those 137: 77 belonged to Citizens'; 15 we could not initially identify – after several months they identified 7 were PIAL employee, 2 PIAL employees who were terminated, 2 Department of Insurance employees, and an American Insurance Association Board member, and labeled the 8 as former temporary Citizens' temporary employees; and 22 were generic IDs which meant you could not tell who was processing the transaction; 14 belonged to their service providers- that is Bankers and First Premium and McNeal at one time who were contractors; 7 belonged to employees of PIAL – three of whom terminated employment with PIAL; and 2 belonged to terminated Citizens employees.

Mr. Pendas continued in addition, employees and nonemployees were assigned the SBS Consultants title allowing them to approve claims over \$25,000 using the LPMS claim approval screen. These included four unidentified users; one employee who did have a business need; five generic ID's; one terminated employee; and one service provider.

Mr. Pendas continued saying for the Fiserv, accounting system, also excessive access was granted to it. Fourteen had full administrative access, allowing any change in the accounting system, 13 of the 14 had full access through Consultants-SBS role and four had profiles with rights to change vendors, claimants, and disbursements and all 13 employees in the accounting section plus seven additional users also had access to a shared directory on the network that allowed them to alter bank reqs and unencrypted batch files used to post payments and process disbursements.

Mr. Pendas said the why is based on discussion with management was that during Katrina and Rita in 2005 there was a great need to process a bulk of transactions quickly, so to get around the problems with their computer system LPMS, they granted broad access to the system, but that is the fundamental problem that we have with trying to render on the financial statements, is the lack of control over data, and lack of control over the people that are manipulating the data, like their computer consultants and their service providers. So that is the fundamental basis of why were not able to render on financial statements.

Mr. Pendas said the second finding relates specifically to that lack on monitoring over service providers, they did not perform adequate monitoring or internal audits on their service providers. They also did not do something that would have given them more assurance if they had gotten SAS 70 Type II audits, it would have tested the controls at the service provider level. They did not get those audits that would have given them some assurance, and the issue is on page 4 in Exhibit B in the middle of the page, because they were not reviewing the transactions processed and those transactions afforded service provider threshold of \$25,000 general claims, and \$75,000 catastrophic claims. 99% of the claims were not reviewed adequately by Citizens employees which allows risk. Citizens placed its faith in the performance of those service providers without externally monitoring that performance. The next finding is on the inadequate loss reserve development process - Citizens did not have adequate process to develop loss and loss adjustment expense reserve liabilities. They engaged an outside actuary to assist in the estimation of the loss and reserve liabilities based on data provided by Citizens. Although an unfavorable judgment of \$95 million was issued to Citizens on a class action suit, it was not evidence that the reserves included provisions for that amount. Their consultant actuary actually qualified their report on that fact, saying that the scope of my opinion does not include any provision for these class action suits and mass joiners; therefore, my opinion is qualified in this regard.

Mr. Pendas said as part of what we do to test estimates we look at the data that is fed. Senator Nevers said this is a very comprehensive audit finding on Citizens and I am not sure we shouldn't devote a whole meeting for this report. You know I would suggest, unless someone has opposition to it, that we call a special meeting to deal with just Citizens Insurance.

Senator Murray said tell me this, we have had Citizens before us, I guess going all the way back to right after Katrina I imagine, is that right. Senator Murray said flipping through here, this is an awful lot of information. I know there are some people here from Citizens, so if someone could come up for a minute. I think Senator Nevers makes an interesting point. Senator Murray said let me just say this to begin with, I know you said that you were not able to get a complete on the audit, how does that impact the state's CAFR going forward.

Mr. Purpera said what we are trying to say is, what we found was the controls were lacking to the degree where we as auditors thought we could not place any reliance upon the financial data, so we could not render an opinion on the financial statements. The impact on the CAFR is significant because there is a disclaimer at the Citizens Insurance level, then there is a qualification level on the CAFR level on that particular discreet component units.

Senator Murray asked what would need to happen, and I have had a chance to flip through a little bit, and looks like some of the findings they really have real heartburn with, some of them they concur with. He asked what it would take to try to get past this point.

Mr. John Wortman, CEO of Louisiana Citizens Property Insurance said start on the '09 audit, this is the '08 audit if you remember. We just need to get this behind us. I think we all know - you have



all heard me say that post Katrina we initiated a new system that did not work. It took them four months to tell us we had a system that did not work right. We built a balancing system, we built a data mark, we put this plan together in '07, as a temporary plan to get us by until we got our new system implemented. We did an RFP in connection with the State Office of Purchasing, we made an award, and have gone through final testing. We are implementing the new system as we speak. Were there other issues with Citizens? Yes. Are we still trying to fix them? Yes, including the new system, but you will recall at year end 2007 we had no audits for 2005, 2006 or 2007. We put a plan together to gather the data, to build the data mark, and the balancing system, we implemented that plan, we completed the '05, '06 and '07 audits in 2008. We did '05 in April of 2008, we did '06 in July 2008, and '07 in October of 2008. We did this in connection with the Legislative Auditor. We did an RFP, we made an award to a firm to do it, they accomplished those results. The balance sheet for 2007 was not qualified. The other ones were qualified because we could not do a management rep letter because there was no one that worked there during that time to do a management rep letter, and since the balance sheet of '07 that time statement was unqualified. We filed our 2008 statutory statement on time for the first time ever with the State Department of Insurance, and we received in January 2009 an engagement letter from the firm that did 2005, 2006, and 2007, an engagement letter that said that they would do the audit for about ten weeks and their maximum cost was \$135,000, and they were going to start on March 9<sup>th</sup>.

