

# LEGISLATIVE AUDIT ADVISORY COUNCIL

## Minutes of Meeting December 19, 2013

A meeting of the Legislative Audit Advisory Council (Council) was held on Thursday, December 19, 2013, in House Committee Room 3 of the State Capitol.

### CALL TO ORDER AND ROLL CALL

Representative Greene called the meeting to order at 1:00 p.m. and a quorum was present with the following members in attendance:

#### Members Present

Representative Hunter V. Greene, Chairman  
Senator Edwin R. Murray, Vice Chairman  
Senator Robert Adley  
Senator Ben W. Nevers  
Senator John R. Smith  
Senator Mike Walsworth  
Representative Cameron Henry  
Representative Dalton Honore  
Representative Clay Schexnayder  
Representative Ledricka J. Thierry

### APPROVAL OF MINUTES

Vice Chairman Murray made a motion to approve the minutes for the November 21, 2013, meeting and with no objections, the motion was approved.

### EXTENSION REQUESTS

Daryl Purpera, Legislative Auditor, stated that no extension requests were necessary to be presented to the council.

### **SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC) – OFFICE OF PUBLIC HEALTH – DEPARTMENT OF HEALTH AND HOSPITALS – PERFORMANCE AUDIT**

Mr. Purpera prefaced the presentation of the three performance reports by stating these were conducted to evaluate the services provided and money collection for the state, for the purpose of bringing recommendations to the agencies.

Nicole Edmonson, Director of Performance Audit Services for the Louisiana Legislative Auditor (LLA), explained the purpose of the WIC federal program administered by the Office of Public Health (OPH) which operates or has contracts with 108 clinics across Louisiana. OPH is responsible for authorizing, monitoring and investigating, if necessary, the 709 current vendors including small grocery stores and large grocery chains across the state. The purpose of the audit was to evaluate OPH's administration and monitoring of participating vendors and clinics. The Department of Health and Hospitals (DHH) leadership requested that the LLA conduct this comprehensive performance evaluation and to provide them recommendations for improvement. The audit resulted in 15 recommendations designed to improve program operations and overall performance and DHH agreed with all recommendations and implementing some of them already.

Karen LeBlanc, Performance Audit Services Manager, presented the report findings and recommendations, explained the tiers of vendors and OPH's responsibility to investigate high risk vendors and monitor WIC clinics.

Kathy Kleibert, DHH Secretary, explained why they asked the LLA to review and analyze OPH as an objective viewpoint. This report helped to identify problem areas and DHH takes the findings very seriously. They already hired a new manager and currently reorganizing OPH. Secretary Kleibert outlined other changes made and expressed confidence that DHH can improve the program.

Secretary Kleibert responded to Representative Henry's question regarding the recovery of funds overpaid to vendors because of placement in the wrong tiers, explaining that because it was DHH's error they cannot recoup the funds. The U.S. Department of Agriculture (USDA) will not come back on the state to recoup the federal funds. Mr. J.T. Lane, Assistant Secretary for OPH, explained the vendors being placed in the incorrect tiers caused the overcharging, and how their new operations manual and oversight unit will stop the mistakes. Mr. Lane said they are awaiting direction from the USDA on enforcement steps against any vendors overcharging.

Representative Honore' questioned if vendors are suspended for violation of the rules and if the employees are held accountable for the errors. Mr. Lane said if a vendor commits fraudulent activity it can be removed from the program, but otherwise corrective actions are required and inspections are made by the health inspectors. USDA requires oversight and monitoring visits of each vendor twice a year and OPH is actually doing more than required. It is the business owners' responsibility to ensure they adhere to the program guidelines, and Mr. Lane was not sure how the owners handle employee issues.

Senator Nevers requested that the Council receive a copy of a letter from the USDA showing that they will not seek reimbursement from the state for the overcharges. Secretary Kleibert agreed to provide the letter requested and pointed out there were also some undercharges, but the error was made by OPH employees to not put the vendors in the correct tiers. She said the WIC program is problematic across the nation and the USDA is working to tighten controls.

