

LEGISLATIVE AUDIT ADVISORY COUNCIL
Minutes of Meeting
January 26, 2017
Senate Committee Room A-B
State Capitol Building

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

Senator Mike Walsworth called the meeting to order at 10:05 a.m. Ms. Liz Martin called the roll confirming quorum was present.

Members Present: Senator Mike Walsworth, Chairman
Senator Wesley Bishop
Senator Bodi White, Proxy for Senator Danny Martiny
Senator John Smith
Representative Julie Stokes, Vice Chairman
Representative Jimmy Harris
Representative Blake Miguez
Representative Clay Schexnayder

Members Absent: Senator W. Jay Luneau
Representative Marcus Hunter

Also Present: Daryl G. Purpera, Legislative Auditor (LLA)

Approval of Minutes

Vice Chairman Stokes made a motion to approve the minutes for the December 15, 2016, meeting and with no objection, the motion was approved.

Extension Requests

Mr. Bradley Cryer, Director of Local Government Audit Services, presented two lists of entities requesting more time to complete and submit their financial audits to the LLA.

Senator Bishop made a motion to approve the 26 entities on the Emergency Extensions 90 Days or Less list caused by flooding, and with no objection, the motion was approved.

Mr. Cryer explained the reasons for the Nonemergency Extensions 90 Days or Less list including the monitoring of CPA work quality and remedial measures or corrective actions if warranted and necessary. Senator Bishop made a motion to approve the 10 entities on the Nonemergency Extensions 90 Days or Less list, and with no objection, the motion was approved.

Department of Wildlife and Fisheries (LDWF) – Management Oversight of Funds and Operations Financial Audit Issued November 4, 2016

Mr. Purpera explained that the LDWF Secretary in 2016 asked for a review of the department's expenses and purchases that did not comply with law and policies. The report has 15 recommendations for the department to improve management.

Ms. Beth Davis, Assistant Director of Financial Audit Services, explained that the joint audit by financial and investigative auditors found a lack of oversight over department funds and operations which resulted in a number of deficiencies. She continued to present the highlights of the report which covered the three and a half year period in which the department spent \$10.5 million of the \$18 million available from British Petroleum (BP) after the Deepwater Horizon oil spill that occurred on April 20, 2010.

Mr. Purpera provided further information about purchases of boats, airplane (without proper inspection), fishing and water sports equipment, scuba gear, blue marlin tackle, recreational vehicle for one individual while also paying \$8,500 per month to house employees in Venice. He questions if some purchases were in the best interest and in line with the department's policies.

Senator Walsworth asked about the department's response after an unexpected disaster. Mr. Purpera responded that the problem was that the department was not following its own plan created after the disaster.

Representative Stokes said the department's budget in 2016 was \$179M, and in 2005 it was \$70M. Allowing for about \$18M increase due to inflation still leaves about \$90M increase, and questioned what that is attributed to. Mr. Purpera answered that he would have to confirm how much was federal funds that flowed through, and what other programs account for that.

Representative Stokes questioned the \$30,000 solicited by an employee. Ms. Davis said it was related to an employee that solicited and received cash donations of \$30,000 from two companies whose operations are regulated by the department which could be a violation. Ms. Ginger Moses, LLA Financial Auditor, explained that the department employee solicited the funds and it was given to the LDWF Foundation. They discussed the purpose of the Foundation and the lack of specific procedures for the giveaway programs and potential problems.

Ms. Stokes asked about the aircraft purchased without inspection. Mr. Purpera said a pre-buy inspection should have been done before purchasing and the seller, Banyon, offered for the inspection to be done in their Fort Lauderdale hanger. The department did not wait for the inspection but proceeded with the purchase. He investigated for any related party transactions and found nothing.

Senator White asked if the plane is functional yet. Mr. Purpera said the plane was returned to the manufacturer, Quest, who is doing the repairs now. The plane was purchased September 5, 2015, for \$1.8M and was a 2012 model with about 200 hours at the time of purchase. The plane's annual FAA inspection was required on September 30, 2015, but it was flown for two months in violation of federal law until Aircraft Services realized in January 2016 that it was overdue for inspection and found major problems requiring repairs. Senator White commented that with the \$500,000 worth of repairs, the total cost for the plane would be \$2.3M. Mr. Purpera responded that a new plane could have been purchased for about the same price without some extra features. Further discussion about the used catamaran purchased without warranty that was barely used because it was a backup for another boat that performed survey work. This catamaran was not for the tissue sampling program.