Mr. Wortman continued that on March 9<sup>th</sup> we received an engagement letter from the Legislative Auditor that they were going to do the audit, and they would do it in no less than six months and would charge no less than \$480,000. At that time we went to the Legislative Auditor with three questions: #1- there is a significant difference in cost and we had a fiduciary responsibility to address that; #2- the timeframe, we had a statutory timeframe to be able to allow us to file our audit statement with the insurance department by June 1<sup>st</sup>; and #3- could they do the statutory audit. Their response was we will do it as quickly and inexpensively as we can, we can do the statutory audit, and we are going to begin on March 21<sup>st</sup>. Our entrance conference occurred on May 27<sup>th</sup>, we received the audit last week, and we still do not have the statutory audit. We agree with some of the findings, I do not think there was anything we found that was where we had not identified this and had it on our issues list. Some of the findings as you mentioned do give us heartburn. We would be happy to spend a day with this group to go through our thoughts on the audit. With me is Jerry Carlisle, he is the new audit chairman of our board committee, and I thought maybe Jerry might like to talk about some of his plans briefly.

Mr. Jerry Carlisle said he has been on board with Citizens since this past September, being chairman of the audit committee since December. I will tell you that certainly the audit committee members are independent of management. We believe that our role as a board member is oversight, and we intend to meet at least on a quarterly basis throughout this coming year to deal with issues such as this as well as reviewing financial information. I would also say because we just completed the audit of 2008, it is extremely likely that these same findings will come forward in 2009 when that audit is done. I guess my problem as a board member is that I have a fiduciary duty to ensure that Citizens receives a competent professional audit for the lowest cost. We have an outside CPA firm saying I am going to charge \$135,000, and I got the Legislative Auditor saying they will charge \$480,000, there is something wrong with that – that is broken. And I believe that ... I understand they have a statutory authority to audit Citizens, I have no problem with that. However, when they can charge whatever they want, I do have a problem with that. I don't think their statutory authority should usurp my fiduciary responsibility as a board member of Citizens. That is the biggest problem that I have at this point in time. We as an audit committee will certainly look at these findings, we will see what action management is taking on a periodic basis and we will go forward like that, but again my biggest problem is the cost.

Senator Murray said I will just say this, speaking for me not for the council, but I am inclined to follow Senator Nevers suggestion that we put this off, but I also will say this to you. With your comments about saying that the auditor, questioning the cost, and I do not know if this is something that some people just starting picking up on. Seems like every month there is a new entity that says they do not have to comply with the auditor, and this ball seems to keep growing, so that gives me some pause to hear you say that. It just seems like every month there is a different entity that says that they do not think they should turn over information. This Citizens thing has been a source of all kinds of stuff for the last few years but I would hope that if we decide to push this off, maybe for some time early next month, middle of next month, that you will be able to work something out because we have got to get Citizens straight. I live here in New Orleans, a bunch of property insured by Citizens, and I know it is the same case with Senator Gautreaux, Representative Richmond and Mr. Abramson – we have got to get it right and get it on sound financial footing and we just do not know yet until we can get a good audit. I mean something has to happen.

Mr. Wortman said we provide monthly financial statements, we have a formal budget that is approved by our board. We have monthly management reports that are really getting pretty good today, so I kind of have a problem saying we do not have financials because we do.

Mr. Purpera said if I might respond to what was just said. The legislature entrusted the decision as to who is going audit Citizens, not with the entities, but the legislature entrusted that decision to the Legislative Auditor. And Mr. Theriot as Legislative Auditor, he made the decision based upon facts he knew that what would best serve the State of Louisiana, best serve Citizens, best serve our public would be for the Legislative Auditor to conduct that audit. It is true that our charge was expected to be



about \$480,000, no doubt, and it is true that the previous auditor's fee was around \$125,000 - \$130,000, but when they engaged that auditor, that was a year ago, they did the RFP – they received three bids. The highest bid by a local firm was \$700,000, so I want to put it into some perspective. Mr. Theriot made the decision that the Legislative Auditor was going to do the work not to just come out with an opinion or lack of an opinion, but that we would also do the work to posture this agency and posture our state to move forward. There in lies why you have such a thick report and so many findings. The issue about having repeat findings is not because the auditor is tardy, as I am hearing, it is not because we are tardy in reporting, the issue is that the entity continued to use a broken system. So they used a broken system in 2008, they used a broken system in 2009, and so the transactions were processed through a broken system, so you are right, most likely it will have audit findings repeated 2009 as a result of that. I do agree it probably would be better to have a full day on this matter.

Mr. Abramson said if we will have another meeting on this, I will defer my subsequent question, but I have a general question. I realize this was a financial process type of audit, did this include any performance auditing and has there been a performance auditing in essence where we look at the loss reserve, assuming there was one done, because I understand that is one of the issues. We see what the outcome was, we see what maybe the settlement offers were made, we see if penalties were assessed by a court. Representative Abramson asked if the auditor has looked at that part of Citizens in terms of performance.