## **DEPARTMENT OF REVENUE – SEVERANCE TAX PAYMENTS – PERFORMANCE AUDIT**

Ms. Edmonson provided the purpose of the audit was to determine whether the Louisiana Department of Revenue (LDR) ensure that the state received complete, accurate, and timely oil and gas severance tax payments during fiscal years 2009-2011. LDR was very cooperative during the audit and agreed with six of the seven recommendations and agreed with qualifications for the seventh.

Ms. Emily Wilson, Performance Audit Manager, provided an overview of the findings and recommendations of the audit. Senator Murray asked why LDR turned off their automated program within GenTax that checks for companies that did not file severance tax returns. Ms. Wilson responded that according to LDR officials they had complaints that the program was sending out erroneous tax assessments, so they turned it off in September 2010, but LDR said they would turn the system back on in the next month. Ms. Natalie Howell, LDR Undersecretary, explained that they received many complaints from taxpayers about the nonfiler proposed assessment programs across all tax types including severance tax, so that functionality was turned off temporarily to reprogram each tax type and then reintroduce each one back into the system.

Mr. Joseph Vaughn, LDR Assistant Secretary, said it was not just severance tax assessments going out inaccurately, so those bills were best turned off across the board. Senator Murray asked why it could not be fixed rather than turned off. Mr. Vaughn said it was complicated and each tax type had to be fixed one at a time. It really only affected those taxpayers who might not file a return or file a grossly inaccurate return, and the statute of limitations do not run on those taxes so LDR has the authority to go back to the previous years that were missed while the GenTax program was off. LDR was working on the functionality of the program one tax type at a time, and restarted the program for the largest tax types with the largest dollar amount of exposure first and systematically in that order will restart the three remaining types. Ms. Howell stated that the severance tax type is the final one to be restarted in GenTax.

Senator Murray read from the report that LDR stopped giving companies the choice of either receiving a refund or a credit to their account to offset future taxes. It appears that when the companies send in their refund request, interest continues to run and noted the high interest payments. He asked if a statute was needed so that if the companies do not make a request by a certain date the interest is cut off.

Mr. Vaughn responded that LDR will work with the Department of Natural Resources (DNR) to address the issue because companies may take advantage of the lucrative interest rates paid by the state. They may look at legislation to limit the interest rate in certain instances to take away the incentive for taxpayers to delay applying for their refund. Senator Murray said it makes no sense to pay out more money because someone is not filing their return timely. Mr. Vaughn admitted that LDR has the statutory authority to limit or deny interest, and has denied in some cases if it looked like a taxpayer is purposely delaying an application for refund or purposely overpaying taxes and then applying for their refund later just to take advantage of the interest rate.

Senator Walsworth pointed out that it is LDR's policy to give refunds and not allow taxpayers to not apply their overpayments to future filings. Mr. Vaughn stated that the judicial rate of interest set yearly is typically 4-6%. Senator Walsworth said the internal policy could be undone by LDR and does not require legislation. Mr. Vaughn explained the reason for the policy to pay interest was because the refund request and severance tax filings are very paper document oriented and reviews are very man power intensive, so felt it behooved them to do adequate refund reviews. Senator Walsworth asked if they do the same review for a tax refund or a future credit, and the only difference would be allowing the overpayment to apply to the following year. Mr. Vaughn responded it was the same paperwork and review process. Senator Walsworth asked if the policy was made three administrations back to give a refund rather than a credit, and Mr. Vaughn answered affirmatively.

Senator Adley asked why the complexity of the refund request for severance taxes, and Mr. Vaughn explained it is not easily adapted to electronic filing or reviews because of the complexity of the documentation. Senator Adley said it is a tiered severance tax based on daily productions and cost the industry a lot to fill out the productions reports every month, as well as LDR to process. Mr. Vaughn said that LDR wants to work with DNR to make both the producers' and LDR's responsibilities a little easier. Senator Adley questioned the payment of interest for exemptions applied for when it is the companies' responsibility to file their applications for refund and why pay interest to the companies when they delay their application. Mr.