Senator Walsworth asked if bids were sent out for the large purchases. Mr. Purpera said the plane was purchased for flying marine biologists to look at ducks and the department wanted the same make and model as the U.S. Fish and Wildlife Service. Bids are not required for used aircrafts, only for new aircrafts. Mr. Purpera questioned Banyon to determine if they knew that the airplane had damage but they claim that they did not. Representative Stokes expressed appreciation for the thorough work done by the auditors. The Office of Risk Management (ORM) sent a part of the metal for testing by a metallurgist to prove if the damage was done prior to purchase so a claim could be made, but the results were inconclusive.

Discussion continued regarding the seafood testing and protocol deviations. Mr. Greg Clapinski, Investigative Audit Manager, said that the marine operator in charge was not even aware of the protocol. Mr. Purpera said the Office of Public Health (OPH) did the sample evaluations and confirmed that there is no contamination in the seafood. Senator Walsworth questioned the number of required samples, and Mr. Clapinski said the Memorandum of Understanding (MOU) required the department to determine the number of samples.

The newly appointed LDWF Secretary Jack Montoucet gave a progress report on the LDWF officer who was shot five times and miraculously survived and expected to have a full recovery.

Former LDWF Secretary Robert Barham complimented the LDWF employees stating that serving as secretary was the highlight of his public career. He previously served on LAAC and is friends with Mr. Purpera, but from his standpoint believes this report to be one of the worst cases of Monday morning quarterbacking he had ever seen. Secretary Barham explained the dramatic changes he had to make when he first went to LDWF, to bring it from struggling to being well managed and in great fiscal condition. This April will be seven years since the BP oil spill occurred and he and many others worked seven days a week until midsummer that year. He elaborated on the devastating effects on wildlife from the oil spill which was the worst man-made disaster that ever occurred in America. He admitted mistakes were made but when dealing with a natural disaster there is no manual to follow. The seafood testing program was great and ensured that the seafood was safe by not just the LDWF, but also DEQ, DHH, Federal Food and Drug Administration, EPA, and the Federal Courts were also looking over their shoulders to ensure all done correctly.

Secretary Barham said that auditors like all policies to be written down and followed but after a disaster there was no manual to say exactly what to do every day. The MOU signed with BP provided funds from BP, and was not any state taxpayer or federal funds. He agreed with tracking every purchase and believed a better job could be done, and is sure the new secretary will put the recommendations in place. BP was pouring money at the oil spill problem showing their concern. He freely admitted that some purchases were extraordinary and unusual, such as the three boats that would not have been bought at regular times but BP was encouraging them to spend money. He said the cost for lodging at the time was astronomical.

The MOU for \$18M was for the goal of 2,300 samples, but they only collected \$10.6M so only 80% of the samples were collected. The MOU was only a starting point and modified over time, such as

changing the testing on the zones based on where the oil discharge flowed. Secretary Barham provided more technical details on the disbursements and factors effecting movement of the oil, which changed their testing more to the eastern zone.

Secretary Barham confirmed that from the \$10.6M, they did pay OPH for testing. He explained that the frozen tissue samples did not change the testing for the dangerous cancer causing agents. He said if anyone stole anything from the state, they need to answer for it and he hopes they do, and if they have proof then put the cuffs on the guilty persons. He does not want a cloud hanging over a great department that did a great job and ensured everyone that the gulf seafood is absolutely safe. Further discussion continued about the economic impact of the oil spill on gulf seafood sales across the nation. LDWF was responsible for not only ensuring that the state was put back in order, but also recapturing the market share. He explained that testing involves more than tissue sampling, but also marine biologists are looking at the water and checking for lesions on the fish.

Secretary Barham further explained that he relied on his directors when they needed something and used BP funds to purchase the boat that was recommended by the marine survey guy to use as a backup. The fact that the boat was not used does not diminish the need for it because after a disaster they need to be ready for whatever occurs.

Secretary Barham said they had to replace a 30 year old airplane that the FAA told them needed over \$100,000 in repairs to bring it up to code. He commented that the leading cause of death among marine biologists is plane crashes. He sent his chief pilot who was a former commercial pilot to find a plane. Most of the growth in LDWF's budget is from totally self-generated funds and does not take state funds but has a lot of federal funds as well as a great record of increasing license sales. LDWF also receives a portion of taxes on sales of guns and ammunitions which over the last eight years experienced a large increase in sales. The pilot recommended a Kodiak built by Quest like the U.S. Fish and Wildlife Service uses for the same type work. They constantly fly duck surveys because Louisiana kills a lot of ducks. He concurred that the plane should have been inspected and wished that aircraft services had done it.