Mr. Purpera said there have been five performance reports on Citizens on various issues involving the rates setting which we refer to in this report or the improper rate setting on the litigation issues, there are approximately 5 reports. Representative Abramson asked when the last litigation performance report was done. Mr. Purpera said I do not have the date, but it has been at least a year. Mr. Wortman said probably mid 2007. Representative Abramson said so we do not have one for the last 2- 2 ½ years. Mr. Purpera said that is probably correct.

Senator Murray said I think we will decide to have a meeting next month, could you maybe get to the members a summary of those prior reports - get them to us in advance so people can have them. With that, we will entertain Senator Nevers motion, I will attempt to get another meeting scheduled no later than the middle of next month to deal with this issue because there is an awful lot here and this is a pretty big entity and it is important to a lot of people around the state. Senator Murray said that Senator Nevers motion is to reschedule this audit for the next meeting, and asked if there are any objections, hearing none, that motion passes.

Representative Richmond said listening to Neil's comments about Citizens and the question about a performance audit, and looking at the litigation cost, is there an entity or is it the Attorney General's (AG) office, who looks at all of our state entities to look at what they are spending to litigate as opposed to settlement offers that were made. I am aware of some cases where the litigation cost, what we ultimately paid the defense attorneys is more than the settlement offer proposed by the plaintiffs. I am not talking about Citizens here, but just overall in general is that the AG's office who does that. Senator Murray said I do not believe anybody does that, I know the AG sets the hourly rates of what you can charge but I believe that is the extent of it. I know that there are a lot of issues about what the state pays in terms of cost of defense and what case ultimately resolves to do, but I do not know of anyone.

Jenifer Schaye, General Counsel with the Legislative Auditor, stated that question has been asked at the various Citizens board meetings and Citizens, I do not know if they still do, but I think they do, they had their general counsel determining what she should settle and which should not and which attorney should be paid, and I think that we do have a performance audit on that which will come in the summary. Representative Richmond said I am thinking about other agencies like our levee board, other entities, is there anyone that does that because that kind of concerns me, and maybe we need to talk about that and I will think through it also. Ms. Schaye said that might be a legislative gap. She said that the Office of Risk Management does it for the tort cases against state entities. David Greer, Performance Director with the Legislative Auditor's office said we did some work on this a few years back, there is some role by the AG office in setting fees, but there is not overall total consolidation effort of overseeing anything in relation to settlements versus whatever. There is no one entity, long story short.

## **UPDATE ON KATRINA COTTAGES PROGRESS**

David Greer, Director for the Performance Audit Division said in your packets is basically a recap of reports on Katrina Cottages. This is based on the information we received each month primarily over the last several months from the Cypress Group Contractors. Though you will see in Exhibit 1 attached to that is a report for January 5, 2010. Exhibit 2 is December 1, 2009; Exhibit 3 is November 1, 2009. Those are the three reports that ya'll have not seen up to this point. Just to give you a little bit of background summary once again, \$74.5 million program, primarily a pilot program, this is what they were to do with it. You see in Exhibit 1, the latest report, there are 132 homes completed and 227 under construction. Now the original reported goals going back quite some time, were to build 500 cottages. You also see 95 modular units that have been ordered, basically this is the status report that they provided to us. Just a couple of items of interest to point out to you, there are some things that are not being reported that you all asked for in previous meetings. One is environmental approvals,

cooperative endeavor agreements, and updates on the occupancy plan. That information you have not been receiving on a monthly basis as you have requested. You have people here from the LRA to discuss this, I am sure they will be able to answer your questions.

Senator Murray asked Mr. Jacobs to give a brief report and tell us why we do not have the information we requested. Wil Jacobs, Housing Policy Director at the Louisiana Recovery Authority, said I have two apologies. First, Robin Keegan, our Executive Director was to be here, and she was called to an emergency house appropriations committee meeting right now, but she will try to make her way back. Mr. Jacobs said I really want to apologize for the monthly reporting. As a matter of fact, I was under the assumption that those letters were distributed and I just got a notice a few minutes ago that they were not, once an assistant looked at the calendar. So I ran off and made copies. What I will do is go through my report and understanding it is unfair to you to be able to look at it and be briefed. I will leave open the possibility to coming back next month after you have had a chance to digest things. Just going through the report, as of today, on the environments we have gotten through all the environmental assessments (EA) with the exception of 22, and those 22 were on the Providence Community Housing infill for May. We are schedule to get those 22 approved by the end of February. With a caveat, that if some of those do not reach approval, they will not be constructed on those sites. But we expect to know this week or next which of those might fall out, but final approval will be achieved by the end of February for those 22, but again all the remainder of the New Orleans and Lake Charles infill have been approved at this date.

Senator Gautreaux asked how many homes have been moved into by now. Mr. Jacobs said three out of 500. Senator Gautreaux asked how many completed homes do we have right now. Mr. Jacobs said completed are 42 in Baton Rouge; 59 at Jackson Barracks; 34 in Lake Charles. Senator Gautreaux said only three out of those are moved in, and how many of 500 homes are actually approved for people to actually own those homes, or how many applicants do you have for the 500. Mr. Jacobs said we have close to 500 applicants who have returned completed applications who are working through the process for either rental or home ownership.