Vaughn said it is difficult to tell why they delay in filing and if purposefully delaying. Senator Adley said it is the companies' responsibility and does not understand why LDR pays interest on the exemption, asking if done because of policy or law. Mr. Vaughn said LDR already has the statutory authority to limit or deny, so it would be a matter of the department making a decision to do that in a more aggressive manner. Senator Adley pointed out that the larger companies are delaying because they know how to get exemptions, and said LDR should not be paying interest on something that someone is claiming exemptions for. Mr. Vaughn answered duly noted and would take that under advisement.

Senator Murray asked Mr. Vaughn to provide for the Council the number of times that LDR has declined to pay interest in the past several fiscal years. Mr. Vaughn asked if all tax types or just severance tax. Senator Murray responded that they are focusing on severance tax, and wants to know how often LDR has used their authority to limit the interest paid.

Senator Nevers asked where LDR found the money to pay the millions of dollars in interest. Mr. Vaughn responded that the interest paid was not in their budget but paid out of general fund money that includes all taxes. Senator Nevers asked if the interest is paid out of taxes received from other taxpayers, and when this problem would be rectified. Mr. Vaughn responded they would start the next week by taking advantage of the statute in place already to resolve this, as soon as he can meet with Secretary Barfield and the rest of the executive committee. He offered to report back to the Council within a month the steps they would put into place to shore up the program, which Senator Nevers urged him to do so. Senator Nevers asked for the reasons that an exemption request would be denied, and Mr. Vaughn provided the various reasons. Representative Greene stated LDR would be put on the next agenda to review their plan.

Representative Greene asked about the problem with the GenTax programs. Ms. Howell said they are updating to a newer version that would vastly improve the functionality, but not sure of the cause of the inaccurate reports in 2010. Mr. Vaughn commented that GenTax is used in 26 or 27 states and internationally, and LDR houses six to ten GenTax program employees at any time. He said they would inquire of other states if they experienced the same problems. Ms. Howell commented that the other states use a newer version, and LDR was planning to update to a newer version, but when the potential tax reform was being considered the plans were put on hold. They have now put the updating project back into place. She clarified that only the nonfiler functionality was turned off in 2010, but not the whole system. Representative Greene asked who made the decision to turn off the nonfiler function. Mr. Vaughn said it would have been an executive decision to mitigate any damage that erroneous assessments would have caused. It had reached the level requiring it to be turned off and researched the problem in 2010. He explained the process of resetting and turning on the functionality slowly by tax type for the past one and half years starting with the largest tax type – sales tax. Representative Greene stated that LDR would return to the next meeting to report on their plan. Mr. Vaughn thanked the LLA for their professionalism and cooperation.

## **DEPARTMENT OF EDUCATION – LOUISIANA SCHOLARSHIP PROGRAM – PERFORMANCE AUDIT**

Ms. Edmonson provided the history of the Student Scholarships for Educational Excellence Program (Scholarship Program), sometimes referred to as a voucher program. The purpose of the audit was to determine the impact that program expansion had on student and school participation; evaluate the Louisiana Department of Education's (LDOE) implementation of the expansion; and provide information on program accountability, funding, and costs. Ms. Edmonson pointed out the participation and costs increase in the current and previous academic year, as well as LDOE's lack of formal criteria to ensure that schools have both academic and physical capacity to serve the number of scholarship students they requested. LDOE also lacked specific criteria for removing participating schools from the program based on academic performance. The audit included one matter for legislative consideration and three recommendations to LDOE designed to strengthen criteria within the Scholarship Program going forward. LDOE agreed with one recommendation, partially agreed with the second and did not agree with the third.

Mr. Michael Boutte, LLA Performance Audit Manager, presented a summary of the performance audit including the suggestion that the legislature may wish to consider revising state law to include the requirement that nonpublic schools seeking to participate in the Scholarship Program are academically acceptable. Currently public schools are required to have a letter grade of A or B indicating that they are academically acceptable based on the schools' performance scores. Senator Murray asked if anyone looks at the academic condition of the schools before allowed to participate in the voucher program. Mr. Boutte responded that LDOE does review some of the academic components, but there is no letter grade equivalent or academically acceptable equivalent in nonpublic schools thus the suggestion of adding some similar requirement. Senator Murray asked how BESE knows the academic level of the nonpublic schools. Ms. Edmonson responded that BESE has some criteria, but nothing in their rules or internal procedures or the law that requires those nonpublic schools to be academically acceptable before participating in the program.