The assistant secretary at that time, Jimmy Anthony, purchased the plane with federal funds. They expected \$12M in federal funds but received \$15M so the department had the funds to purchase the plane. The total cost for the plane, including repairs, would be less than \$2.1M and would essentially be a new airplane. He said he had nothing to do with the inspection of the plane and agreed that it could have been handled better by aircraft services because that is their job and responsibility to ensure inspections are done.

Secretary Barham reiterated that not a dime of Louisiana taxpayer money was spent, and no one from BP was critical of the department's spending of the money. He said millions of dollars has been spent separate and apart from this program advertising that Louisiana seafood is safe and it would be a disservice to make an allegation that LDWF did not ensure that the seafood is safe.

Senator White commended Secretary Barham on putting the blame on everyone else, and claiming that the auditor did Monday morning quarterbacking. He said that there is an exorbitant amount of money flowing through LDWF. Secretary Barham said it is a self-generating department and fees are for activities that people pay to participate in. Senator White asked how many times were funds swept from LDWF. Secretary Barham said nearly \$50M was swept by the Legislature from the Rigs to Reef program meant for building fishing reefs. Senator White commented on the mismanagement of funds. Senator Barham admitted that they could have done a better job on the inspection and process of buying the airplane but now have one of the finest airplanes in the United States.

Representative Schexnayder said that both the auditor's report and the response from Secretary Barham are right on course. After the oil spill, as well as after hurricanes, not everything was done exactly right but we learn from mistakes and move forward. He commended LDWF for helping after Hurricane Isaac to help rescue people in St. John the Baptist Parish when the National Guard and others would not help.

Secretary Barham accepted responsibility for mistakes not made by intent and commended the LDWF staff for doing a great job after so many disasters. Representative Stokes reviewed the revenues for LDWF including federal funds, statutory dedications, and self-generated accounts for only a small part. She asked for the source of the statutory dedications that went from \$51M in 2005 to \$125M in 2016, and noted that federal funds had tripled.

Bryan McClinton, LDWF Undersecretary, outlined the 32 statutory dedicated funds appropriated through the department which includes primarily the conservation fund at 67% and serves as the general fund of the department and fully funds the enforcement agents outside of a few federal grants. One of the larger statutory dedications appropriated is the \$10M Rockefeller Refuge Operating Fund and the reason so large is because still dealing with Hurricanes Katrina, Rita, Gustav and Ike. They still have levee projects going on and typically those projects would go through capital outlay but worked with Facility Planning and Control (FP&C) to do some of the project in-house using LDWF's operating budget. They went from \$4M to \$10M in the Rockefeller Fund for projects they have in the pipeline and hope to do in conjunction with FP&C for levee repairs and water control structure replacements. Environmental conditions weigh heavily on these projects so sometimes they stay in queue for a while. He further explained the restrictions on how the many statutory dedications can be spent and how they work with the commercial industry and non-government organizations (NGOs) on how it is spent within those confines. Mr. McClinton said they purchased a safer airplane that would last longer for their marine biologists. Out of the 32 stat dedications only about six of them are used for day to day operations and the rest are very specific to projects.

Representative Stokes asked for his contact information to talk further. She asked for an explanation of Coastal Protection and Restoration Authority (CPRA) and different groups that are working on restoration of the coasts and how they all work together. Mr. McClinton said LDWF manages 1.5 million acres as the largest land manager of the state, and have facilities not included in CPRA. He said they recently entered into an agreement with CPRA on a project, so they work together but have different missions.

Representative Stokes asked if the increase in federal funds from \$15M in 2005 to \$49M in 2017 was all from guns and ammunition sales. Mr. McClinton said the majority of the funds were for disaster recovery after the hurricanes to help commercial industries recover business.

Representative Stokes said LDWF is about 1.3 times what it was in 2005, and would like to better understand their budget because so much is flow through funding. Secretary Montoucet invited all the LAAC members to come to the department for a presentation to enlighten them.

Senator Walsworth asked about the outlawing of airboats from waterways because the Cajun Navy and others using airboats after the floods saved many lives. He asked LDWF to look again at the use of airboats and reconsider allowing them again on waterways. Secretary Montoucet said his staff is aware of the concerns and the issue was discussed at the last commission meeting and they will invite the airboat operators to come to future meetings.