Senator Murray asked Mr. Jacobs to explain to them the Jackson Barracks issue, because those properties are finished. Mr. Jacobs said at Jackson Barracks we have two sets of housing. The first set is single family homes, 59 of them which are complete. The remainder is multifamily homes that are under construction now, and for safety reasons the National Guard suggested, and we agree, that the construction site is not a safe place for people to live at this time. We had intended that households would be able to move in.

Senator Gautreaux asked why is it not safe. Mr. Jacobs said because there is construction going on. Senator Gautreaux said when you build a brand new subdivision and the first house is built, and the next one built, it is the same. Mr. Jacobs said true, but it is a safety concern for the National Guard and their employees and we also have had a situation with the AHGP program in Alabama where people were living on the construction site and some injuries occurred, so all parties thought it best until the project is totally delivered to the National Guard that there not be any occupancy. Senator Gautreaux asked when the delivery date will be. Mr. Jacobs said the final delivery date is the end of March.

Representative Abramson thanked Mr. Jacobs for coming, and commented that three homes are currently occupied. Mr. Jacobs said three currently – two rental in Baton Rouge, and one home ownership unit in Lake Charles. Representative Abramson said the letters that were handed out today that are addressed to me at the beginning of each month, I do not recall getting these. Mr. Jacobs said you should have received everything through December and not January. Mr. Jacobs said the January 8<sup>th</sup> letter was not sent and I apologize, I just got an email a few minutes before that the letter was not sent so I made copies from my file.

Representative Abramson said I am looking at Cypress' report that they provided to us, which is in our materials up here. This project originally called for 500 cottages, when I look at Cypress' materials about the number of sites under construction, and the ones occupied and if I do the math, it appears to me that we are only going to have completed about 362 out of the 500. Mr. Jacobs said no, that is not correct, we are getting close to 500. What you are not seeing on the Cypress reports are the homes that constructed has not started on, and those are a good deal of the infill housing in New Orleans. Representative Abramson said looking at Cypress' report they have 32 sites of the infill NORA sites which they started on and the project originally called for 100, so that is 68 short. Mr. Jacobs said we are looking at close to 100 in NORA, as a matter of fact, the New Orleans infill about 97 or so.

Representative Abramson asked does that mean the environmental assessments have not been done on the other sites. Mr. Jacobs said no, every site for the New Orleans infill except 22 for Providence Community Housing have been environmentally approved. Representative Abramson said so all of the NORA sites have been approved. Mr. Jacobs said yes. Representative Abramson said the locations have been turned over to Cypress so that they can build. Mr. Jacobs said no, they have not, what we are doing now – we have more lots approved than for NORA that we will build on, and we as a matter of fact, talking today to finalize the list on where we are going build. NORA has other partners too, and they just want to make sure that this fits within their plans. We are making final

determinations on that today, as a matter of fact. Representative Abramson said I am a little confused, because I thought you said there were going to be about 97 or 99 NORA cottages, and now you are saying that we do not know what is going to happen above 32.

Mr. Jacobs said that is not what I am saying. I am saying we have more approvals than we are going to build houses. Representative Abramson asked how many approvals do we have for NORA sites. Mr. Jacobs said in these for NORA sites we have 61 approvals, that is the amount we are going to actually build on NORA sites, we have more than that approved. Representative Abramson said I am confused because I thought you just told me that we are going to build 97 on NORA sites. Mr. Jacobs said let's back up, let's start calling this New Orleans infill and with New Orleans infill we have basically 4 partners – we have NORA, we have Odyssey House, we have Neighborhood Housing Services and we have Preservation Resource Center. NORA has about 61 of those.

Representative Abramson said we have never ever discussed anything in any of these committee meetings that we have been having on this project for 1 ½ years dealing with infill sites other than NORA. Now you are telling me that NORA has partners – Odyssey House, Neighborhood Housing Services, and Preservation Resource Center. Mr. Jacobs said no, that is not what I am saying. What I am saying is we have New Orleans infill, the other, we all grouped these under New Orleans infill, NORA was one of the partners and the other three are other partners to us.

Senator Murray asked Mr. Jacobs could you do this- I am like Mr. Abramson, and I have been around a little longer than that when this first started after Katrina with this emergency housing that still cannot be an emergency, because it is not there yet. He asked Mr. Jacobs to give the council a report that breaks down all the other entities you are talking about because this is my first time hearing this as well. Mr. Jacobs said I am sorry - those parties have been on the reports. Representative Abramson said maybe we can ask Mr. Purpera because I have looked at the Legislative Auditor report and I have never ever seen this, it has always been reported as NORA, there will be 100 cottages built on NORA sites and now I am hearing something different.

David Greer said the reports we have been receiving have been coming from Cypress. We have not been receiving any reports from the LRA. I see all these reports that Wil says we have been receiving, and to my knowledge the Legislative Auditor's office has not received one of these reports. Now I notice that Steve Theriot is copied supposedly on each of those letters, we have not received these reports. The information we have been giving you meeting after meeting and actually prior to the last meeting, Mr. Jacobs was there as well, those partners were never mentioned either at that time. Senator Murray said I notice I am copied on this as well, and I know that I have not received it. Mr. Jacobs said I apologize, I sent these off and I will accept responsibility for that. Senator Murray said the letters that copied and gave to us, this is my first time seeing Odyssey House, Neighborhood Housing Service and Preservation Resource Center involved in this. I thought it was all NORA. Mr. Jacobs said that is not the case.

