

LEGISLATIVE AUDIT COMMISSION

May 6, 2014

Springfield, Illinois

MEMBERS PRESENT:

Senators Barickman, Brady, Manar, Mulroe and Oberweis
Representatives Brauer, Crespo, Mautino, Reis, Rita and Sandack

MEMBERS ABSENT:

Senator Martinez

The meeting convened at 9:30 a.m.

Mautino The hour of 9:30 having arrived I would like to call the Legislative Audit Commission to order. The agencies that we will be reviewing for today are the Illinois Power Agency, FY12 Compliance/Financial Review #4419. The Department of Revenue FY11-12 Compliance and Financial Review #4418, Department of Veteran's Affairs FY11-12 Compliance Review #4420. We will start today with the **Illinois Power Agency Review #4419**. First, we would like to thank Representative Pihos for her years of service on the Audit Commission. She was a tremendous member and has been very effective and we appreciate that. We would also like to welcome our newest member Representative David Reis, he will be joining us and thank you sir I'm sure you will find this to be enlightening and one of the better commissions in State Government. With that we will ask the Illinois Power Agency to join with us. General Holland.

Holland Thank you very much Mr. Chairman. Your first audit for this morning is a financial audit and compliance examination for the Illinois Power Agency, for the period ending June 30, 2012. It was performed by the firm of Borschnack Pelletier & Co. and one of the partners Paul Pelletier is on the far right and our manager was Kathy Lovejoy. As always Bruce has our opening remarks.

Bullard Thank you Mr. Holland. This report contains 17 findings, 11 repeated from the prior report and I will highlight several at this time.

The Illinois Power Agency's financial statements contained inaccuracies, which would have resulted in a material misstatement if not corrected. For instance, the Agency did not record \$470,000 in accounts receivable and deferred revenue, and it improperly recorded \$963,000 of revenue fees as a credit to certain accounts.

In another finding, we noted the agency lacked controls to properly record receivables and ensure the accuracy of Alternative Compliance Payments remitted by Alternative Retail Electric Supplier. During fiscal year 2012, the Alternative Compliance Payment process was administered by the Illinois Commerce Commission. We noted the following internal control weaknesses and noncompliance. The agency failed to ensure revenues and receipts due to the State from Alternative Compliance Payments were collected and remitted to the proper fund in the State Treasury. The agency lacked an interagency agreement with the Commission detailing the specific functions, duties, and responsibilities of both the agency and Commission for the accounting, recordkeeping and deposit of Alternative Compliance Payments. The agency failed to ensure the amounts remitted by the Alternative Retail Electric Suppliers were in accordance with State law.

In a finding repeated from 2009, we noted the Illinois Power Agency improperly allowed State funds to be held in accounts outside the State Treasury without statutory authority. As of June 30, 2012 on Procurement Administrator continued to hold State funds (as instructed by the former Director of the agency) totaling an estimated \$497,000.

In another finding repeated from 2009, we noted the Illinois Power Agency failed to establish a Planning and Procurement Bureau or a Resource Development Bureau as required by

its enabling statute. Further, the Agency lacked adequate staffing for most of the fiscal year in order to carry out its mandated tasks.

Finally we noted the agency had not adopted formal agency rules or established procedures for monitoring the administration of contracts, established procedures for the recovery of costs incurred in connection with the development and construction of a facility, or implemented accounting rules. This finding has also been repeated since 2009. This concludes our opening remarks, thank you.

Mautino Thank you Bruce. Joining with us from the Illinois Power Agency is Anthony Star, the Director. Welcome Director Star and joining with you is Charles Kudia, Chief Financial Officer, Sanjay Patel, Chief Operating Officer and Brian Granahan, Chief Legal Counsel. Welcome, would you like to make some opening comments and address any of the findings.

Star Yes I have an opening statement. Good morning I am Anthony Star, Director of the Illinois Power Agency. Members of the Commission, thank you for the opportunity to discuss the Illinois Power Agency's Fiscal Year 2012 Audit, and our ongoing efforts to improve Agency operations. This is my first time appearing before you as the Director of the Agency. Last year I was here as Chief of Staff during the final days of the transition of the leadership of the Agency from Acting Director Juracek to myself.

I also have a new team here with me today. I have Chief Operating Officer Sanjay Patel, who joined the Agency in September; Chief Financial Officer Chuck Kudia, who joined us at the beginning of April; and Chief Legal Counsel Brian Granahan, who joined us just last week. Our two other staff members, Office Administrator and Procurement and Planning Bureau Chief remain the same as they were a year ago.

I'm very happy with the Agency team that we've now assembled. While I'd like to discuss some specifics of our efforts to address Fiscal Year 12 Audit findings, the present is important as well. I believe that we now have the resources in place to effectively manage the work of the IPA. I created the Chief Operating Officer position as a direct response to the concerns raised in past audits and by the Legislative Audit Commission regarding Agency operations. It became clear to me that in order to accelerate the rate of change of the Agency's work to get into compliance with applicable laws, regulations and rules we needed more resources to assess, develop, implement, and maintain a formal internal control structure for our fiscal and operational processes. This new position will also help us to effectively remediate prior and potential future audit findings. Sanjay is an expert in developing and maintaining internal control systems and he is doing an excellent job making that all happen.

Likewise, Chuck is making an immediate impact on Agency fiscal operations with his over 30 years of experience in the accounting profession as a licensed CPA; Chuck was most recently with the Toll Highway Authority. It's a level of internal accounting experience and subject matter expertise that the Agency has lacked previously. Since Brian started only last week, we'll give him a little time before we assess the impact he is having on the Agency; however, I have worked with Brian previously and have complete confidence that he will do an excellent job representing the Agency.

Turning to the Fiscal Year 12 Audit, I would like to highlight a few key accomplishments of the Agency in terms of accepting and implementing the findings of that Audit. First, there were a number of rule makings that the Agency was required to undertake. I am pleased to report that two of those rule makings are complete and are scheduled to be published on May 9th. Those include our uniform system of accounts and our rules related to fees and charges to fund Agency operations. We will be making it a priority to complete our other required rule makings over the coming year.

Second, we now have a greatly improved financial reporting structure resulting in enhanced accuracy and transparency with the Agency's financial condition and results of operations. This is allowing us to be timely in our reconciliation of accounts, as well as to be able to avoid the errors that we have had in the past. We also now have an interagency agreement in place with the Illinois Commerce Commission to address matters related to the timing and accuracy of recording Alternative Compliance Payments from the Alternative Retail Electric Suppliers as part of their Renewable Portfolio Standard compliance.

I know one issue of concern has been funds held outside the State Treasury. That matter related to a decision the Agency made in its early days regarding the collection of fees from the

winning bidders in our energy procurements, and an ill-advised attempt to allow the procurement administrator to use them to offset their expenses. That issue is now fully resolved; all funds have been recovered. I'd also note that the Agency conducted a Request for Proposals for the Procurement Administrator role in late 2013 and the Procurement Administrator in question who held those funds is no longer affiliated with the Agency.

Third, I believe that our staffing levels are now appropriate for the work the Agency is conducting. The hiring of the Procurement and Planning Bureau Chief in Fiscal Year 2013 has brought added knowledge and experience in wholesale energy markets, and as I mentioned the addition of the staff here with me today has also increased our internal capacities and allowed us to improve on things like segregation of duties. The energy markets of Illinois continue to evolve. We've seen an unprecedented move of customers to alternative suppliers through municipal aggregation. While this has decreased the quantities of energy that the IPA procures, it's a sign of success of the market design of Illinois because it means that customers are realizing savings. In that process, the annual planning that the IPA conducts is essential to ensuring a good default service electric rate. I'm also pleased to report that we conducted an energy procurement for ComEd and Ameren last week, the first one since spring of 2012. While energy prices have increased since then, the procurement went very well with strong participation and results that should ensure that for eligible retail customers who chose to continue to take service from ComEd or Ameren, the price they pay for electricity will be reasonable.

In conclusion, the IPA is still a young Agency and we will continue to seek opportunities for improvement, but I am most pleased to inform you that we are on the right track. Thank you for your time this morning and I'd be happy to answer any questions.

Mautino Thank you for your comments, Director Star. I also wanted to commend you. Our goal and purpose of the Audit Commission has always been to look at the processes best practices and then go forward and see how they are improved upon. Your financial oversight has greatly, greatly improved. The previous Directors did not have the backing of a very strong capable financial staff. For that reason we had some cases where the Director was actually an agency of one.

Star Yes.

Mautino Without the support it caused a myriad of problems. In seeing that your findings are going in the right direction. They have been reduced and some of the heavier findings of previous years have disappeared. So I commend you on those items and what I would like to do now is go to our members of the Commission to see if they have questions on the specific findings. I will have some at the end. Representative Crespo, you had questions?

Crespo Thank you, Chairman. Director Star, thank you for joining us this morning. Just a couple of questions. Prior to your appointment as Director, you were Chief of Staff?

Star For a one-month transition period.

Crespo OK, for one month. So during the audit findings you were not part of the operation at all?

Star I joined the agency about three-quarters of the way through Fiscal Year 2013. So for the period of the Fiscal Year 2012 audit was prior to my time at the agency.

Crespo OK. So you had no knowledge of what was going on or anything like that?

Star No. The audit was wrapping up when I joined the agency so I was able to take part in sort of the review of the audit findings, but in terms of the specifics of it, it was prior to my time.

Crespo And the agency—just for the record, you're not funded by GRF? You're funded by fees that we collect?

Star That's correct.

Crespo Is there a sunset for the agency?

Star No, there is not.