Evaluation of Operations and Funding – Health Education Authority of Louisiana – Financial Audit Issued January 18, 2017

Mr. Wes Gooch, Assistant Director of Financial Audit Services, presented the highlights of the informational report issued on the quasi-public agency Health Education Authority of Louisiana (HEAL) created in 1968 to promote health and medical health education activities in Louisiana. HEAL's primary purpose is to provide construction funding to assist health care but has not funded a construction project since 2004. HEAL's bonds can be used for state and local agencies, non-profits and other groups in health care for constructing and renovating facilities within a 10 mile radius of the medical schools in New Orleans and Shreveport. Since HEAL's creation in 1968, nine construction projects have been funded with HEAL bonds totaling approximately \$253M.

Mr. Gooch pointed out the analysis of HEAL's financial activities for 2012-2016 which show their expenses increased by 153% resulting in deficit spending for fiscal years 2014-2016. Expenses increased from \$151,000 in 2012 to \$382,000 in 2016. No mention of deficit spending was found in meeting minutes or how it was to be mitigated in the future. Salary and benefits make up about 60% of HEAL's total expenses and has increased by 68% since 2012 partially due to adding a third employee in 2016. Also at a time when LDH employees did not receive any performance increases, the executive director of HEAL was granted raises of 7.6% in 2014, 4% and a subsequent 2% increase in 2015, and a 3% increase in 2016. After salaries, professional services is the next largest expense category, making up about 32% of their expenses which is a 266% increase since 2013. Billed contracts for professional services included consulting, legal and accounting services. HEAL also had travel and training expenses that increased by 475% over the five year period reviewed and peaked in 2015 at \$17,000. The majority of the travel expenses were incurred by HEAL's executive director for 14 out-of-state conferences over a four year period.

HEAL's revenue analysis shows all from self-generated revenue primarily from the parking garage rental fees with no state appropriations. HEAL's first bond financing project was the construction of the multi-level parking garage in 1973 on land leased from the state. The HEAL parking garage is on

LaSalle Street in New Orleans, about two blocks from the Superdome. Upon the completion of parking garage project, HEAL entered into an agreement with a parking garage operator to manage the parking garage and gave HEAL annual payments for the operations. These parking garage fees have funded HEAL's salaries and operations for years. The rental fee revenue was approximately \$235,000 in 2015 and \$240,000 in 2016. During the analysis of expenses, Mr. Gooch noted contracts that circumvented state purchasing controls and violated state purchasing regulations. In four instances, the auditors identified contracts signed only by the HEAL executive director and not by the required signature authority of LDH undersecretary of management and finance. During the years under review, HEAL was statutorily under the oversight of LDH. While HEAL is authorized to determine the necessity of contracting for services, the undersecretary of LDH had the sole authority to solicit bids and execute the contracts.

Mr. Gooch said prior to these four instances, all HEAL contracts were processed through LDH with signatures noting LDH's approval. By processing through LDH, the contracts would be reviewed for compliance with any required bidding and any other required approvals. However by HEAL executing contracts without LDH approval, controls were circumvented and the contracts were not executed according to state purchasing regulations. In each of these four contracts, the HEAL executive director signed the contract and amendments but did not obtain the required signature authority of LDH undersecretary obligating LDH and the state without proper authority.

For consulting services, HEAL signed a contract for \$172,000 that had been denied previously by LDH because the dollar amount exceeded that required for request for proposals and competitive bid. The contract with executed by HEAL without competitive bid and without LDH approval. Services were provided and payments were made under this contract and \$54,000 in delivered services are still outstanding and owed to the consulting firm. For legal services, HEAL signed a contract amendment extending the terms to four years and increasing the maximum contract amount to \$150,000. This contract amendment did not have LDH approval, did not have required approvals of the Attorney General as required for legal services, and did not have the approval of the Joint Legislative Committee on the Budget (JLCB) as required for any contract exceeding a three year term. For accounting services, HEAL signed a four year contract which did not have LDH approval, nor JLCB's approval. For lobbying services, HEAL signed a contract as a social services contract with the stated purpose of governmental relations and legislative planning services. The contract was previously denied by LDH because the contract did not meet the definition of a social services contract and by law state entities cannot extend funds lobbying the legislature. After interviewing the consulting firm about the contract, they stopped providing services to HEAL. After bringing the legal and accounting contracts to the attentions of members of the HEAL board, they remedied these contracts and subsequently got required approvals. The board cancelled the lobbying services contract.

Mr. Gooch noted that the HEAL board was totally dormant for seven years with non-filled positions and no meetings from 2004 – 2011. From 2011 – 2015, the HEAL board held eight meetings and other meetings were cancelled due to lack of quorum.