Mr. Boutte explained Bulletin 133's limited allowance for student acceptance in schools during the first two years to 20%, but beyond that time frame there are no restrictions in law on the number of students that the nonpublic school can accept. Any scholarship school approved by BESE for longer than two years can apply for and receive as many scholarship students as LDOE approves. Senator Adley suggested that he clarify what percentage of the population of students participating in the scholarship program because following the guidelines of eligibility creates a limit to the number of students.

Representative Honore asked if all parishes in the state are participating in this program. Mr. Boutte answered that 32 parishes are currently participating, but all parishes are eligible.

Mr. Boutte stated that LDOE lacks formal procedures to evaluate the academic and physical capacity of the scholarship schools to serve the number of scholarship students requested, and uses more common sense and sight visits which are not consistent. The audit recommends setting criteria for accepting the schools into the program as well as criteria to remove bad schools from the program. Mr. Boutte discussed the findings and recommendations regarding the program accountability and program cost and funding, pointing out the exhibits in the audit.

Senator Murray complimented the LLA for a very good report and questioned if BESE has methods for determining the scholarship cohort index to measure performance at the schools. Mr. Boutte responded they do have some rules in place for determining the scholarship cohort index and there are some results currently available. Senator Murray questioned what the less than 25% meant for the schools being unable to accept more scholarship students. Mr. Boutte explained it meant less than 25% scoring less than basic on the standardized testing. Senator Murray asked if 75% of the students were scoring less than basic, then the scholarship schools are able to keep the students that they have currently. They continued to discuss what the scholarship cohort index means and other factors that show many of the scholarship schools are not academically better. Ms. Edmonson said there are no requirements that the scholarship schools are better, and the parents should have better informed choices.

Senator Nevers and Ms. Edmonson discussed the number of scholarship students in the new schools to the program compared to the schools in Orleans and Jefferson that have been in the program longer. Senator Nevers questioned the legal requirements for nonpublic schools to have academic criteria and if BESE could make that policy. Ms. Edmonson had proposed the recommendation to LDOE that they set internal criteria, but LDOE made it quite clear that this is the legislature's program and they are implementing it according to law. Therefore, the audit includes a matter for legislative consideration so that it would be in the law to ensure that the schools in the program are academically acceptable. Senator Nevers asked if there is anything in the law to restrict BESE from implementing those criteria themselves to make it fair how treating public and nonpublic schools. Ms. Edmonson said nothing in the law prohibits BESE from having that power.

Representative Thierry asked about LDOE's steps to recoup the overpayments from some schools. Mr. Boutte understood that the LDOE was going to withhold the overpayments from the next quarter payments. Representative Thierry asked about recoupment from schools no longer in the program. Mr. Boutte said that situation was in litigation and deferred to LDOE for any further information. They discussed the responsibility of LDOE to determine eligibility and have a process to validate tuitions but the audits determine if accurate. The department plans to do the independent audits earlier and not wait until between the third and fourth quarter. Mr. Boutte explained the recommendation that the schools keep the funds separately for easier record keeping and auditing.

Representative Thierry questioned the recommendation not accepted by LDOE. Ms. Edmonson explained the recommendation was for LDOE to have firm criteria in place for when removing a school from the scholarship program based on their academic performance. The law gives LDOE the authority to not allow a school to participate based on their own discretion, and while she agreed that LDOE should have the authority and Superintendent White should have the ultimate say, there should be criteria in place to ensure schools are being treated consistently and there is transparency. Having the criteria in place would help formalize the process and put safeguards in place. Representative Thierry agreed that it is wise in any program to have criteria in place so participants will have a better relationship. Ms. Edmonson explained that the audit's purpose is to tighten up the program because the expansion is at a high rate and better to put the safeguards in place now to ensure the program runs as intended.