Crespo There is not? OK. And you did mention that the alternative energy market is a very dynamic kind of thing. What's the value of the agency today with all the changes that we've seen in the energy industry?

Star I think there are two values. The first is—one of the things we do every year is develop a procurement plan for the following year, looking at how many customers the utilities still are selling electricity to versus customers who switched to the other suppliers. Residential customers in Illinois always have the right to come back to the utility, so we need a process in place to ensure that there is electricity being purchased for customers who either choose not to switch, or choose to return to the utility. So I think the first essential function of the agency is to ensure that that procurement takes place and if there's adequate, reasonable, affordable, stable prices for those customers.

The second important aspect of what the agency does has to do with the administration of renewable energy resources as part of the RPS compliance. That is something the way the law is set up as delegator of that authority to the IPA and to this fund (**inaudible**) that we're able to administer.

Crespo You interact with the utilities and providers as well?

Star Yes. More with utilities than the alternative suppliers, but we do quite a bit.

Crespo How is that working out? Are they pretty cooperative with the agency? Are you having a difficult time with ---.

Star The procurement of energy is actually very smooth. We held a procurement event last week where we had a lot of bidders. The prices came out very well. So I think the part of the agency operation that has to do with actually purchasing energy, there isn't much controversy in it right now. It is very much a routine thing. We've standardized the contracts and the processes and procedures and its gone smoothly.

Crespo OK. And as the Chairman pointed out, it seems like the agency is moving directionally correct. You went from 23 findings to 17.

Star I had a little handicap to start.

Crespo Yes. So hopefully, moving forward, you can continue improving on that. But thank you very much for joining us today. Chairman, thank you.

Mautino Further questions? Senator Oberweis.

Oberweis Thank you. This is not directly related to the audit, but could you very quickly tell us what your mission statement or your purpose of existence is? Because I'm not sure I understand it.

Star Sure. Over the last year I've been trying to figure out how to say it in two or three sentences, and so far, one of my failures has been I've not been able to figure out how to summarize it quickly. Illinois has chosen a method of procuring electricity for customers different from any other state. And the IPA plays a unique role in that. The agency was created in 2007 in response to some controversies over procurements the utilities ran to buy electricity for their residential and small business customers, and concerns on how that process went and the rates that came out of it. So the idea was to create an independent State agency with no profit motive to assess what the needs of electricity procurement would be, and then run those electricity procurements in a fair, objective, and neutral manner. I don't think I've fully answered your question. I could go in a bunch of different directions. How can I flesh that out best for you?

Oberweis In the interest of time, maybe I can pursue this at a later date. Thank you very much.

Mautino Representative Brauer.

Brauer Thank you, Mr. Chairman. I wasn't going to ask any questions, but now you've got my interest up.

Star OK.

Brauer So you're a not-for-profit that will operate independent of capitalism? Explain that to me.

Star I'm sorry. I perhaps used my terms inartfully. The idea would be that—we're a State agency, so we're not a non-profit. I meant not-for-profit in the sense that the decisions we make about how to do procurements doesn't affect the bottom line of the agency. While the concerns, in the past, sometimes have been a procurement decision was made in such a way that would advantage one party over another. That's the sense I meant that the results of who wins the procurements for electricity doesn't impact the agency's bottom line.

Brauer OK. So will you then make a decision with so much wind power, so much solar power, so much coal, so much nuclear?

Star The procurements of energy we do are based—are evaluated on price alone. And they're agnostic to the generation source. When we do renewable energy procurements, those are to comply with the RPS (Renewable Portfolio Standard) and their specific mandates in the law about what percentage needs to be wind, what percentage needs to be from solar, represented from the small scale generation.

Brauer I guess the thing that concerns me, I was reading the other night and they were talking about renewable energy in Germany and I think that their levels are such that they would actually charge nuclear plants to dump electricity on to the grid because they weren't able to react that quick. I guess that's a concern to me. How do we, in this state, follow more of a—shall I say a capitalistic approach to what makes good sense? I think wind energy is good, but when you look at the cost—you're looking at three, four times over coal and nuclear and then you put in the power reserve factor and it jumps up more yet. So sometime—it doesn't have to be today. It looks like there is something else on the docket going on later, I'm not for sure what, but it looks like—we want to be sure that that doesn't happen.

Star I would agree. I think the approach we have here is very much a market base solution in that we figure out what we need and we ask people to bid on price. Germany, Spain, a lot of European countries have used what is known as feed-in towers, where they administratively pre-determine a price for renewable energy and agree to pay it. And some of the destruction to the European market have come from that approach, which is not an approach that I favor.

Brauer OK. Good, good. Bruce, I assume by the statement in our audit that they were very cooperative and are moving in the right directions?

Bullard They are very cooperative. It's no question we come up with some issues that takes us a while to work through them, but they've been very cooperative.

Brauer Thank you.

Star You're welcome.

Mautino Further questions? Director, there was a news article where you had made a response and a glitch in the wording of the State law has prevented solar from being bought. Can you expound on that? Have you submitted a potential fix for the glitch in language? \$53 million has been collected from the customers to date, was, I believe, the number that you used.

Star Right. One thing I think was maybe not completely clear in that article, as happens in these articles, that those are funds that were collected from customers of the alternative electric suppliers, not customers who were buying their energy from the utility. When the law was first set up, I think there was the expectation that we would be doing any old procurements (**inaudible**) for the utility customers and that this fund would be added on to that as well. So the structure of the law is designed for there to be additional funding on top of the utility procurement. Because so many customers have switched to all the other suppliers because of municipal aggregation, in 2013 and again in 2014, we've done no energy procurements for the utilities: therefore, because of the way the wording of the law is, we've not been able to spend the Renewable Energy Resources Fund. There are a number of negotiations underway for possible language to fix that. We are hopeful that those will pass and we've provided some technical advice on some of the language of those to make sure that any wording changes in fact accomplish the desired outcomes.

Mautino Thank you. Seeing no further questions, I would accept a motion to approve the audits, Review No. 4419—Chairman Barickman, seconded by Representative Reis—welcome to the committee—all in favor say yes? Opposed, no? It's the opinion of the Chair the yeses have it and the review is accepted.

Star Thank you very much. See you next year.

Mautino See you next year.

Star I think we're required to come every year.

Mautino If you're cleared of all findings, we actually don't ask you back.

Star We'll work on that.

Mautino Members of the Audit Commission, we're going to change up our agenda for right now. Senator Barickman—co-chairman Barickman—has a motion that he would like to discuss and so I would yield the floor to Senator Barickman for the purposes of a motion.

Barickman Thank you, Mr. Chairman and members of the Commission. I'll offer my motion and then would like an opportunity to speak to it. Actually, it's two motions.

First, pursuant to Section 4 of the Legislative Audit Commission Act, I move that the Commission authorize the co-chairs of the Commission to jointly summon and compel the attendance and examination of witnesses and production of documents, and to jointly issue subpoenas for the production of documents and attendance of witnesses that are necessary for the Commission to fulfill its statutory responsibility to review the audit of the Illinois Violence Prevention Authority's Neighborhood Recovery Initiative (NRI) which was released in February 2014 and is pending before the Commission.

Second, I move for the creation of a special subcommittee of the Commission comprised of four members of the Commission to draft any such subpoenas and by majority approve such subpoenas prior to their submission to the co-chairs of the Commission for their joint signature and issuance. Each co-chair of the Commission shall appoint one Commission member of the co-chair's political party from the Senate and one Commission member of the co-chair's political party from the House of Representatives. I'd ask for a roll call vote on these motions, Mr. Chairman.

Mautino And—may I have a copy of the motion?

Barickman Sure.

Mautino A second. Yes. And Senator Brady seconds the motion. What's that?
Brady Senator.

Mautino He and I used to run the Insurance Committee together. OK. The motion has been filed and we will open for discussion. I was aware of the first portion of the motion so I would have some questions as far as the ability. In reviewing our statutes, I believe the—not statutes, but the rules of the House—and I'm not familiar with the rules of the Senate, but the Senator may be—or one of the senators joining with us—the current process would be that the chairmen, jointly, would submit a letter to the leaders of the chambers: the President of the Senate and the Speaker of the House. Would this have any impact or change or—how does this accompany the rules as they exist right now?

Barickman Sure, thank you, Mr. Chairman. This motion is made pursuant to statute—and statutory authority that comes from Section 4 of the Legislative Audit Commission Act. You'll note that that section of statute does not impose any requirement upon the Speaker or the Senate President to provide authority for the compelling of witnesses. Reading directly from the statute and to remind the Commission where this authority for this motion comes from, I think it's very clear. Section 4 states that the presiding officer of the Commission may, upon a majority vote of the Commission, administer oaths or affirmations and summon and compel the attendance before the Commission and examine under oath any person connected either directly or indirectly with any transaction with State agencies, or any other person having information regarding the conditions, affairs, management, administration or methods involved in such financial transactions or fiscal matters. As you can see from the statute, the authority to move forward in such a manner, as is contemplated by my motion, comes from statute, not by the rules of either of the House of Representatives or the Senate.

Mautino What I'd like to do also is under the—get a description or delineation from the rules itself under House Rule 4—with the Speaker—would have the ability to sign/authenticate all acts/proceedings on orders of the house. All writs, warrants and subpoenas issued by order of the House and any of its committees shall be signed by the Speaker and attested to by the Clerk. I believe there is a corresponding Senate rule, as well. So I would like to get that procedural question into play. While staff does that, I'd like to go on to discussions of the motion itself.

Barickman Sure, and to make one further point, I have offered two motions and you are correct—when we discussed this matter yesterday, I suggested there would be one through our communication with the Senate staff and counsel, we have broken that original single motion into two. So there is nothing necessarily new here, except that due to the counsel of the attorney for the Senate Democrat—Senate President—we have broken my original contemplated motion yesterday into two.