During the 2015 Regular Legislative Session, HEAL participated in proposed legislation that would expand its service area and double its total bonding authority and allow autonomy of its operations. Without a transition in place for an effective and efficient ongoing operation, the bill was passed. The legislature passed Act 577 which was effective August 1, 2016, expanding HEAL's service area to include communities statewide where graduate medical education was offered, and doubled HEAL's bonding authority from \$400M to \$800M and changed the makeup of the board to include members from across the state. In addition the Act transferred HEAL from LDH to the Department of Education (LDOE) under the Board of Regents (BOR) to operate under its own authority.

Prior to August 1, 2016, LDH provided services to HEAL for human resources, payroll and related benefits, accounting and payment management services, contract administration and state email and IT support. When the Act became effective on August 1, LDH discontinued its support services for HEAL, and HEAL had no transition plan in place, and found itself with no email, and no way to pay its employees or bills. At the urging of the Division of Administration (DOA), LDH processed one additional payroll for HEAL to ensure the employees did not miss a paycheck.

Mr. Gooch asked HEAL for a transition plan to address the changes outlined by the legislation but it was never provided. After reviewing the board meeting minutes, he found no discussion of a transition plan if legislation was passed and no evidence of any board members' active participation in the legislation. The auditors were provided no evidence that this legislation was a planned initiative by the board nor discussed in open board meetings.

With HEAL's autonomy some services previously provided by LDH will be performed by private contractors increasing HEAL's operating expenses when they are already in a deficit spending position. Policies, procedures and internal controls were not developed prior to taking on contracted services increasing risks of errors for noncompliance for state regulations. One final issue, HEAL's prior revenue was from the lease of the parking garage but the HEAL board filed suit on December 10, 2013, to declare the garage lease agreement illegal and void from its inception on the grounds that the lease violated the Louisiana public lease law and Article VII Section 14 of the Louisiana Constitution which prohibits public agencies from donating public property. In this suit, HEAL's motion for summary judgment was granted in part on December 22, 2016, resulting in the lease operating agreement to be an absolute nullity as a matter of the law. This matter is now under appeal and the time frame is uncertain. HEAL cannot contract with another garage operator until the judgement is final and all appeals are exhausted. To the issues noted in this report, there are five recommendations on page 15 and in addition they also provided a matter for legislative consideration suggesting that the legislature may wish to consider revising state law to place HEAL back under the authority of LDH until the board has strengthened its oversight of HEAL's staff and activities and addressed the operational issues and recommendations. The HEAL board's full response to the report is found in Appendix A. Representatives from HEAL and LDH were in the audience to answer any questions.

Senator Walsworth said he remembered the legislation as it passed through but was not much discussion on the Senate floor regarding it. Senator Bishop said that the administration of HEAL transferred from LDH to LDOE during the 2016 legislative session, but the auditor's recommendation is that the

legislators may consider revising state law to place HEAL back under the authority of a state entity. He asked if LDOE is not a state agency. Mr. Gooch explained that the transfer was under different revised statutes, because when HEAL was under LDH there were a lot of supervisory authority over HEAL. But the statutes referenced in Act 577 actually does not place LDOE over great authority of HEAL but allows them to operate under their own autonomy.

Senator Bishop asked if the legislative auditor was opposed to the legislation passed by the House and Senate. Mr. Gooch said the auditor does not take position on Acts. Senator Bishop said that the recommendation is to undo what was done in the previous session. Mr. Gooch recommended additional supervision. Ms. Nicole Edmonson, Assistant Legislative Auditor for State Audit Services, explained that at the time that the legislation was being discussed, the auditors were in the middle of the audit and since then, based on the issues identified in the report, felt the need to stress the seriousness of the issues. If the legislature had been aware of these issues during the session, they may have made a different choice, and only want to bring to their attention the serious issues.

Senator Bishop asked how that could not be taking a position if making a recommendation to the legislature to undo what was done. His concern is that the legislative auditor did not take a position during the legislative session on the bill but now want the legislators to undo it. Ms. Edmonson responded that there is no supervision of HEAL right now, so that is why the matter for legislative consideration is a recommendation that they may wish to change that. Senator Bishop asked if LDOE supervises HEAL. Ms. Edmonson said that the Board of Regents questioned the progress of the audit because they were struggling with the legislation as to where to fit HEAL, and they decided to put it within LDOE, but do not see that LDOE has authority or oversight of HEAL. Because of the serious issues found in this audit, the legislative auditor felt the need to point out that oversight is needed until the issues have been remedied.