Representative Henry asked if any collateral or bonds are required from the schools before paying them. Mr. Boutte was not aware of that requirement and deferred to LDOE. Representative Henry asked what was meant by calling it a legislative program. Ms. Edmonson said her staff spent 18 months watching the Scholarship Program, and the one thing that stood out from the beginning was the lack of requirement to make sure the scholarship schools are indeed better schools. One of the first questions asked of LDOE was how can they be sure that the schools are actually better, and the head of the program at that time said the students are coming from failing schools so what do they have to lose. Thus the question: Where is the criterion that shows the schools are academically acceptable? The LLA auditors were told on more than two occasions that this is really the legislature's program and it is BESE's policies and LDOE is implementing the program, which was the reason for the audit containing the Matter for Legislative Consideration. Representative Henry commented that this is the first time he has heard it called a legislative program and most of the time it is the administration waving the flag, and seems to be a unique play on words.

Senator Murray commented that most schools participating in Orleans Parish have been in the scholarship program since 2008, so there should be some ranking on testing. He asked if many of the schools would even be rated because they must have an average of 10+ scholarship students per K-12 grade to be tested but most of the schools would never reach that threshold. Mr. Boutte said that the LDOE recently released the Scholarship Program annual report for the 2012-2013 year with contains the scholarship cohort

index information. It looks like 23 schools received the scholarship cohort index out of the 118 schools in the program. Senator Murray said most schools do not meet the criteria to be ranked or have a letter grade, so the majority of the students are in schools that will never show how they are doing. Ms. Edmonson stated that any K-2 schools will not fall within this accountability system.

Senator Adley questioned the comment by the LDOE program head that the students were leaving a failing school. He said the purpose of this program was to allow parents to choose which school their children will go to. Ms. Edmonson said the program is about school choice, but asking if it is informed choice. Senator Adley said parents send their children to private schools because they think it is a better place for their children, and believe it is their right to choose the school. He asked if they found that LDOE was putting any schools on probation when they had a C level. Mr. Boutte explained that the nonpublic schools do not receive grades. Ms. Edmonson said the nonpublic schools have their own standardized tests and do not take the LEAP or /-LEAP and not on the same accountability system. The nonpublic schools have their own system to determine if doing well, but the parents making choices do not know if that private school is a better school because there is nothing in this program that requires it, and no criteria to help the parents make an informed decision. The purpose of the program is to provide educational options and could be another matter for legislative consideration to clarify that by requiring better education options. A fundamental question is if it is an informed choice. Senator Adley said he appreciates her position but believes that the parents should be bright enough to figure that out for themselves. Ms. Edmonson said parents make the assumption that if the schools are allowed to participate in the state's program, it must be good.

Representative Greene asked Superintendent John White to respond to the audit. Superintendent White began his opening comments by thanking the Legislative Auditor for spending 18 months on this process which started when the program began. He thanked the auditors for their professionalism, thoroughness and fairness, and felt like partners through the process. The spirit of their recommendations in all three cases is agreed with, but do disagree with one recommendation because he feels they have done what is suggested. Representative Greene asked Superintendent White to address the recommendation to have more specific criteria of removing a school in which he had responded that he needed flexibility as the superintendent. The auditors do not want to hamper that flexibility but suggest objective criteria to lay out what is unacceptable and provide transparency in the program.

Superintendent White pointed out that the law establishes a right for a parent to choose schools when they meet certain eligibility criteria, which is about half the students in the public school system. He said the law determines the criteria for the schools wishing to participate in the program. The law also states that BESE may establish additional criteria for participation. Essentially April 18, 2012, the Scholarship Program was signed into law and on August 1, 2012, these schools and students were eligible as defined by the law. BESE passed additional criteria called the scholarship cohort index. The principle was that it is the same money and the same choice and same accountability as public schools. Lower income parents will have choice of schools. The scholarship children will take the LEAP tests in public schools, they will take it in private schools, and the public and private schools will receive a score. The reason that only a certain number of schools in the first year of participation have scores is because most of the children are in kindergarten and first grade. Even a public school does not get a score in K and 1<sup>st</sup> grade because they do not take the tests. Within five years, nearly 90% of kids in this program will be in schools that receive a score, but it just takes a little while to get older so they can take a test to measure the schools on. That is the reason only 26% of the schools received a scholarship cohort index score. That score is made by the exact same formula used for public schools, and the law is actually very clear and this is the only reason for any concern or disagreement with the recommendation but in concept they do agree. It takes four straight years below that 50 mark to put a public school in the Recovery School District (RSD), but in this program if a scholarship school receives a failing scholarship cohort index score after one year, they will not take new kids the next year. If it happens three out of four years, they do not new kids at all.