Mautino OK. And with the motion, as I said, this is the first time that I am seeing the actual motion as set so—with that, I'd like to go to discussing the motion itself. And to the ends of—yes, copies are on the way. OK. All right.

Some of the concerns that I have is with the operating and function procedure ---.

Barickman And it may have—first, Mr. Chairman, just to ---.

Mautino Why don't I actually let you go ahead and explain your motion.

Barickman Sure. Let me explain, maybe, for the members of the Commission. This motion—and I think I've had an opportunity to discuss this motion with—or communicated with—all of the members of the Commission, at this point. We have recently received what we all reference as the NRI audit. And thinking back, the purpose for which we asked—the General Assembly asked—the Auditor General to perform this audit, the reasons were clear back in 2012 when we directed the Auditor General to move forward. Here we are—the facts surrounding these circumstances and the problems facing our state were very clear. We were going through tough budget times, there were decisions made to change the funds available to our local schools, there have been decisions to close State prisons, mental health facilities, and there have been decisions that impact every State agency,

community, and others throughout our state negatively impacted by the tough financial times that we have here. In the context of that, Governor Pat Quinn made decisions and made promises to pay some tens of millions of dollars to address violence in targeted—certain targeted neighborhoods.

The questions in 2011 and 2012 resulted in the House of the Representatives asking for the audit that subsequently was produced. That audit was troubling. When you read it, you see that this program that the NRI program, for which was spent tens of millions of dollars, was hastily implemented and had pervasive deficiencies in the planning, implementation, and the management of the NRI program.

A bi-partisan group of legislators moved forward a resolution that directed the Auditor General to audit this program. Certainly, by no fault of the Auditor General, the audit says some things that are very telling to this Commission; primarily, the statements that are written within the audit—and I read directly from it. Page 1: According to the former IVPA director, whom I believe is Barb Shaw, IVPA selected the neighborhoods served by the NRI based on a DHS analysis from the Safety Networks Program; however, IVPA and DHS could not locate the analysis used, nor could IVPA provide any other documentation to auditors about how neighborhoods were selected. Towards the end: In regards to ICJIA (Criminal Justice Information Authority)—in regards to their defense of itself, the auditor found ICJIA made “unsubstantiated general statements about the sufficiency of the report rather than providing any specific documentation to support their assertions, and that despite being made aware of the findings—some of these findings—for over 100 days, ICJIA failed to provide details and documentation supporting its assertions that the audit report is not sufficient to fully describe and give context to the planning process undertaken by IVPA”.

Clearly, we have an audit that suggests that there are significant gaps in the information that we must have to perform our statutory job with this Commission. Look, we've got to get to the bottom of this. We have a statutory duty to get to the bottom of this program. That statutory duty comes from the Legislative Audit Commission Act. And some might say why are we doing this? It is because the statute says we have to. The statute says that this Commission shall ascertain facts, review reports, and take action thereon. Make recommendations and reports to the General Assembly and to the houses thereof concerning the audit, revenues and expenditures of the State's departments, subdivisions and agencies. It further says that the Commission shall receive the reports of the Auditor General and other financial statements and shall determine what remedial measures, if any, are needed and whether special studies and investigations are necessary.

Given what we know today about this program and given the many questions that many of us have about this program, the statute makes clear that we need to further investigate, find out what facts exist, and make our recommendations accordingly. This duty comes from statute, but this duty also comes from the duty in which we all have to our constituents and to the people of the State of Illinois.

There are criminal investigations, apparently, happening today. We are certainly aware of what has been reported through the media in regards to the Cook County State's Attorney. We are aware of the comments which have been made by the Comptroller's office that they have turned over certain documents to the U.S. Attorney's Office, although we do not necessarily know what the intention of the U.S. Attorney's Office is. Regardless, our efforts here certainly are not duplicative of those in law enforcement. There are those whose job it is to enforce the law and then there's us—by statute who have a duty to ascertain facts and make recommendations. These duties are charged, by statute, to this bicameral, bipartisan Commission. The bipartisan efforts of those in the House resulted in a request to do the audit. Read the audit and it is clear that we have more work to do to get to the bottom of this.

My motion is a request to use one of the tools that we have available as Audit Commission members to find out the facts. The tool available is provided to us by statute and it is a tool that I think is necessary here. We are dealing with an extraordinary set of circumstances and as a result of those extraordinary circumstances, we need to use all of the tools available to us by statute to find out the facts and to make recommendations. Therefore, I feel this motion is appropriate and that it will assist our efforts to review all facts related to the creation of this program and the spending of tens of millions of dollars of taxpayer dollars at a time when we must certainly be more prudent.

Thank you, Mr. Chairman. I would ask for an aye vote on my motions.

Mautino

Questions? Representative Sandack has questions.

Sandack Thank you, Mr. Chairman. Maybe it's a point of procedure here. Obviously, I respect and very much appreciate co-chairman Barickman's leadership on this issue. For the substance and merits of what he brought forward, I'm very supportive of it, but to the procedure, for a second. You made mention, Chairman, of whether there's a House rule—not 4.9 that maybe supersedes and/or has some interplay with what we do here—and I know there's lawyers running around all over the place here, which is sometimes good and sometimes frightening. 4.9, as I understand it, is a House rule that gives the Speaker the right to sign off on any subpoenas from standing committees from the House. As a point of procedure, this is not a standing committee from the House, but a bicameral, bipartisan committee by statute. So I don't think that rule, or any equivalent rule on the Senate side, applies. I think, as Senator Barickman has eloquently put forth, I think we have the right to issue subpoenas from this Commission and it's not superseded or any way checked or balanced by anything in the House or Senate—because this is bicameral and bipartisan—and more importantly, a creation—a creature of statute. So to the extent that we have able counsel here, I am certain they can look at those rules and ascertain by their letter and direct wording themselves that we have this power.

Mautino I appreciate your comment on that and I'm actually seeking that information from both the House and Senate counsels to see if there is corresponding rule and how that interplays. Senator Oberweis with a question.

Oberweis Mr. Chairman, just a procedural question—there are two motions. I assume there will be separate vote and normally wouldn't there be discussion on—let's say motion number one, discussion, vote and then discussion of motion two and vote?

Mautino I see no problem in combining the motion there, if that's the way—as a matter of fact, I think probably the strengthening portion of it, which would still allow some checks and balances to the second portion of the motion. As I read this. Going forward. And I do respect the motion that is being brought forward, but I have some concerns—and that's as a member for—I don't know, 16, 17, 18 however many years that I've been on this Commission and we're a process-based Commission, and it has worked very well to the betterment of the State of Illinois and the work of the Auditor General as well.

In this audit—going beyond the issue, because I agree on much of the issue. But it also lays out the fact that the information that we have is available—and I may ask the—though, this is not your fight, General Holland, I may ask you a couple of questions coming forward. First of all, in talking to Mr. Cutrone, he has been ready to come and discuss this fully at any—at a moment's notice on there, so he's ready on the 13th and I think it's something that is best resolved because it was a horrible audit. And I've seen many. In this body that you're all part of here, we have brought forward, without using extraordinary powers, we have brought forward the MSI audit, which resulted in the scandal under Governor Edgar. We brought forward under a couple of audits that I had recommended for the audits that were used in the indictment and removal from office an impeachment of a Governor. So we have those authorities, and we get cooperation from the agencies. Now my understanding is that with Mr. Petrone—or Cutrone—yes, Petrone would be much different. Yes. So—he has turned over everything that they had, and actually having read this audit, we have 20 banker's boxes of documents that neither the Democrat or Republican staff have bothered to go over and look at at this point in time. However, the media has been there, State, federal and local authorities have been there to examine every document that exists that we have them all. So I do understand that portion of the procedure, so I'd like to ask—General, I think your audits are done to a tremendous standard. To the highest standard, as our Auditor General and our only independent watchdog for the people of the state of Illinois, because you answer only to them—have you had any interest from staff or—either side, anybody—that have come in? Have the media or—can you tell me what you have and what's available so I can lead to where this is all going? In my own mind?

Holland I want to begin by pointing out that I operate pursuant to the Illinois State Auditing Act, not pursuant to the Legislative Audit Commission Act. I want to make sure that is clearly understood. With regard to the documents required to do the audit as directed by Representative Reis

in 1110, a couple of years ago, it is accurate to say that we obtained all the documentation from the Illinois Violence Prevention Authority that existed that allowed us to meet the determinations that we reported on in the audit that we released earlier this year. As a part of our audit, we noted that there were documents that weren't available, so we spent a lot of time working with—beginning with the Violence Prevention Authority and then with the Criminal Justice Information Authority—trying to obtain documents, and ultimately we determined that some of those documents just didn't exist. And we reported that in the audit. Those documents consume multiple banker's boxes—20, 25 banker's boxes—and electronic records—that without jeopardizing any ongoing investigation, I think I can fairly say that there had been multiple agencies with the federal, State and local governments that have visited my office to access those records. And I will tell you that for some people in this room who really understand how we do our records, and most of them are on the other side of this table, understand that you don't have to subpoena the records and you don't have to FOIA the records. You make an appointment, you come in and you take a look. That's the way we do business. And every record that we needed to make the determinations within the audit that we released we have. And I would welcome—I would welcome everybody to come by and visit. We'll work with you. We'll share them. We'll share those documents.

Oberweis Has anyone?

Holland Well, as I would say—multiple individuals from federal, State, and law enforcement agencies—and—I think if you pick up the Chicago-Tribune, the Chicago Sun Times, the Associated Press—I think you're going to figure out that maybe those guys have stopped by. There's not a secret there. So the answer is ---.