Senator Bishop said this is his first term serving on LAAC and served as a Senator for six years, but had never seen a recommendation to undo legislation. He said the statement that the legislator does not take a position is disingenuous. Ms. Edmonson said the auditor's office does not feel that they can expose these issues and not make the recommendations or matters for legislative consideration, especially in light of the serious need for supervision.

Senator Bishop said that he had never seen a recommendation to undo legislation and asked if the auditor had ever done that before. Ms. Edmonson responded that the auditor provides matters for legislative consideration quite often.

Mr. Purpera explained that HEAL was placed under LDOE but may have been done so in a manner that does not give LDOE sufficient supervisory oversight. So after the serious issues revealed in the report, and the lack of legal oversight, LDOE does not feel they have the authority to demand anything of the HEAL board. Senator Bishop asked if a representative of LDOE was present to testify.

Senator Walsworth pointed out that Mr. Jacob Johnson, Executive Director of HEAL, just provided a very large package to the Council members. He said probably good to bring Mr. Johnson back and also allow the Board of Regents to come testify.

Representative Stokes noted that HEAL had less than \$500,000 of revenue and expenditures for several years. She asked what programs or accomplishments by HEAL were done over that time. Mr. Purpera responded that HEAL was created to support construction projects related to its mission. As a governmental quasi- public entity they own a parking garage and receive all their revenue from the parking garage and spend all their revenues in their operations which has not accomplished anything or done any projects since 2004. Representative Stokes said so basically they have had no programs. Mr. Gooch said HEAL's programs are for financing construction projects and tax free bonds. In the 48 years of HEAL's existence, they have had nine projects as shown in Chart 1 of the report.

Representative Stokes asked how much HEAL's bonding capacity had increased. Mr. Gooch responded from \$400M to \$800M according to Act 577. Representative Stokes commented that there is no education going on. Mr. Gooch said a number of the projects were to assist medical schools and garages in med schools as part of their mission, but it is primarily for bonds for construction projects.

Mr. Johnson introduced Mr. David Groner who was elected chairman of the board just the day before and Mr. Kurt Weigle the previous chairman.

Mr. Johnson said he was there for three reasons: 1) He received the request from the legislative auditor; 2) He was morally obligated or compelled to testify and offer testimony based on the facts; and 3) As a public official, he was required as part of his fiduciary responsibilities to offer this testimony.

Mr. Johnson pointed out the three ring binders provided to the Council members that he would go through with the corresponding tabs to provide background information. Before that he asked to read a statement into the record and asked the members to understand that what he is discussing he does not take lightly, as such he asked for their undivided attention.

Mr. Johnson's statement was "Since 2011, I have had the pleasure to serve as HEAL's executive director. I take my fiduciary responsibilities very seriously as a public official, as a public employee of the state. Today in that binder I register my official complaint of record. As individuals associated with this audit, HEAL's FY16 annual audit and its performance reports, irresponsibly asserted criminal allegations. They also exercised extreme bias. On one or more occasions, members of the LLA audit team have confirmed to me that the current audit and its unusual nature in which it is being conducted with no entrance interview, a witch hunt, and motivated by my race. As I previously relayed some of these allegations to my former board chair here about the recorded evidence, no one took me up on it. It is important to remember since 2010, walking through the door at HEAL, I started the audit process. Before I got to HEAL, the last audit was done in 1995 and 96 respectfully. Since my tenure at HEAL, all of our books have been completely audited by a certified public accountant approved by the state. Members, I want you to understand this is not a Republican issue, not a Democratic issue, not an Independent party issue, this is a matter of right and wrong. Today I am urging this committee as well

as Louisiana top officials to swiftly and immediately take action by encouraging a third party not of the state to comprehensively investigate all activities of the Louisiana Legislative Auditor's office, our agency as well as the Department of Health. While also looking to commission - perhaps appointing committee - so a state integrity bureau to look at similar issues of agencies and its employees."

Mr. Johnson continued by pointing out specific tabs in the binder for their review and said he would provide background on the allegations.

Senator Walsworth commented it was a huge binder for the committee to review and would not mind sitting all day... Mr. Johnson interrupted Senator Walsworth saying that he wanted to finish his statement. Mr. Johnson said the legislative auditors met with the former board chair and secretary and made specific allegations of misappropriating funds, manipulating financial records, and that Mr. Johnson was paying himself for travel from Baton Rouge to New Orleans daily and that he improperly hired a civil service employee outside of the scope of civil service and committed malfeasance in office. Mr. Johnson said that Mr. Weigle alleged that he was informed that Mr. Johnson bullied employees at LLA as well as LDH. He said that those allegations warrant evidence.