Superintendent White said they made the accountability as equal as they could and defining it in the same way as defined excellence and acceptability in the public system. This was the best way they could think of to register acceptability in a nonpublic system. Children are funded with public dollars; therefore, the public should have the accountability and the comfort to know there is real accountability associated with it in accordance with the public system. There may be a couple of schools, such as Dunham School in Baton Rouge with five or six scholarship children and it is a great school. They may take a couple of kids each year, but might never have 100-200 kids in the program, so believe this school should be measured a little differently given the few number of scholarship students. They cannot put the scholarship cohort index on that school. Eventually, once the kids are older, the scholarship schools will have the scholarship cohort index.

Superintendent White said he believes the accountability and scoring issue is already resolved. On the financial audit issue, he agreed with the auditor, and believes separate accounts are a good idea and had already taken care of that. The idea of separate criteria on when a school should be able to enroll more students is sensible and they plan to do it in this cycle.

Representative Greene asked if a scholarship school had half of their enrollment as scholarship students and in two or three years do not meet the criteria and the students do not improve then what happens. Superintendent White asked if he means to force the kids out. In the regulations, discretion is

given to the superintendent to say if a school is academically incompetent, he may act. Under regulations or law, LDOE did not have to act on the seven schools pointed out by Senator Murray, but believed the level of performance was so low that they needed to act. At the same time, they want to be cautious to not force kids out of school because as Senator Adley pointed out the parents have chosen that school.

Representative Greene asked if the children would have to return to a school proven to be a failing school, or go somewhere else. Superintendent White answered that is the risk and for financial reasons there was a time this year when they said a school was out of the program and in spite of all of the challenges there was a lot of troubled, concerned, emotional parents. Many parents have elected to raise the money to keep their children in that school. He said there are two sides to this, and believes that LDOE has struck the right balance between a clear standard that is the same as the public schools but also having the discretion to act abruptly if needed.

Senator Adley asked how a parent would know the scholarship school is good. Superintendent White said the statute requires that information be published and disagreed with the auditors' comments earlier that there is no effort to present information to the parents. The law requires test score performance information published and enrollment information, and parental satisfaction information is recorded. Senator Adley asked if Ms. Edmonson could be at the table with Superintendent White to answer the questions because disagreement between their answers. Ms. Edmonson stated when they looked at the participating schools there is no information with a letter grade or test scores nor are those schools required to show the test scores so the parents can determine if the school is academically acceptable. She said the issue is also that nonpublic schools take different tests from the public schools, so how does the test scores relate or compare to the LEAP test.

Senator Adley said it seems a simple problem to solve whether the information is available or not. Superintendent White said this is not part of the process that was discussed, but the law has a simple set of things that must be published but the letter grade is not required by law or regulations. The same scoring system used to derive the letter grade in the public system is used, but there is no letter grade published. But in the statute there is a requirement that the following information be published: a list of all public schools with C,D or F or any variation thereof. In the enrollment process, that is provided for public schools. The most aggregate average proficiency rate on state assessments for scholarship recipients – the first test for this was done and the results were made public and contained in the scholarship report issued in November. Ms. Edmonson agreed that was correct, but said that is on the back end, and she is referring to the front end.

Superintendent White said they did not go before April 2012 to look at scholarship schools' tests, but waited until after they took the state tests. Ms. Edmonson said she is talking about criteria to make the choice in the beginning to have them in the program because to test them on the back end is where the problem happens because determining after several years that the school is not performing. The parents need information showing that the private school is really a good school for their child to go to and that is the fundamental question that is not being answered or addressed.

Senator Adley asked if the main disagreement is that LDOE is looking at results after the scholarship students are in the school and have been tested, but Ms. Edmonson said they need proof that the school is actually better than where the students are coming from. He said as a parent he does not care, and it would be his obligation, but clearly understands the view of some people to say they should have that information.