Mautino I'm just saying neither of our staffs has stopped by and looked at the boxes. To my knowledge.

Holland No.

Mautino OK. Understood. To the—since we are an evaluative body, another concern that I do have with this motion is in the past, when we have impeached a Governor, when we have put multiple people—I think 57, 58 people and counting—in jail on the basis of the audit and the powers that exist. Under MSI—I forget how many people, actually—were done through that. At the time when we received an audit like this, we referred it to investigative agencies. Here at the Audit Commission, we actually do not have investigative staff. It's a wonderful staff, you do a great job, but I would have to say that Jane and Mary and Mary, who do all of our preparation for it, would probably not have the staff, would not have the investigative expertise—I mean they can look at the items, which they can do now. They can actually go over to the Auditor General's office. My concern is though we may do this, to what end? That's a concern. Because this body, going forward, has done some tremendous things, but this motion does change the structure and the abilities of this Commission to function as it always has in there. We have had great results. So those are some of the concerns that I have. I do agree with the findings in the audit. I think Mr. Reis, as a new member of the Commission, has put together a well thought out proposal. I guess my question is, to what end? So that's where I have my concerns. Your motion is put together—the second portion of the motion does give a little bit of relief, as far as my mind to the situation between the House rules and the statute that conflicts. Now, I'm not a lawyer by trade—or even by practice. Beer distributor by trade. So that answers more of that. I just have concerns from the process structure and the fact that we are giving subpoena investigative powers where we're not staffed up for it which are going to require some changes and which already are being investigated by all accounts of the media, the people proper to do that as well. That would just be my statement. Any other questions, members of the Commission? Mr. Crespo, did you have anything?

Crespo Yes, thank you, Chairman. Just a couple of questions. I'm not going to pretend to be a lawyer also. I'm just a law school drop-out, but—I appreciate Senator Barickman contacting me yesterday. I was a little bit concerned. After he called, I was getting calls from the press, as well. I did not quite understand that. But the statutory question—or interpretation—of the rules here, and I know I spoke to our staff attorney last night, as of 8:00 or 9:00. She told me that she had reached out to—

your legal staff had not received a response to—I understand the question as to whether statutorily what we can and cannot do. Did they ever contact our legal staff? Senator?

Barickman Representative, it's my understanding that the counsel to the Senate Republicans did communicate with the counsel to the Senate Democrats.

Crespo When was that?

Mautino In talking with the counsel for the Senate, that still remains an open question.

Crespo OK. At any rate, I was just looking for some interpretation from our legal staff as we figure we're going to deal with this issue today. I haven't heard anything yet. I'm mostly trying to understand if we adopt this motion, what value does the Auditor General have—or would we have—under this motion—that the U.S. Attorney—State's Attorney's Office or the Inspector General don't have?

Barickman Thank you, Representative. It's a very good question and one that I know that as I spoke with members of the Commission yesterday, one that was raised by some of you. The answer is this. We have a statutory obligation. That obligation was written to statute long before I was here, but for a purpose. Those in law enforcement have their purposes and their objectives, which are very different from ours. At the end of the day, we have a duty to the people of this state to make sure that we are public stewards of their dollars. That authority comes from the oath that we've all taken and I feel that it would be irresponsible on our part to look past that statutory duty in our oath of office because there may be criminal investigations appearing simultaneously.

Crespo I understand that. Again, I was just looking for some interpretation from our legal staff. I'm just trying to reconcile this here. Again, we do know for a fact that the U.S. Attorney's Office has subpoenaed and then gotten some records, as well as the State's Attorney's Office. We also understand the Inspector General is looking into this. What would the end game here—again, I'm just trying to figure out, what's the value at the end of the day that we'll be putting on the table in light of the fact that we have the U.S. Attorney, State's Attorneys and Inspector General. What can we do that they cannot do? If we get additional information, I would imagine that they have access to the same information. Beyond that, they have additional powers in terms to deal with any criminal activity—vetting—what's the end game of this Commission if we were to adopt this motion? Again, I'm not arguing against the motion, I'm just trying to reconcile this to see where we would be at the end of the day. You do mention the fact that we are public stewards of taxpayer dollars. I've been working closely with the Auditor General since I've been chair of the Appropriations Committee. I've always made sure—and the Auditor General can testify to this—I've always made sure that the Auditor General, the Inspector General, are fully funded because I do strongly believe that we need some entities out there that are independent and objective to police what we do. And I think they do a very good job. We are the **(inaudible)** of taxpayer's dollars, but you know what? I've been on this committee since I last got elected, and as I listen to some of the folks that come before us—and we had some serious issues—to your point about yes, you're keeping an eye on how money is spent—and I haven't heard any outcry when I look at the lost inventory—which is a big issue in this state—I haven't heard an outcry when we talk about some of these college audits and some of the issues that we have there. Where is the outcry when we talk to folks that deal with foster care and children are dying out there, which I think is really serious. I see the value if we do adopt this motion if we look at those issues as well. But again, I'm just trying to understand what's the end game in light of the fact that we know that the U.S. Attorney, State's Attorney, Inspector General is also looking into this—what value do we add beyond that? I guess I would like the Chairman—ask you to respond, Chairman.

(Off-mike) **(Off-mike)**

Crespo Well actually I have a question on the table.

Barickman I'll answer. Representative, this Commission has a history of taking a very serious approach to fulfilling its obligations, and at this point, I don't know that we can predict what the end goal is. What I know is that for us to fulfill our obligations—obligations that, again, come to us by statute—I believe we need more information and I believe this is a tool provided to us by statute that will help us obtain that information so that we can fulfill our statutory obligation. The end goal of a criminal investigation is one that is very clear to everyone. Charges. Grand juries. A court proceeding. That's not us. So the fact that there are individuals or agencies out there today pursuing questions that may result in criminal charges is separate and distinct from the objectives of which we have in this committee. And I think, again, that it would be irresponsible for us to discharge our duties because there may be questions out there which are being pursued by those in law enforcement.

Crespo Senator, I agree with you. You talk about the charges and court proceedings. Again, the fundamental question that I have is beyond what the U.S. Attorney, the State's Attorneys Office and the Inspector General can do, what else can we do beyond that? It's a very basic question and I'm not sure if I have an answer today. I think—as I debate whether I'm going to vote for this motion or not—I do see value if and in fact if we apply the same motion, the same rules to some of the other audit reports that I think are pretty serious, and I just don't see this outcry. I'm not accusing, I'm not defending anybody here. This is the crazy time of the year when sometimes things are done for political expediency rather than for good public policy. I think it was a good discussion they had in terms of public policy, but we need to go beyond this or other audits that come before us, I think, are very serious as well. I just get this—energy—this angered outcry is also applied to issues that we have before us. We have to come up with solutions to short-term and long-term, in terms of the budget; we have other issues that we have to address, and I hope that we can work together on. I'm not sure—I'll listen to debate as we move forward. I'm not sure where I'm going to stand on this thing. Again, I only see value if we apply this to other audits, and I still have questions in terms of what value, what's the end game, what value does it add when we know—again—I repeat—that we have a U.S. Attorneys Office, the State's Attorneys Office and the Inspector General looking into this matter, and I think that's really where this should reside. But I'll continue listening to debate. Thank you, Chairman.

Barickman Thank you. To remind everyone, the timing of this is a result of an investigation that began years ago. This audit has been published, the audit sits before us—so I don't think there's any politics to this other than us fulfilling our obligation as defined by statute. To your question about what may come of this, here's what I know. I know that budgets are tight today. I know that we are embarking upon an enormous discussion about tax policy and whether to increase rates or cut spending. In the context of this, we're handed a report that says there were tens of millions of dollars spent questionably. The outcome may be that we change the laws that made this situation possible. We frequently hear audits, hear from the Auditor General, and make changes to statutes based on the facts of what occurred in the past to make sure that it's not done again. This may be an abuse of tens of millions of dollars. Promises—you know, the Governor is going out there over the weekend trying to rewrite the facts of what happened and we're charged with making a determination of the facts that actually occurred. Promises of State dollars were made in the weeks before a major election. This is a major audit that we're dealt with, and I think it is extremely prudent on us to have every tool available as we review the facts, as we compel individuals to come before us—you know there was a significant discussion of the boxes of documents held by the Auditor General's office. I think they have absolutely done a wonderful job in fulfilling their duties and performing their audit. As a result of that, I have more questions and I want to know that we have the tools available to compel, by law, individuals to come before us. I want the right to compel individuals to surrender documents that we may not even know yet exist. We have this tool available to us, by statute, and the failure to comply with our requests—if we make them—is a contempt of court. That is an extraordinary power, but it is one that is given to us by statute and it clearly is meant for—those extraordinary circumstances that I think we're dealing with today. My motion simply requests that we make this tool available to us so that we can continue to gather facts and make the recommendations that we feel are necessary.

Crespo Senator, again, I think I agree 100% with what you're saying. Again, the question is interpretation of the statute, which I guess we'll debate some more. I agree with the fact that there's a tool that is available to us. I wish we had used that tool before. There are other audit reports that I

think are very, very serious. I haven't seen this discussion before. In closing, I'll say this for the umpteenth time—what else can we learn that we're not going to learn from the U.S. Attorney, or the State's Attorney's Office and Inspector General? I think that they have access to more tools than we have and I think they'll give us the answers that we're looking for and we'll make decisions based on that. I don't think I disagree with what you're saying. I think the facts are what they are based on what we know. My question, again, is what's the end game in light of the fact that we have these other agencies looking into this as well. Thank you again.