Representative Abramson said I do not know where to go- I mean we have been talking about this program for a year and a half, and it is almost coming up on five years after Katrina and apparently we have three of these occupied, and most of them are not even built. Now we have some issues about who is building them, where they are going, other entities I have never heard of. I am familiar with these entities, but I never heard that they were participating in this project. My level of patience and my frustration are just unbelievable here and what can we do to get updated information, accurate information, and more importantly make sure that these cottages get finished and people moved into them as soon as possible. Mr. Jacobs said on the reporting, I will make sure that you get the reporting and everything we have. As far as the occupancy, the next important thing that we are working on as we speak, the challenge is to make sure that we get enough of the invitations out. We already sent 11,000 invitations out, but that we get interested respondents back and get completed applications back.

Representative Abramson said FEMA originally had a deadline for us to complete the project, I think it was September, and then we were given an extension until January, is that correct – when I say completion I realize there is a term of law which the money has to be committed or whatever the language is, just tell me what is our current deadline. Mr. Jacobs said we had a deadline for the end of this month for phase 1, which means environmental and site selection. Representative Abramson asked have we met that deadline. Mr. Jacobs said no, we have not, we have met the deadline for all but the 22 units that still have to have environmental assessments, but we will reach for the remainder. Representative Abramson asked are we going to make the deadline for those 22. Mr. Jacobs said no, we will not. Representative Abramson asked have we discussed with FEMA about an extension. Mr. Jacobs said yes, we have. Representative Abramson asked what did they say. Mr. Jacobs said yes, they are on board with what we are doing. Representative Abramson asked Senator Murray that whenever we schedule our next meeting we put this back on here and in the interim I would ask Mr. Jacobs, could you get together with the Legislative Auditor and provide the additional information.

Senator Murray asked if he had in writing from FEMA or is this something you do not have yet. Mr. Jacobs said we do not have it in writing, we speak to them several times a week and they are working with us on this constantly. Senator Murray said let me make this suggestion to you. I know that this is a big issue for Mr. Abramson, Mr. Richmond, myself and Senator Gautreaux as well. If you

can get something to us in advance of the next meeting, our addresses are all public and not hard to find, and I know Mr. Ellington cannot figure out why it takes so long to build these either. Mr. Jacobs said yes, I am sorry. Senator Murray said to include the auditor in the information as well. Mr. Jacobs said I am at a loss for why this was not getting to you, and out of fairness to you, you have to have it in advance, I understand that clearly.

Representative Ellington said I just want to say, you are a nice young man, and I would hate to have your job to have to try and come here and defend the situation that you find yourself in, but when we say we have three occupied, it just blows me away. I know government operates slow but compared to this we operate pretty fast. He asked if DEQ has been the holdup. Mr. Jacobs said on the selection and placement of the units we are going to have two issues, we are limited to a population of households that we have to out reach with through an invitation, and we have to do it randomly, we cannot just go and advertise openly for any household to come and join this program, and so we sent out 11,000 invitations.

Representative Ellington said I am confused as to what the difference between that and advertising openly to get some responses, and then you choose from the responses you get. Mr. Jacobs said the crux of it is this is a FEMA sponsored and funded program and there are two purposes – one is a pilot, but the second is to house the household that they feel they have a responsibility for. We are limited to that population of households who were eligible or have been receiving FEMA housing assistance. Representative Ellington said but you have that population, you know who they are, you know where they are. Mr. Jacobs said we do know who, and it took us a while to get that population, to get who those people are, some of the letters that we have sent out have come back. We have had actually 4,500 letters returned out of the 11,000 sent, so we still had 6,000.

Representative Ellington said if you got 7,000 people wanting one of them, you only have 500 homes, I do not understand the holdup. Mr. Jacobs said right, so if you bear with me for a second, as of today, we have 3,800 applicants who have called the call center, who expressed interest in the homes. From there we send out applications to those who still want to go through with the process. We have sent out 1,600 applications.

Representative Ellington asked why he did not send out 3,800 applications. Mr. Jacobs said here is the situation, the first step is the call where we determine whether that applicant really wants to go through this, and out of time and financial concerns we first have an interview and then send out an application – it's a short process. But from there we sent out 1,600 applications and about 500 have been returned, and that is the population that we are working to get the placings. Representative Ellington asked how long will it take you, now that they have given you the application, and you got it back, how long will it take you to get them in the house. Mr. Jacobs said it will take a while. If they are renting, it is a shorter process, but if they are going through homeowner ownership, they have to go through training, depending on their financial situation. And they have to also get some type of financing to purchase them.

Representative Ellington asked if these are emergency FEMA Katrina Cottages. Mr. Jacobs said these are permanent homes with values depending on - \$100,000 to \$150,000. Representative Ellington asked do they have to pay that for them. Mr. Jacobs said no - that is the key to the program, we are able to give someone a home, a purchase opportunity at a significantly reduced rate. They will get a soft portion of that loan because it is all funded. So they can buy a \$100,000 home for the price at which our partner accepts. We work with our local entities, for instance in Lake Charles with Habitat for Humanity, who would work with that household to determine what is affordable for that household. It just takes a while through a normal home ownership process to get households placed.