Superintendent White said the law points out the criteria to be followed, and he is the implementer of the law. But his opinion as a professional to answer the question as to why he would support a program that does not include those things, because in his experience it is a much better practice rather than asking bureaucrats to pick winners or losers, to let parents use the information that they know to enroll and have accountability on the back end and take swift action where there is failure. He pointed out that when a new public school opens, there is no prescreening before enrolling kids.

Senator Adley asked if the testing two years after the fact would resolve the issue or does it need to be fixed now. Ms. Edmonson said the issue is that we do not know on the front end if those schools are any better than the ones the students are leaving. There needs to be some criteria on the front end, and even before that a requirement that the school is academically acceptable. The private schools take different standardized tests from public schools, but someone in LDOE can look at those tests and find a bridge between them for comparison purposes.

Senator Adley asked if anyone violated the law. Representative Greene said that is not part of the audit. Ms. Edmonson answered that no one broke the law. Representative Greene pointed out that any new program has some issues to work through. There are some assumptions that any school chosen by the department is a good school and parents may not question any further.

Senator Murray pointed out that this program has been in existence in New Orleans since 2008, so if there was a desire by LDOE to fix the program there was a lot of experience to use before expanding the program statewide. Reports issued on the voucher schools in New Orleans show for the most part that the students have gone from one failing school to another failing school using a voucher. There are a few good schools, but most are failing. But the parents think because their children are going to a private school, it is a

better school but there are no results to prove that. Interesting that it is now called a legislative program and not something that the administration was driving. Senator Murray asked if the legislators should have added in the statute the requirement for a letter grade for nonpublic schools. Representative White answered that he did not call it a legislative program and takes responsibility for the oversight of the program as does their board. Senator Murray said when the law was brought to the legislature attempts to add grades were all defeated. He asked Mr. White if he believes a letter grade standard should apply to nonpublic schools. Superintendent White responded he does not agree, but would agree if a nonpublic school had only scholarship children. He said they created a system that acknowledges the difference between a traditional public school and a nonpublic school, but the difference is a nonpublic school typically has mainly tuition paying kids. As per the law, these schools must have a predominant huge number of tuition paying students.

Senator Murray said many of these schools were brand new and able to take in more students with vouchers, such as Good Shepherd School in New Orleans which opened after the voucher law was passed in 2008. Superintendent White said Good Shepherd School was around historically and designed to serve the working poor. Senator Murray responded that the school was on the verge of closing. He suggested many scholarship schools are open only because of the voucher program, but how can they have the same standards if the public school gets a letter grade. Because the state is paying for it, they need to be treated the same. Superintendent White said in principle we have commonality, and BESE believes in common accountability. The legislature had empowered BESE for the first time to do that, but was not empowered under the New Orleans pilot program, to create an accountability system. BESE said the same tests and same graduation rates, and the schools are scored the same way, but the difference is traditional public schools and charter public schools get a letter grade, but nonpublic schools do not because most students are not publicly funded. It seems unfair to put a letter grade on a nonpublic school because the majority are private payers who opted out of the public system.

Senator Murray pointed out the schools with more than 50% scholarship students, and asked what threshold should get a letter grade. Superintendent White said he does not agree with letter grades on any nonpublic school. He said LDOE went as far as any state in the country toward exact parody and swifter consequences for nonpublic schools participating in this program than there are for traditional or charter public schools. After four years of struggling, charter public schools are open, and traditional public schools are placed under state governance. In this program, after one year of struggling, they do not take new kids. Senator Murray said since the RSD was created in 2005, it keeps granting a new charter at the same school building and saying it is a new school, and it has continuously failed since 2005. That is a great way for BESE and LDOE to get around the truth.

Representative Honore' asked what happens if a charter school is meeting the criteria, and they decide to discontinue the scholarship program. Superintendent White answered that in the statutes there are provisions regarding the state's role and to whom the assets go. He said it has happened to local and state run charters and gave the example of Capitol High School and the students were allowed to stay and LDOE stepped in to run the school.

Representative Schexnayder asked if he agreed with the guidelines. Superintendent White said the method for calculating and measuring how effective a nonpublic school receiving public money is the same as the method for public school receiving public funds. He does believe there will be ways to improve the methods in the future, but with the information available now, they believe they have exactly the same methods.