Senator Walsworth asked for assistance in locating documents being referenced. Mr. Johnson said when he was told that organizations of color with black executive directors are treated differently from those that have whites and he believes there is a problem. The legislative auditor said that they do not influence legislation, but Mr. Johnson said he had undeniable evidence that they have. Mr. Johnson said that the legislative auditor's office told him that their goal is to black ball him from state government. He further stated that the legislative auditor labeled a contractor as just providing one service when he actually provides a multitude of services. He said that there is a problem asking for Mr. Johnson's other civil service information. Mr. Johnson provided exceptions of who his complaints were against including the new LDH Secretary Dr. Gee.

Mr. Weigle thanked the legislative auditor for their work on the audit, and commended the staff for their professional manner through the entire audit. Any time there was a concern about the wording of the audit, the auditors addressed the concerns and revised to be accurate and in agreement. He said across the board there are issues at HEAL that need to be addressed and the board's response shows how they will address the concerns raised by the legislative auditor for the best governance of HEAL. The overall concern about the report was that it did not give the picture of where HEAL is heading. The board agreed that HEAL needs to be more productive and was taking steps toward that goal. The board acknowledged the findings and noted the lack of documentation in the minutes. The board knowingly entered deficient spending because HEAL had been inactive for a number of years, and was reactivating by spending on training for the executive director and preparing strategic and promotional plans for HEAL to get the word out about the programs offered. Their goal is to create more investments in the state. Tax exempt investing is a strong tool to use to create more educational facilities for hospitals and medical schools which is the core mission.

Senator Walsworth asked in which board meeting was the strategic planning done. Mr. Weigle said they engaged a consultant to do the strategic plan, but not sure when it was done but guessed about three and

a half years ago. Mr. Weigle said HEAL spent more on attorneys to nullify the 1998 lease operating agreement between HEAL and the operator of the HEAL parking structure due to the fact that this agreement is a prohibited donation of the Louisiana Constitution. So the board was doing what was in the best interest of the state protecting this public asset and in doing so had to prosecute this case.

Mr. Weigle admitted that it was a mistake that not all was properly noted in the minutes but he does remember the discussion of dipping into the fund balance of HEAL in order to use those funds to work for the people of Louisiana.

Senator Walsworth asked if those decisions were made at official HEAL board meetings. Mr. Weigle responded that it was discussed at official meetings, because they did not meet when lacking quorum but some discussions about business were just to keep everyone apprised. The board saw an opportunity to increase revenue to HEAL to start doing a better job of putting resources for the people. On December 22, 2016, Judge Christopher Bruno of Orleans Civil District Court issued his ruling in favor of HEAL.

Mr. Weigle said in addition to the professional services noted, HEAL undertook independent audits of the revenue statements which had never been done to that point to his knowledge. The board was trying to ensure that HEAL was operating transparently and in the interest of the people of Louisiana. Mr. Weigle further explained that the board adopted accounting policies and procedures in 2014 which were the most extensive ever put in place. The board agreed with the auditor's finding about the third employee; now require all preapproval of all employee travel and hiring; and issued a directive requiring greater scrutiny of all procurements including the establishment of a procurement committee.

In 2014, the board added a requirement to meet quarterly but has not been able to do that despite attempts. Many records were lost from Hurricane Katrina, and the prior executive director retired in October 2010, so HEAL was left putting together pieces with very little information. The board hired Mr. Johnson in October 2011, but the board was hampered by vacant positions and turnover of the board. Five of the 12 seated and 13 authorized board positions were vacant over the next couple of years but did their best. The board created a robust committee structure including a Bond Issuance Committee, Performance Evaluation Committee for the executive director, a Legislative Committee and a Bylaws Committee. These committees met between board meetings to address HEAL business a total of 13 times in 2014-15, and six of those were Executive Committee meetings. One rule passed by the board gave the Executive Committee, comprised of the chair, vice chair, secretary and treasurer, increased authority to act on HEAL's behalf when necessary and have those decisions ratified at a subsequent board meeting to continue to exact business. Mr. Weigle continued discussing the board's responses to the other audit findings.