Representative Ellington asked how long before we will have 10 people placed. Mr. Jacobs said I would say in the next month, and in all honesty, here is the challenge, we can have all these units placed as soon as they are built but at the end of the day, and FEMA allows us to do that, but we have to make sure at the end of the program next year that these households are able to maintain that home. Because that has been the challenge in the program is to get communities accepting of these houses and people can live with them to maintain them, because after the program is over we cannot subsidize the household living there. So if the household does not have sufficient income to operate the home they are not going to be able to sustain this in the community and that is one of the things we are attempting to do in the program.

Representative Ellington asked what was the initial reason for Katrina Cottages. Mr. Jacobs said the initial reason was primarily as a pilot program to test alternative to FEMA trailers. Senator Murray said it was 2005 emergency housing. Mr. Jacobs said yes, correct. Representative Ellington said a place to live to come back, people who were away. Mr. Jacobs said right, correct, and the only caveat is that the Louisiana program was not temporary housing, it was permanent housing. Representative Ellington asked have we decided that this pilot program does not work. Mr. Jacobs said the pilot actually is the homes and how households live in them, and what they think of them after living in them, the suitability of those houses, and that is the pilot. Representative Ellington said I give up.

Representative Richmond said I was just going to say Wil, you do a remarkable job and I think that you have been very forthright with the committee, and I believe everything that you are saying, but

somewhere, someday, I think they send you here because you are so honest and try your best to explain probably some things that are incredible. I appreciate your effort, but I am really look forward to it, and I think the committee is looking forward to at the end of the program, and honest assessment of, if we have to do this, what things we have learned from this, why it takes so long, and better ways to get it done. So I think at the end of the day, this will be a good project in learning what not to do, and how to get things done quicker, so that is the part that I am really interested in, and learning. So as we continue, I would just ask that you make notes and give us your two cents on how to make things more efficient if we ever have to do this.

Senator Smith said in your comments you said at the end of the program these folks will need to maintain their homes, and you are trying to insure that. I think that is a great idea. At the end of the program, will they also be able to sell these homes. Mr. Jacobs said yes, what we are asking is that those households that are in these homes, remain in them during the time of the program. If they purchase them, it is like with the case. If we lease them, there is a higher probability that that household would leave and we would have to replace that household with another household from our list. After that time, the households that purchased the home, will have the opportunity to sell the home if they so choose. But one of the things that I want to make clear which may not be clear, is that if our local partner continues to own the home throughout the time of the program period, which is ending September 2011, if they still own that home and sell that home, they will be required to use the proceeds to build more affordable housing, and that is something that we are tracking.

Senator Smith asked under what penalty would that. Mr. Jacobs said if they receive income from the program, we escrow the funds and they are under contractual agreement to do so. If they break it, they would be breaking the contract as well as, they would be responsible for paying the money back, as well as any legal remedies involved with that. Senator Smith asked after two years they can sell the home. Mr. Jacobs said correct. Senator Smith asked once again what would you anticipate or estimate would be the average cost of a home. Mr. Jacobs said we are requiring the homes are sold are market value, with the possibility that any portion of that can be a soft portion that is not repayable. But the sale would be at market value, and those prices range anywhere from \$100,000 to about \$150,000, and that is including the cost of land, depending on where they are situated.

Representative Ellington asked how much money was originally set aside to do this. Mr. Jacobs said \$74.5 million. Representative Ellington said \$74.5 million to do the program, now we are going to sell 500 houses for let's just say \$100,000, that will be how much. Mr. Jacobs said not quite, the 91 units at Jackson Barracks will not be sold - they will be permanently for military, uniformed and non-uniformed. Representative Ellington asked where did the money come from for those, did somebody pay for those, did the state buy those, or did Jackson Barracks. Mr. Jacobs said we provided them to Jackson Barracks. Representative Ellington said so we are going to sell 400. Mr. Jacobs said there are some that, for instance, the Housing Authority of New Orleans, we have 100 homes under construction in Algiers. Senator Murray said Mr. Jacobs he wants to know how many houses we are going to sell at \$100,000, if you know. Mr. Jacobs said I do not know precisely. Representative Ellington asked how many are we giving away. Mr. Jacobs said we are giving away 100% to the partners, you can be clear of that, 100% of them are given away. The partners will be required under the terms of the grant to use any proceeds to build more affordable housing or provide home ownership opportunities for low to moderate income households.

Representative Ellington said we are giving them all away - no one has to buy a house. Mr. Jacobs said yes, we are giving them away. Representative Ellington said you are trying to confuse me, I gave up a while ago, but I am not going to give up this time. That is what I am saying, you are going to give them to the partners who received the \$74.5 million. Mr. Jacobs said it is not that simple, the cost of the housing is almost \$69 million - that is all going to the partners. There are other costs up to the \$74.5 million that are the costs of operating the units, paying the insurance for the units for those that will be rented. So for instance, at Jackson Barracks, through the program period we are required to pay the cost of operations and maintenance for Jackson Barracks, so they are getting all that. But the key is that we as Louisiana Recovery Authority are a temporary agency and we are using these partners to take on our responsibilities rather than building infrastructure to maintain this program for years on out. In exchange for that, we are giving our local partners these resources so that they can do the work for us, including the disposition of any program income that we receive.