Senator Nevers asked if the results of the standardized tests taken by nonpublic schools are required to be released to the public, but the individual student's grades are sent to the parent. Superintendent White said the test results are not released to the public. Senator Nevers asked if the scholarship students are required to take the same test as the public school students, and Superintendent White responded affirmatively. Senator Never asked if the scholarship students' progress would then be measurable. He agreed unfair to grade a nonpublic school when only taking a few scholarship students, but believe parents do not have an informed decision because only perceive how the schools are performing. Superintendent White said they put out the same information on public schools as private schools that receive public money for any students who receive public funds. Senator Nevers agreed with the auditor that the parents only perceive a private school provides a better education, but do not have the information to prove that, and they can get that information over time. He appreciates their working together on the audit and agreeing with most of the findings. He asked if BESE and LDOE are willing to work with the auditor to find a solution to these problems and if so when. He requested a plan be submitted to the Council as to how and when they can resolve the issues. Superintendent White said they agree with the first recommendation, and will be implementing the enrollment process in February to April 2014. He agrees in concept but have some semantic differences because they believe the criteria is already in place for schools to be exited out of the program because they cannot take new kids unless they achieve a certain level. With respect to the third recommendation, they already did it. Superintendent White said he would be happy to codify it if helpful for Senator Nevers.

Senator Nevers said the state has entered into a partnership with nonpublic schools to provide a better education opportunity for the students and would hope between meeting with the nonpublic schools and others, they can provide parents with a process that would allow them to make a better informed decision. He

hopes that nonpublic schools would be in favor of that, and everyone work together to provide the best possible education for the children. Superintendent White said he would welcome that.

Representative Thierry asked if LDOE would be open to creating some form of assessment for the kindergarten through second graders because concerned that a child in a nonpublic school at such an early age but not testing and determining a problem until the third or fourth grade. There needs to be some proof of academic growth. She suggested offering the parents the option for their child to be assessed before entering the nonpublic school and at the end of each year. Superintendent White answered they would be open to discussing her suggestion. He said there is a requirement for schools to enter the program that they must demonstrate plans for assessing student learning, and their basic skills such as number recognition.

Representative Thierry expressed her concern that some nonpublic schools only wanted to accept kindergartners to start in their program, and if the student only stays a few years, would their progress be determined. Superintendent White said the schools must go through an accreditation process to be eligible and approved, to ensure they have the appropriate instructional practices and standards. Some are accredited by other agencies and some by LDOE, so they have evidence of good practice at the schools. Also important to note the public schools for kindergarten, first and second grades only have the simple literacy assessment. Representative Thierry said the purpose of the program was for parent choice but ultimately it is also for the students to excel academically, so assessments are needed to prove their growth. Superintendent White said his team will gather how the 126 schools assess learning in kindergarten, first and second grade and communicate back what they find to work as a starting point. Representative Thierry asked him to move forward on assessing the children when enrolled and at the end of the academic year to see improvement. Superintendent White answered that private schools principals would respond as the public schools would, that testing is expensive and time intensive and would like to research further first.

Senator Murray commented that the accreditation process may be in place now, but years ago it clearly was not. He gave the example of the school in Ruston that had many problems and has now been kicked out of the program. Senator Murray said there was no accreditation in place previously because the school did not have a building and was going to use on DVRs and not have teachers. Superintendent White responded that this happened only one month after the bill was signed into law. LDOE did a sight visit at that school and found certified teachers and space for a number of students. He agreed that a stronger accreditation process is needed.

Representative Henry made a motion for Superintendent White to return to a later meeting and provide an update on all the issues expressed by the Council members. Vice Chairman Murray asked if any objection and with no objections, the motion was approved.

**ADJOURNMENT**


Representative Henry made the motion to adjourn and with no objections, the meeting adjourned at 3:31 p.m.

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APPROVED BY:

  
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SENATOR MIKE WALSWORTH  
CHAIRMAN

  
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DARYL G. PURPERA  
SECRETARY

  
\_\_\_\_\_  
DATE