Mr. Weigle said that the board in 2014 and 2015 did discuss the pros and cons of legislation but did not give the directive to advance the legislation discussed, yet it was advanced. The board became aware that the legislation had been discussed with legislators and Senator (Karen) Carter (Peterson) said she would run with the bill. At that point, the board took a hands-off stance but the executive director did testify on the bill.

Despite the issues raised by the legislative auditors, the board does not believe HEAL needs to be placed under a new state agency. The board has taken significant steps to address the issues and believe the mission of HEAL can be accomplished which is to put tax exempt financing in place to support medical and health education throughout the state of Louisiana.

Mr. Weigle brought up the comments by Mr. Johnson and explained that he was not aware of any criminal allegations, and previously specifically asked the auditors if any criminal allegations but told there were not.

Mr. Johnson said that on March 4, 2016, Mr. Weigle and Dr. French met with four individuals from the legislative auditor's office. He asked if any criminal allegations were discussed at that meeting. Mr. Weigle explained that the discussion with the auditors was about the lack of adequate responses from the executive director, and request for assistance getting information. So the board instructed Mr. Johnson to be completely open and honest with the auditors because no one had anything to hide and needed to complete the audit.

Mr. Weigle said that he never heard any indication or hint from anyone from the legislative auditor's office that this audit was due to Mr. Johnson's race. When Mr. Johnson raised his concern with some of the board members, Mr. Weigle met with him on December 14, 2016, and told him that if he has any evidence to share it with the board. Mr. Johnson's response was "you have it". Mr. Weigle stated for the record, "If I believed there was some kind of targeting based on race or any other protected class, I would be the first to raise the issue." Mr. Weigle said he takes his moral obligations very seriously as the acting chair of HEAL, and his entire history in public service would indicate that to be the case, so he took severe umbrage at the suggestion that he would ignore that sort of claim.

Mr. Groner said that he was appointed by the governor had not been on the board previously. He finished eight years on a public hospital board so very familiar with the importance of adhering to strict guidelines and state law in using public funds. When Senator Mills asked him to serve on this board, it was an honor but never expected to be chosen as chairman nor to be presented with an audit as scathing as this.

Mr. Groner said they have six new board members and he will call a meeting as soon as possible to review the audit and do a very in depth evaluation of the audit, as well as the purpose of HEAL. From what he heard so far, he is confused as to why HEAL is necessary if it does not do anything. He will delve in and if he does not see a worthwhile function that cannot be done by some other agency, he will come back to take whatever legislative corrective measures to eliminate this problem. If there is a legitimate purpose to provide a useful service for the public, healthcare and education of Louisiana, then he would love to resurrect this organization in a meaningful way and do some major accomplishments with a very stated purpose, and set guidelines and goals and achieve those goals. In only 24 hours, a lot has been put on Mr. Groner so he requested time and said he would be happy to revisit this at a later time.

Senator Walsworth said that HEAL had meaning and purpose early on, but over the last several years there have not been any meaningful projects. We appreciate that the governor appointed new members. He said that the council needs time to go through the documents provided by Mr. Johnson and digest all said in the meeting. He was disturbed by comments said by Mr. Johnson, but never heard that the auditors were anything other than professional.

Mr. Johnson said that every comment made has recorded evidence and referred to tabs of paraphrased minutes of recorded meetings. Senator Walsworth asked how it was recorded and Mr. Johnson responded by tape recorder. Mr. Johnson continued to point out tabs and discussions about consulting contracts approval by LDH. Mr. Gooch gave the dates of the contracts, amendment and when invoices were paid prior to the approval by LDH.

Further discussion continued about contracts, meeting minutes, emails, invoices, and the approval process by LDH. Mr. Johnson and the Council also discussed House Bill 339 and Senate Bill 230 from the 2016 Legislative Session that he testified for at legislative committee meetings. He agreed to provide to Senator Walsworth the authorization and approval from the board for him to support the legislation. Mr. Johnson said he emailed the board members with updates on the legislation throughout the process.

Public testimony was received from Dr. Wayne Babovich, Mr. Pat Bryant, Mrs. Brenda Washington, and Ms. Janet Hays.

Senator Bishop shared his concern that the full story was not laid out and since HEAL is in his district, then it is his problem. Mr. Purpera noted that in 33 years at the legislative auditor's office, this is the first time to be accused of racial discrimination. He was offended and insulted to have that accusation lodged against his office and stands behind every finding in the report.

Other Business

No other business was discussed.

Adjournment

Representative Harris offered the motion to adjourn and with no objection, the meeting adjourned at 1:40 p.m.

Approved by LAAC on: March 21, 2017