Representative Ellington asked but now we have given all the houses away, the partners are going to be able to sell how many. Mr. Jacobs said I cannot answer that, and I would say that the end of the day the partners will probably sell about 300 of those with the remaining 100 as permanent rentals, outside of Jackson Barracks. Representative Ellington said so the partners then, we are giving the money to build the houses and to maintain the insurance and to do all of the things with the \$74.5 million, now we are going to let them sell \$30 million worth, who gets that money. Mr. Jacobs said they are required to use those funds to build more houses, and they tell us in advance what they are their plans are for those funds and we track it. And we have to ensure that they are using the funds in the way that the grant directs us to make sure that any income received is used. Representative Ellington said so we get to keep asking you questions until we are term limited. Mr. Jacobs said the reality is yes, and again the reason was rather than us creating a new agency that will be there forever, our partners are assisting us in carrying on the work of the grant.



Representative Ellington asked how long is the LRA supposed to keep operating. Mr. Jacobs said the LRA, as you know, is an entity ends in June of this year, but our work continues through the Office of Community Development. Senator Murray said we will move this item to this next meeting and once again I would encourage you for the members who have issues or questions to get with them, and get them the information in advance.

Mr. Jacobs asked Senator Murray if it is possible that I send you the reports directly. Senator Murray said yes, that's fine, send it to the staff and they will give them to us, and it should be easy to find their address too. Mr. Jacobs said I can get the addresses and I apologize again and I really apologize for using your time when you are not sufficiently prepared. Senator Murray said I learned something today, I did not know we were giving these properties away to these other folks. If they sell them, they get to keep the money and do something else with it - that is a different deal.

## **EXTENSION REQUESTS**

Joy Irwin, Director of Advisory Services for the Legislative Auditor's office, pointed out item 3A: non-emergency extension requests. As the council may remember last meeting, you gave authority to the chair and the vice chair to approve extension request administratively to try to keep everybody where they needed to be. There were extension requests that were approved administratively, and I am asking that the full body confirm those administrative requests. On the first page of 3A you will see three entities that have extension requests, and on the second page you will also see some entities. The only ones that were not administratively approved were the two at the very end of the report in the yellow color: the Housing Authority of Homer and the Housing Authority of Natchitoches Parish. These are the only two that we are not recommending approval for today.

Senator Murray asked for a motion to approve the ones that the auditors is recommending for approval. Representative Richmond asked regarding Touro if they are required to submit an audit to us. Ms. Irwin said yes, because they receive public funds. She said they did appear before the council last time in November and gave us 4 or 5 reasons why their audit report was late, and they are still dealing with some of those issues. Senator Murray said that Senator Smith moved for approval of all items except the last two of Item 3A, asked if any objections, and hearing none, those are approved.

Senator Murray asked the situation on the Housing Authority of Homer and the Housing Authority of Natchitoches Parish. Ms. Irwin said you may recall we had the CPA at the last meeting, Mr. Marchbanks and he gave some of the reasons why those are late, but we have heard from the management of those housing authorities and we recommend that they come to the next Audit Advisory meeting and address the council. Senator Smith moved that they be invited to appear at the next council meeting. Senator Murray asked if any objections, and with none, is was approved.

Ms. Irwin said in 3B: the emergency extension requests and Cameron Parish appeared at the last meeting and gave the reasons for their reports for being late, but they needed a little additional time, as you can see they have an extension date requested of January 31<sup>st</sup>. Then the Housing Authority of Slidell as you may recall, Mr. Andoe, their CPA appeared at the last meeting, but they are still having issues. This was recommended by the council to have an emergency extension request, unfortunately, they did not get us the report by the date that they said that they would, which was December 31<sup>st</sup> and we have not gotten an additional request. Senator Murray said in light of that should we move to approve, or ask them to appear before us. Ms. Irwin said to confirm the approval first, and I think we do need to hear from Slidell. Senator Smith moved approval for extension requests, and Senator Murray said with no objections, the motion was approved. Senator Murray asked if you all will notify the Housing Authority of Slidell to come to the next meeting.

## **PERFORMANCE BASED ENERGY EFFICIENCY CONTRACTS**

Mr. Purpera said as you know in the previous meetings this has been a very important issue addressed by the council and during the last meeting a lot of concern was expressed about the lack of movement that has been taking place. Since that time we have been working closely with Senator Mount, with the District Attorney's Association, with the Attorney General's office and we have also spoken with representatives of various energy savings companies. As a result the AG issued a letter on December 30<sup>th</sup>, which is in your packet. That letter went to all of the entities who have energy efficiency contracts. Basically the letter points out to the entities the legal defect that they have involved in their contract. It instructs them to seek legal advice and also instructs them to call the Legislative Auditor's office for advice. The second letter went out from the DA's Association which went to all of the DA's providing guidance to each one of the District Attorney's on how they might assist in this matter in getting this moved forward. The third thing is that the Legislative Auditor's office has placed suggested solutions to this issue on our website and made it available to all of the energy savings companies and to all of these entities that are affected. Basically what we are calling for is maybe a four or five step approach.

Mr. Purpera continued explaining that first we are telling the entities to go back and amend their contracts to remove the word stipulated out of your contracts because that is the crux of the problem. Secondly, they have to begin to do some kind of measuring and verifying, if they can go back in to the past and do measure and verifying and settle up with their ESCO. What we are finding is many of the



entities are saying well they do not the records to be able to go backwards. So what we have recommended to them to do is to measure and verify the future and then average that and apply it backwards and make an agreement with your ESCO that is what you are going to do, so that the public is made whole. Basically we are trying to make the best situation out of a bad situation.