Mautino Senator Manar.

Manar Thank you, Mr. Chairman. A couple of questions of Senator Barickman in regards to I think what led up and—and the nature of the motion—but I think the first might be better asked of the Auditor General and maybe anybody can answer this question but specific in Section 4 of the Legislative Audit Commission Act, it's pretty clear to me that the existing language in statute gives the presiding officer of the Commission the authority to do what I think is being sought after in the motion. But has that section ever been exercised? Is this a new—are we into new turf here by exercising that section in the Act?

Holland I presume the only reason you're asking that question is because I've been around here longer than anybody else?

Manar I've only been here a year, Mr. General. That's why I ask the question.

Holland Not to my knowledge.

Manar So this would be the first time, to your knowledge, that the Commission itself has set Section 4 into motion?

Holland I just saw that motion this morning, so—not to my knowledge.

Manar Senator Barickman, what—and I appreciate the fact that we had this discussion last night, which allowed us to have a good conversation about what I think you're seeking to get after here, but—what do you believe we would receive if this joint committee does its work, as you anticipate that we don't have today, or that we cannot ask for today?

Barickman Thank you. Of course, we may ask for whatever we wish. That's a prerogative of the Commission. But I think it's important. At some point, we will have a public hearing on this audit and on our findings. At that hearing, I think we should enable ourselves to compel all those individuals who have information on this program and the reasons why decisions were made to spend dollars where they were spent.

Manar But that's part of an effort to bring finality to an audit, right? We're not—an audit is not an investigation. At least I don't view it that way. But I think the person is to bring some closure to a process that began through an act of—the legislature?

Barickman I think our objective is not the audit, it's the fact-finding. The outcome of the fact-finding, again, to reference my comments earlier—may be a change in statute. I'm not the only person in this state who is appalled by the fact that these spending decisions were made nearly overnight, with what appears to be little or no oversight from the legislature. If that in fact is not a violation of the law, meaning a criminal investigation will not change that fact, then I think this Commission may find that we need to change the law. To make sure the next governor, whether he be a Republican or a Democrat, cannot supersede the authority of the General Assembly.

Manar The extraordinary nature of both motions, given the fact that—the statute exists today for the Commission to do this. Obviously, what the motions would set into motion at the same time is a precedent, I would say, so we should consider that at the same time. But what justifies the

extraordinary action to the extent that we, as a body, have to say that this—what is quite strong language in the Act should be exercised. Have we, as a Commission, asked the Director either of the Criminal Justice Information Authority or the Violence Prevention Authority to appear and they have said no? Have we made an attempt to say we want to have a public conversation with you about what you just described, in terms of decisions and facts, that led up to why money was spent where it was and the nature that it was spent and for whichever purpose, but I think there's a presumption that they have said to us as a Commission that they're not going to cooperate in order to answer questions that I think everybody has about the program. Did they say no? Have we asked them to come here and they have said no, we're not interested?

Barickman The tool, again, that is available is to compel them. Some of these individuals may no longer work for the State of Illinois. The tool available to—that results in them appearing—is the tool afforded us by statute.

Manar Have we asked Director Cutrone to come and sit at the table and say ---.

Barickman I suspect, from the conversations I've had with the Auditor General and others, I suspect that Mr. Cutrone will appear.

Manar Have we asked him or have we not asked him? That's my question.

Barickman But the facts of the NRI Program pre-date Mr. Cutrone's involvement, my friend. To have a hearing in which the outcome is current employees working for agencies that did not house this program at the time presumably will offer us little information that is not already available in the audit. My request allows us the tool to make sure the information that will likely not come from Mr. Cutrone and are not readily available in the audit will occur here. The audit is riddled with suggestions that there was either no written analysis available or individuals available to tell us how decisions were made to spend these taxpayer dollars. We can call Mr. Cutrone in here, but I suspect we're not going to get the answers to the questions we have from his attendance. There are others.

Manar Do you suspect that because he's not going to be cooperative, or because he doesn't know?

Barickman I suspect that it's because he wasn't involved with those decisions.

Manar And—I guess because you have two motions in front of the Commission the assumption is that he has exhausted every avenue he has as a Director to answer the questions, otherwise they would have been answered in the audit in the first place?

Barickman Yes, I certainly presume that the Auditor General and his staff have done an exemplary job of documenting the information available, yes.

Manar From—OK. OK. It's not your intention that the action that's contained in the two motions would impede or interfere with—we've talked about this, but I just want to say one more time. It's not your intention that our actions as a Legislative Commission which are not investigatory in nature to the extent of law enforcement or assessing criminality to some action on the part of a government official. But it's not your intention to impede or impair the work of law enforcement that's on a parallel track with regards to the same program?

Barickman Certainly I mean we have no such intentions. The intentions is to simply fulfill our statutory obligations.

Manar So what if the Cook County State's Attorney or the U.S. Attorney's office picks up the phone and says, hey we're investigating this. This is a serious matter and what you are doing may impede our process. What would you say to that?

Barickman Well this is why I have specifically tried to make this a bi-partisan effort. I don't think anyone here would intentionally want to interfere with any criminal investigations. But it's really a question of the body and the Commission. We come from both chambers, we come from both parties and this motion empowers us to work together and the question we would ask is, if and when a criminal proceeding occurs what is our obligation to our constituents and to taxpayers in light of those criminal investigations. I think that is a question that every legislator will have to ask themselves at that time. And we will presumably come to the agreement that we come to at that time. Neither one of us can proceed on our own.

Manar Thank you.

Mautino Further questions? Representative Brauer, then Brady, then Reis.

Brauer Thank you, Mr. Chairman. I guess I see the strength of this investigation going through the—and I guess I wouldn't call it an investigation, I would call it more of a fact-finding—going through the Audit Commission is that this Commission has always been very strongly non-partisan. It has always moved forward, it has asked the tough questions. I don't think there has ever been a time when someone has been shut down because they did show outrage on whatever audit, that we've always moved forward in this non-partisan fashion, and I think that's really what we're attempting to do today. I think when you look at bringing these facts forward, I think we have precedence, I think that we've run parallel courses in other investigations—most recently, a Governor who is now serving time—that we did not impede the law enforcement officials. We worked in conjunction with them. We weren't always shared that information. That we got information and I think sometimes we brought information out that might not have come out without our investigations through the impeachment process. So I think that's why it's important that we look at this—not as political, but as non-partisan—as we have always worked in the past, and I think it's important we move this thing forward to shed some light on it.

Mautino David?

Reis Thank you, Mr. Chairman, and just to build upon what Representative Brauer just said. Senator Barickman, it's my understanding with the second part of your motion that any such subpoenas that might be discussed would need the majority vote of the committee to move forward. To anyone. Is that correct?

Barickman Correct. A majority vote of the subcommittee.

Reis Right, which, you know, that would mean that it would be bi-partisan to move forward and that truly, if any subpoenas were issued, that it would be a bi-partisan effort moving forward and it would keep intact the integrity of this Commission.

Barickman That is correct, Representative.

Reis Thank you.

Mautino Representative Sandack.

Sandack Mr. Chairman, just kind of reiterating my previous request. Has there been a determination, at least as you're clear—as far as the powers of this Commission to issue a subpoena and act upon, Cochairman Senator Barackman's motions?

Mautino What I understand is the—where it would go in the second portion of the motion is still an open question, both Senate, Republican and Democrat counsels have agreed on that—is what the process is afterwards, since it's a four and four. So I don't have that ---.

Sandack What does that—help me out, Frank. I don't know what that means. What are we talking about here? What is unclear?

Mautino One second. Let me get their—the term that both counsels said is they haven't come to agreement yet on what happens once the drafting of the subpoenas are done. As the Republican ---.

Sandack Let me go backwards then. Does this Commission, in your opinion, based on counsel—advice of counsel—we can proceed with the first part of Jason's motion, correct?

Mautino We can actually proceed with—we can take them in one roll call, but we're going to take them both together.

Sandack OK. And there's noth ---.

Mautino This would be the first step, and then there are some very big open questions from that point is at what point can we, jointly, Jason and I, request a subpoena from that committee to be drafted. And what would rise to that level? Because as you know from being a member of the committee, most of the—or many of the agencies, by the time we get their recommendations and audits, we are not dealing with people who are involved in those positions any more. This is truly an unprecedented changing of the direction and the power of this Commission, which concerns me on how you set up who we can call in and why. I mean, those are big changes—as opposed to our goal and process in fixing State government. So we can take both of those, but then we will have to determine at what point and at what level—because this is a power, as you know, that exists already. We can already do everything that's here without this motion. There is a process in place where we can—and we have—compelled people to come before us, and they have showed. And in the agencies, they're required by statute to comply with the Auditor General, and usually it doesn't take us utilizing the extraordinary powers or the Auditor General utilizing his extraordinary powers to get that compliance. Usually all he has to do is say you know, you're required to do this by law. And nine times out of ten, they do. I don't think you've ever used a subpoena.

Holland The Illinois State Auditing Act, of which I operate under, not the Audit Commission Act but the State Auditing Act, has a specific provision that requires agencies to cooperate with me. In the 22 years that I've been Auditor General—I'm going to guess it's because of my charming personality—agencies have cooperated. They have chosen to cooperate and we work with agencies to explain to them the level of cooperation down to attorney client privilege documents that must be shared with us. We get those documents on a routine basis. We don't have any problems getting cooperation. Now, we have, once in my 22 years, I have utilized the subpoena power that I have and that dealt with the City of Chicago and trying to audit the three agencies in Chicago and it resulted in a Supreme Court decision that frankly, was not very favorable for the Office of the Auditor General. But that was the one time.