Senator Murray asked if this document is supposed to be all the ones that we know that are out there in existence now. Mr. Purpera said yes, sir, we have identified the 41 entities that have these contracts. Senator Murray said the solution that your office recommended about going back to renegotiate, did these entities have the capacity to be able to go out and figure out what that amount should be. Mr. Purpera said what we are recommending, and as you will see on the document, you will see a lot of responses and all these entities are calling or we are calling them. But those that do not have the expertise, what we are saying is you need to do what the law says today - go hire you a third party, someone that does have the expertise to go backwards or forwards.

Senator Murray asked if any questions, and suggested that maybe if we put this on the agenda for the next meeting just to tell us what your experience is in terms of these entities moving forward and trying to correct the issue. Senator Murray said I will suggest this to you as well, I know I received and not sure if every other member did, a letter from Senator Marionneaux about the proceedings and litigation he was involved in and to ask what if anything this council was going to do. I did not say anything to him, but I guess his client will get a copy of all these letters, or should have received. Mr. Purpera said they already have.

## **LITIGATION UPDATE**

Mr. Purpera said what we wanted to provide to you on the litigation update, the legislative auditor's office has three outstanding issues of litigation. Senator Murray said I do not want you to go into any details and if a member thinks that we need to, then we will need to go into Executive Session, but I just want the members to know what is out there because I know there is a recent case that the members may not be aware of but if you can tell us the basis on those.

Mr. Purpera said the Department of Insurance lawsuit involved our access to records. Currently it is in the appeals process and the last two issues that they are maintaining is the issue of attorney client privilege and deliberative process, so that is proceeding through the courts. Ms. Schaye said where we are on that, the First Circuit has given us briefing schedule and the Department of Insurance has to turn in their brief on February 8<sup>th</sup> and our attorney will turn in our brief on March 1<sup>st</sup>. Then they get a chance to respond to our brief, and then the First Circuit will set it for oral argument.

Senator Murray said the case with PIAL was argued before the Supreme Court last week. Mr. Schaye said it was argued on Thursday. Senator Murray said they have it under advisement and the decision will come out shortly, and that goes back to again whether or not that is a public or private entity.

Senator Murray said the last one that should come up is the HBPA, and that is the same issue as to whether or not it is a public or private entity. Mr. Purpera said their issue is if we have the right to audit. Senator Murray asked if any questions on those that are pending, I do not want to get involved into the actual theories of defense or anything else, because we have to go into executive session. But those are the items that the auditor's office is involved in litigation.

## **LEGISLATIVE AUDITOR SELECTION PROCESS**

Senator Murray said because Mr. Theriot left we have to engage in a selection process that is outlined in the statute that says how we get another Legislative Auditor. I thought it would be good for the members of this committee to get a brief overview. This is something we will begin to deal with. Hoping further in the next couple of weeks, try to get an auditor on board as soon as we can. Representative Richmond said we are doing a national search. Senator Murray asked if you could begin to outlay the process for us.

Ms. Schaye said as you probably know the Legislative Auditor by law has to be a licensed certified public accountant, and after Dr. Kyle left the law was changed so that there would be a temporary legislative auditor so we would not have a gap before you had a chance as the legislature to elect a new auditor. That election has to be by a majority of the Senate and a majority of the House by constitution. He or she can only be removed by a two-thirds vote of both bodies, but elected by a majority. The Temporary Legislative Auditor is chosen by the President of the Senate, the Speaker of the House, the Council Chair and Vice Chair - three of the four. Those gentlemen elected Mr. Purpera to begin right after Mr. Theriot's resignation of November 20<sup>th</sup>. The statute then calls for a twelve member commission to select the Legislative Auditor and the members of that commission include: the President and President Pro Tem of the Senate, Speaker and Speaker Pro Tem of the House, Chairman and Vice Chairman of Audit Advisory, as well as the chairman or his designee of Senate and Governmental Affairs, House and Governmental Affairs, Senate Finance, House Appropriations and Senate Revenue and Fiscal Affairs, House Ways and Means. They are to meet, develop a process, and come up with candidates. They are also to interview or to consider in their selection process any

nominees submitted to them by any member of Legislature. The law says that that commission is to not later than the convening of the next legislative session make their recommendations to the Legislature.

**OTHER BUSINESS**

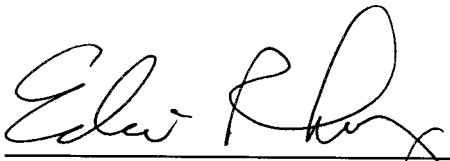
Senator Gautreaux said there was a motion that I made earlier to do an audit on the Louisiana High School Athletic Association, I think we just need to maybe add to the motion, amend the motion - the state upon findings of cause. That would be the motion. We do have cause, there are some existing, pending reports that show certain things, and we are going to turn those over to the Legislative Auditor's office. Senator Murray asked if there were any objections to the motion, hearing none, the motion is adopted and we will conduct that audit.


**ADJOURNMENT**

There being no further business, Senator Gautreaux made the motion to adjourn. Senator Murray adjourned the meeting at 2:46 p.m.

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APPROVED BY:

  
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SENATOR EDWIN MURRAY  
CHAIRMAN

  
\_\_\_\_\_  
DARYL G. PURPERA  
SECRETARY

*3-10-2010*  
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DATE