Sandack To finish up this, now to the substance it seems to me given everything that has been said I think this is a no brainer. I think we ought to do it. How it's used going forward can continue to be applied in a bi-cameral, bi-partisan way to Representative Crespo's good comments, there may be other instances when we do this. The idea that it this is extraordinary and hasn't been done before means that this Commission has been reticent to utilize this power and only use it when it's applicable. It may not need to happen—utilized with great restraint and with reticence and maybe not at all—but we ought to have it ready at the ready in case it's needed so we can proceed with the goal of fixing one aspect. State grants have been a recurring problem in this administration and whether or not there are instances of waste fraud and abuse. There's an idea that this instance may raise its head as an example of waste fraud and or abuse. I think we ought to get to the bottom of it without interfering with anyone. To the extent that anyone would suggest that we're going to get in the way of the federal government or state government procedures, investigations or criminal investigations, that's nonsense. Anyone that has ever dealt with the federal government that is looking to something, they simply say we've got it and then you step down. Whether that's from State's Attorney Alvarez' office, the Central

District of Illinois' investigations. Whether it's the U.S. Attorney, Department of Justice or whomever you just get out of the way. You stop. You suspend and let them do their thing. I suspect if that comes a day we will do just that. But in the interim we ought to use the tools that are available to us that are statutorily prescribed to get to the bottom of this if we can. Because I think we owe it to the taxpayers. I want to thank Senator Barickman for utilizing the statute and letting us do what has already been prescribed by law and that's investigate further. Thank you Mr. Chairman.

Mautino Representative Brauer and then Representative Crespo, and I think we should close that out because I can see the Department of Revenue is just antsy to get to their stuff.

Brauer Thank you, Mr. Chairman. One brief question. You talked about the agencies, about the people working for the agencies being required to give you correct answers.

Holland I was so lucky it was always correct.

Brauer And what happens if they don't?

Holland Well that's why we have audits and audit findings.

Brauer OK. But is there a criminal ---.

Holland If I don't get cooperation from agencies—and it is truly rare—I have, in the past, notified the Legislative Audit Commission by letter that we have had problems with cooperation. I'll give you a perfect example, was the Illinois Power Agency that was the first agency right here. The agency director, who was before this one, was a lot of problems. Huge problems. Some that were very questionable. I notified the Legislative Audit Commission that we were having problems dealing with this agency. And ultimately, we got what we needed. Did it take a little bit of time? Yes, it did. But ultimately we got what we needed and in the case of this agency, we worked with—at the time, the Violence Prevention Authority, then the Criminal Justice Information Authority and other agencies that were assigned to cooperate—and we got what we could get. We got what existed.

Brauer I thank you for the **(inaudible)**. My second part of this question, could you get that same director back today after he's left State government to testify?

Holland Not my job to do that. That's the Audit Commission.

Brauer Well, and I think that's what we're attempting to do here today, is to have the special powers to get people that have left State government come and testify.

(Off-mike) That's a statement.

Brauer Well it's kind of a question, too. I guess it was a good question.

Mautino Fred, you're up.

Crespo Thank you. In response to Senator Sandack, personally, I'm not concerned about us interfering with the other three—the State's Attorneys, Inspector General—I don't think we'll interfere with that. You talk about the abuse in grants. We did pass House Bill 3820 and I appreciate the fact that you supported that. You were a sponsor of House Bill 3820, which I think would cause **(?)** some of the issues that you brought up. I'll take a moment and also ask the Senate to please call that for a vote. I think this is a very valid debate. Again, I just question the value when we have again, the State's Attorney, Attorney General—I mean the State's Attorney, U.S. Attorney and Inspector General—looking into this. I'm a big supporter of the Auditor General. Heck, I think I'd love to really campaign for Bill Holland for Governor of this state. But again, I do see the value in the sense that this might offer some clarify on the issue that's being raised and I do see the value in cases where we have agencies or departments that come before this committee with some serious, serious audit findings. And in cases

where the three—the U.S. Attorney, the State’s Attorney and Inspector General—are not involved, I see the value there. I’m just trying to reconcile the value today with the case in point is being investigated by others as well. So I think it’s a healthy debate in terms of how it impacts the Audit Commission, the Auditor General—which again, I applaud the Auditor General. I think he does a fabulous job and there are some valid questions here. But again, the issue at hand is being investigated by three other bodies that I think have more power, more tools than this Commission will ever have. Thank you again.

Mautino Bill, did you want one last shot?

Brady Thank you, Mr. Chairman. To the discussion of several folks here, I have no idea—I would not predict whether the State’s Attorney or the federal government will find anyone guilty of any wrongdoing, but I do know that there are a number of issues in this audit that question the way State government operates. I also know that those investigative bodies take an awfully long time to deliver their results. It’s their job to determine if anyone violated the law. It’s our job to determine what the law should be. And it’s our job to do that in a more expeditious manner than what they do. So, Representative Crespo, to your question, authorizing these authorities—the subpoena power—gives us the opportunity to act more quickly with the facts that we need to operate State government and provide the laws that will protect the citizens of the state. What Senator Barickman is simply asking for is transparency. I have not served on this Commission as long as Representative Mautino, but I think each and every one of us has served on this Commission enough to know it can be very frustrating at times about getting straight answers. It’s my understanding that subpoena powers with them create the obligation to take an oath. Even Auditor General Holland suggested that he couldn’t find certain evidence that he hoped would exist. But he said he had to take the people’s word that it didn’t exist, and that was not under an oath of office. There are facts in this case that may exist that we don’t have that we will only find, possibly, if someone—not oath of office—makes testimony under oath. Our job is to expeditiously put statutes in place that protect the taxpayers. We can’t wait for the courts to act on an investigation by the State’s Attorney or the federal government in doing our job—to Senator Barickman’s point—about the need for this to move in an expeditious manner to protect the taxpayers of Illinois. So I speak in favor of it.

Mautino Senator Oberweis has called the question so Senator Barickman to close.

Barickman I just ask for a roll call vote, Mr. Chairman.

Mautino OK. The motion—there are two separate motions which will be combined into one roll call. That is by agreement with the members. Executive Director, call the roll.

Stricklin Senator Barickman.

Barickman Yes.

Stricklin Senator Brady.

Brady Yes.

Stricklin Senator Manar.

Manar I’m going to vote yes, but I want to say this. There’s one way to do this faster. It’s to begin with asking Director Cutrone to attend our next meeting and we can ask him questions. That doesn’t take a subpoena or a subcommittee. I would implore the group to consider that.

Mautino I would agree.

Stricklin Senator Martinez. Senator Mulroe.

Mulroe I'm going to vote yes as well. I have no problem with the process. Whatever tools we need to use to get facts and discover things, that's our obligation to the people of Illinois. But there are some concerns I have. It sounds like the Auditor General did his audit. If he couldn't do his audit, he would have not completed his opinion—if he was missing something that he thought he needed. It does look like some missing documents, maybe. In my opinion, I have no problem with the process. I'm not sure if it's going to lead to anything because it may not be necessary to issue the subpoenas, but I'll vote yes at this moment.

Stricklin Senator Oberweis.

Oberweis I greatly applaud the job that the Auditor General has done and I have been frustrated on this committee by our lack of ability to enforce anything or do anything. I think this is a very positive step that may, in fact, be used in other instances in the future and I vote a strong yes.

Stricklin Representative Brauer.

Brauer Yes.

Stricklin Representative Crespo.

Crespo I don't want to belabor over much on the issue. I think I'm very clear. I have some concerns. I just wish we spent all this energy and outrage on some other audits that come before this committee, so I'll be voting yes.

Stricklin Representative Reis.

Reis Yes.

Stricklin Representative Rita.

Rita Yes.

Stricklin Representative Sandack.

Sandack Yes.

Stricklin Representative Mautino.

Mautino I always like being unique. To the question here, I have some concerns over the next step about when this power would be used. I have had this power—this Commission has had this power. We have used it judiciously. In the situation that we're citing, the facts are that everything exists and that neither staff from either side has bothered to go and look at them prior to asking for a new power that we already have. So I would want to make sure that any rules that we structure for bringing people in or utilizing our currently existing power be sent back to this body and we make sure that it has been used as it has in the past—when we properly went in, referred to the investigative agencies who have the ability to finance and the budgets to do this, and the outcomes have been proper prosecutions, removal from offices, fines based on the work of our Auditor General, who also has the exact same powers that we're asking for today.

With that, I'm going to reserve a—I'm going to vote no—and I will be watching to see the rules and how we implement this. I would also echo the comment that Mr. Cutrone should be brought before the next meeting on the 13th to get some direct questions on that. I would also ask that Barbara Shaw be asked to join with us who was the head of the Initiative at the time in question. So I think that is fair. I respect the Senator and the members and I would like to see that if we are going to take this step on extraordinary authorities on here that we do so judiciously and have used them in the past, so they not become subject to abuse. With that, I vote no. Madam Executive Director, the roll call is?

Stricklin Ten ayes and one nay.

Mautino Ten voting yes, one voting no and the motion is adopted. Thank you. The next item on the agenda—I would ask—we will be having a hearing on the 13th and the Chairman and I will discuss whether Cutrone will be—Co-chairman—whether he would be invited to that hearing as well as make an open invitation to Barbara Shaw who was the Executive Director at the time. We'll consult and then I will tell the other members whether the Commission will be inviting Cutrone. I think it's something we should do. Get these answered directly.

Next—the **Department of Revenue** has been so anxious I thought all of you people were here for the Department of Revenue and everyone is leaving. So odd. Review of fiscal year 2011 and 2012, compliance and financial, **Review No. 4418**. Director Hamer is joining with us and General Holland.

Holland Thank you very much, Mr. Chairman. This is a audit of the Illinois Department of Revenue. It is a financial audit for the year ended June 30, 2012 and it is also a compliance examination for the two years ended June 30, 2012. Our special assistants were from the firm of Sikich. On the far right is Amy Sherwood, Gary Neubauer is in the middle, and then Paul Usherwood is our manager. Bruce has our opening remarks.

Bullard Thank you, Mr. Holland. The financial audit and compliance examination report contained 21 findings, 10 repeated from the prior engagement. I will briefly highlight several:

- First, the Department's year-end financial reporting in accordance with generally accepted accounting principles (GAAP) contained inaccuracies. For instance:

- A formula error was discovered by the auditors in the spreadsheet utilized by the Department to calculate estimated future refunds payable for individual and business income taxes. As a result, the refunds payable balance in the Income Tax Refund Fund was overstated by \$70.4 million.

- During audit testing, the Department determined its original calculation for deferred revenue and related to taxpayer refunds carried forward for credit on future returns contained errors, resulting in an understatement of \$19.4 million.

- During audit testing of accounts receivable, exceptions were noted with certain Business Income Tax and Individual Income Tax accounts. From the exceptions noted the accounts receivable was potentially overstated by \$6.2 million.

- In another finding, the auditors noted the Department has a significant level of inventory of Business Income Tax and Withholding Income Tax taxpayer information to be processed and finalized. When taxpayer information is entered into the Department's tax processing system, known GenTax, certain returns are automatically flagged by GenTax and require additional manual processing to finalize. These flags are attached for various reasons including mathematical errors, missing tax forms, etc. This inventory has increased significantly over the past few years and is predominantly business income tax returns.

At June 30, 2012, the Department identified \$5.5 billion of items related to taxpayer information to be processed and finalized (representing 217,822 returns). Although it is generally agreed the vast majority of the \$5.5 billion is invalid and will be reduced upon the tax information being finalized, the Department has no reasonable methodology or process for estimating the valid receivable amount of these partially processed returns. The number and amount of these returns has been increasing steadily.

- In another finding, we noted the Department has not completely implemented controls and safeguards over processing taxpayer information. For instance, the Department has not implemented sufficient physical safeguards to control access to areas within the Department as well as the storage of taxpayer files. This information is not secure from potential unauthorized access.

- Finally, we noted the Department continued to have inadequate security controls over the GenTax system and data. GenTax maintains confidential and sensitive information on all individuals who pay taxes to the State of Illinois. During the auditors review, some of the issues noted were as follows:

- The Department lacked a documented process for the administration of access rights to Gen Tax.

- Access by individuals no longer employed by the Department was not always deactivated in a timely manner.
- All CMS employees with administrative access rights to servers with Department data did not have documentation to support that required background checks had been performed.

This concludes our opening remarks. We'll be happy to answer any questions you may have. Thank you.

Barickman Welcome, Director Hamer. Please introduce those that you have brought with you and begin with your opening remarks.

Hamer Thank you, Senator. To my immediate right is Ryan McCoy, our Chief Internal Auditor and a number of my other colleagues are with me and I will introduce them as necessary, might be the best approach. I just have some short opening comments.

My colleagues and I take the audit process very seriously, attempt to respond to auditor requests as quickly as possible, and carefully review every finding. In response to each audit report, we look for ways to improve our processes, clarify the governing statutes when appropriate, and seek additional resources when necessary.

I am proud of the Department of Revenue. During the period covered by the audit report, we administered 70 different taxes, deposited \$71 billion of taxes into 76 separate funds over the course of the two years, processed 18 million tax documents each year, made distributions to 6,400 units of local government and schools, and collected more delinquent taxes than ever before.

During this period, we also administered the most successful tax amnesty program in state history, collecting more than \$700 million from 78,189 taxpayers, administered the state's first ever sales tax holiday, and completed our state of the art Integrated Tax System.

I'd like to take this opportunity to briefly comment on the findings that cover the period July 1, 2010 to June 30, 2012.

1. During the audit period, the lack of resources had a significant impact on the Department's ability to perform certain tasks. These constraints in turn led to audit findings.
 - i. Increased levels of unprocessed returns (Finding 2)
 - ii. Delays in conducting certain reviews of data entry vendors (Finding 3)
 - iii. Failure to perform certain internal audits (Finding 14)
2. Two findings (1 and 8) relate to the Department's complex accounting environment. The Department's statements are incredibly complex, and my colleagues work hard to get them right under challenging conditions, including as the Auditor General has expressed on many occasions the lack of a modern statewide accounting system.

On the rare occasion that a material issue is identified, it is corrected. As noted in the report, our 2012 financial statements were submitted correctly to the Comptroller.

3. Two findings (4 and 7) relate to the allocation of sales and use taxes. At the time that the Department deposits receipts, it is not possible to know with precision how to allocate monies associated with unperfected returns. Therefore, we allocate based on prior experience and in effect true up as additional information is obtained.
4. Three findings relate at least in part to the implementation of GenTax, the Department's state of the art integrated tax system. The Department has fully implemented the recommendations as they relate to GenTax. Let me take this opportunity to express that this project has been a great success, implemented on-time and on budget, the system is successfully processing millions of transactions and billions of dollars each year. It has dramatically improved our ability to administer and enforce the state's tax laws.
5. The Department is a complex organization with many moving parts. Inevitably, we make mistakes. When we identify mistakes, or the auditors identify mistakes, we not only work

diligently to fix them, but also review our processes and controls to make improvements and avoid similar mistakes in the future.

My colleagues and I would be happy to answer your questions today, and not sometime in the future, I think, looking at the possibility of subpoenas, which I hope will never be directed to the Department of Revenue.

Mautino Crespo and—Representative Crespo and then Representative Brauer.

Crespo Thank you, Chairman. A couple of quick questions. As I'm looking at some of the findings, and I'm looking at Recommendation #1, pages 4-6, and I see some of the responses are—you know, that some of the reports contained inaccuracies; there's a formula error. In cases, things were potentially overstated. I also see human errors were committed. My question goes to the issue of management. It seems like there were some folks that were not doing what they were supposed to do, and not doing a very good job. What happened to those folks? Who manages that process? Who is responsible for that?

Hamer Let me answer your question directly, and that is, of course, we have a management structure in the Department of Revenue. Each of the accountants that work on our financial statements have a supervisor and then a manager, and then ultimately it is my responsibility. My goal—my standard is perfection when it comes to the Department's financial statements. But that's really not a practical matter. I think that all large organizations that are responsible for complex financial statements have mistakes. And when we identify mistakes, we counsel the employees to ensure that those mistakes are not made again, and of course, we correct those mistakes. Ultimately, if there are mistakes made that are of a material nature, we ensure that those adjustments are made so that there are no material mistakes in the financial statements. I want to emphasize that our financial statements are very complex, and it seems inevitable that some mistakes will be made. So how do we deal with those issues? The ways that I've expressed to you, we've also hired an outside accounting firm to help review the financial statements as they work their way through the process so that we can catch any errors early on with the goal of ensuring materially correct statements by the end of the process, and of course we rely on the Comptroller's office and the Auditor General's office as well. So perfection is our goal, but we do make mistakes.

Crespo There is an evaluation process, correct?

Hamer Oh, absolutely. Yes.

Crespo You're all up-to-date on that—in that process?

Hamer There are outstanding evaluations. It's something that we work hard on and our goal is, again, to have all of the evaluations in on time as well. Because we feel it's important—I feel it's important to hold employees accountable for their work. We take that seriously and that is something that will never go away.

Crespo Here's a question for clarification. The Capital Development Board is responsible for funding security initiatives?

Hamer They are with respect to significant changes to our facilities, yes.

Crespo In closing, Director Hamer, we've been working together for like—probably three or four years since I've chaired the Appropriations Committee and I appreciate that—and your office has always been accessible and I know we'll have continued discussions in the Appropriations Committee as well. My basic concern has always been—it seems like the core competency of your Department is to deal with financial reports, GAAP reports and things like that, so when I see findings that touch on those issues, I'm just concerned. I can see some other agencies—Human Services, perhaps—they're not very good at that—I think our tolerance level is a little bit higher than—and I just

close with that. We'll continue talking. And I understand that the number of tax laws that you have to work with is perhaps more than any other state, and I think that's an issues. And I understand that it makes it a little bit more difficult to do what you're supposed to do. Again, thank you very much.

Hamer I appreciate that and I don't want to appear defensive in any way because I think we're entirely on the same page and I look forward to collaborating with you in the future and with the General Assembly generally. I think that often there are issues of human beings making mistakes in a large organization, but then there are also broader process issues that I think that we have to work on together, and one area—and again, to the Auditor General's point—is the need for a more sophisticated statewide system because when we rely so much on manual processes and working off of spreadsheets and such, it's just inevitable that there are going to be mistakes. Our goal, as I say, is always perfection but we also have to acknowledge the world in which we live, I suppose.

Mautino Representative Brauer.

Brauer Thank you, Mr. Chairman. Director, welcome. It's nice seeing you back here again. That's certainly one thing we're not accustomed to is the continuity from year to year to year, and—how many years have you served now?

Hamer Do I have to answer that question?

Brauer Not if you don't want to. There's no subpoena here today.

Hamer It has been 11 years.

Brauer Eleven years. That's quite a feat. I guess it's always comforting when you come up to testify and the press leaves, so congratulations on that. A couple of questions. Bruce, I assume by the findings—I think we went from 37 to 21—and while I think 21 is still too high of a number, that certainly indicates that we're headed in the right direction.

Bullard Representative, yes. The findings have gone down as I think the hard work by the Department to take corrective action. It's a very complex agency, as the Director said. A very complex audit engagement. Highly complex audit engagement. But we're pleased to see the number of findings go down, as is the Director of the Department.

Brauer Well good. I hope we keep moving. You were talking about a statewide system. What would be the cost of implementing a system? One thing I was always impressed about with the State of Illinois that they always had top notch computer programs, and I guess now, as I've gotten into it and I see people back there shaking their head going no way, but—it's outdated. It needs to be updated. What sort of costs are we looking for to update and get the system that we really need to have?

Hamer I can't answer that question but I think he can.

Mautino General Holland. I'm going to trump you on this one.

Holland It is my understanding that the administration has a request for information on the street right now seeking input from—actually they've awarded a contract to McKenzie and Company, I believe—that would be—their purpose is to establish the parameters for what the global RFP would be to solve the problem, beyond just at the Illinois Department of Revenue. For the whole State. I can tell you—I have read comments that they think that they can do this for \$100 million, and I will tell you that if they think they can do it for \$100 million, then they might not want to spend \$100 million because it's going to take significantly more. How much did it take to do GenTax?

Hamer It was about \$50 million.

Holland One agency. So there are some states that have done this in recent years, and in California, I think, they're up to over \$700 million. It is an expensive proposition and the reason it is an expensive is that it was put off for—in the case of Illinois—30 or 40 years. Way too long. You can't assume that you can go to Best Buy and pull down a financial reporting system for the State of Illinois.

Brauer But shouldn't—some other states have what we need with little adjustments?

Holland Well, in the State of Illinois we have—I don't know, how many funds do we have now, Bruce?

Bullard I think we're over 900 funds.

Holland 900 funds. Other states don't have as many funds. That becomes a complicating factor.

Brauer --- a different word for it.

Holland No. There is legislation out there that would reduce the number of State funds and it hasn't gone anywhere.

Brauer OK. A couple of quick concerns—and I want to tell you that your staff has always been professional, very prompt at getting back with me and I certainly appreciate that because that isn't always the case. They talk about the files, the access to them and I guess one of the concerns I have—and I don't know if this has been resolved or not. I know it was a new initiative to replace our guards with 'for hire' guards. Can you tell me where we are in that process?

Hamer Our current guard staff will remain. We're not intending to do any layoffs. But at the same time, to bolster security in the Department we are pursuing the idea of an additional layer of security involving armed guards in the Department.

Brauer So this would be hired from a second party, as opposed to being State workers?

Hamer Right. But as I say, the State workers will remain.

Brauer That causes some concerns, because I think you're in such a sensitive area and when you go out—while you might have a higher concern than a second party, I think the turnover, the—I'm not for sure what the hurdles they have to cross to be eligible, but I think that you would probably have a higher standard than maybe a second party, and that concerns me.

Hamer There will be no additional security that comes in to our facilities unless we are confident that they can meet our high security standards. The unfortunate reality is that the threats to security, both on the data side and on the fiscal side, are increasing and therefore, we're very cognizant of the need to bolster the level of security in the Department and that's why we are looking to the solution. We appreciate the staff that is currently onboard. They do an excellent job. But there are some aspects of security that they're just unable to provide, and that's why we're looking for this second solution.

Brauer Did I hear you correctly when you say you have 500 fewer people in the agency than 10 or 12 years ago? And why is that?

Hamer Approximately compared to 2003. Well, I think there has been a couple of reasons. One reason is the fiscal environment that we've been in for the past dozen years where there is great pressure to reduce agency budgets, including the Department of Revenue's budget, essentially each and every year. And so we have to accept the budget that we receive. At the same time, we're fortunate that technology has provided a strong tool to us, so there are so many things that we can do more efficiently than was historically the case. So I would never approach the General Assembly or the

Governor's office suggesting that we need 500 additional people. But the fact is that given the substantial reduction of staff over time, it has affected our ability to do things at the standard that I would like to see in some instances.

Brauer Bruce, have you seen red flags with the staffing level—where it is today?

Bullard We're really not in a position, but I know that the Department has encountered a lot of retirements and their staffing level is down. We've certainly seen—as witnessed in the findings—the number of unprocessed returns had been increasing significantly. But I don't know that we're really in a position to comment any further than that.

Brauer OK. So it sounds like to me that whether you need a directive or something? I guess I have some concerns with your agency that we're staffed at proper levels. So maybe some time we can sit down and talk about that, because I've got some ideas for you.

Hamer Thank you very much. I'd be very interested. Let me also note that there is a bill that has been passed by the Senate and is now before the House and—I don't know if we necessarily have that number with us, but I will get it to you—that would, in effect, allow us to hire an additional 75 auditors. Those auditors would more than pay for themselves. The fact is, every dollar we spend on enforcement generates \$8 of revenue, and perhaps even more importantly, there is the important value of a level playing field. Businesses should know that their competitors are playing by the same rules that they do. All of us want to know that our neighbors are playing by the same rules. In order to accomplish that, we need a robust audit presence. The Department of Revenue audits businesses literally around the country. We have auditors around the country—there's lots to do. Passing that bill, I think, would be an important step forward for taxpayers in the State of Illinois.

Brauer And that bill is ---?

Hamer It's Senate Bill 2612.

Brauer Thank you.

Mautino Director, I just have a couple of questions. Regarding—and you may have answered this in your opening comments, but—safeguarding of the taxpayer information, as cited in Recommendation #5. How do you address that?

Hamer Representative, I think, as you know, we take security very seriously in the Department of Revenue. The challenges are ever increasing. Recently, we retained outside security experts to help us identify ways that we can bolster security in the Department of Revenue. We also work very closely with the IRS. We're partners with them, both because we're in the same business, but also because we're the repository of federal tax information. As a result of these efforts, we identify many additional tools to secure both our data and our facilities. We certainly are addressing the items that were identified in the audit report and we're doing a whole series of projects as we speak—or approaching to do so. Just to give you an idea, I brought a list of items where—in the Willard Ice Building here in Springfield—we're reconfiguring guard stations and turn-styles to secure private spaces from public spaces. We're in the process of a substantial redesign of our space in the JRTC in Chicago. We're consolidating all IDOR functions on one floor. We're relocating other agencies from the floor where—securing the floor from open stairways and freight elevators, we brought in additional cameras, additional security guards, new tools to guard against breaches of our computer system and we're implementing a new information security policy that involves multiple areas of protection and clean desk policies. For example, in the area where we do the initial processing of text, materials as they come in. We've replaced all the desks to eliminate things like drawers, so that we have a sense of where all documents are at all times. So there's all kinds of things that are going on. We take the recommendations of the Auditor General here very serious, and of the IRS, and we realize that this is a continuing effort as the threats to data security are ever growing.

Mautino Final question is on Recommendation #6 and the conflict between the statutes and so that has a potential impact of about \$700 million of additional funds to the local government distributive fund, and if we did that, where would that money come from?

Hamer Well, I think that we have identified a work-around until the necessary legislation is passed. We're advocating for the legislation. The situation here is that we have the income tax legislation that was passed back in 2011 that addresses the subject matter in one way and then the revenue sharing act that addresses the matter in another way. If, indeed, we needed to send an additional \$700 million to the local government distributive fund, it would most likely come out of the General Revenue funds, unless there was an additional revenue source that could be identified.

Mautino Thank you. Seeing no further questions, we have a motion from Representative Rita to adopt the—to accept Review No. 4418 of the Department of Revenue—seconded by Representative Crespo, all in favor say aye? Opposed, no? It's the opinion of the chair the ayes have it and the audit is adopted. Director, thank you.

Our final audit for the day is the **Department of Veterans' Affairs, the FY11-12 compliance Review No. 4420**. Joining with us is the—Director Borggren—and as she has her chief of staff joining with us, Simon Wlodarski, and Jay Wagner, Chief Internal Auditor, Deborah Miller, Chief Fiscal Officer, and Tony Kolbeck, Legislative Liaison extraordinaire. General Holland.

Holland Thank you very much, Mr. Chairman. This is a compliance examination for the Department of Veterans' Affairs for the two years ended June 30, 2012. It was performed by the staff of the Auditor General's office, and Courtney Dzierwa, who is right next to Bruce, is our audit manager, and Bruce has our brief remarks.

Bullard Thank you, Mr. Holland. This report contains 22 findings, 18 repeated from the prior engagement. Among the findings are the following:

- The Department failed to document its compliance with policies governing the application process at the Prince Home in Manteno. The Home is a residential program for homeless and disabled veterans. We noted missing information on admission applications, lack of proper review of applications to determine whether they deny or accept the applicant based on the Home's selection criteria, and failure to document results of interviews with potential residents on required forms.

- In another finding, the auditors noted that the Prince Home at Manteno improperly utilized its Members' Benefit Fund to subsidize operations. For instance, the Fund was used to make commodity purchases for the Home's operations totaling \$16,500 in FY11 and to establish a grant program for homelessness prevention assistance.

- In another finding, we noted the Department reported inaccurate direct patient care statistics to the General Assembly. For instance, we noted reports in which patient care hours were overstated and the number of direct care staff was omitted. We also noted two of the 48 entries on the reports did not meet the minimum required standards.

- The auditors also noted the Department failed to enforce compliance with requirements in its grant agreements. We noted instances in which grantees did not submit required semi-annual progress reports at all or did not submit them in a timely manner. As a result, the Department's ability to monitor State grants was negatively impacted.

- We also noted the Department inaccurately reported the activities of its field services offices staffed by Veterans' Service Officers. Conditions noted by the auditors included missing weekly and monthly statistical reports and a lack of adequate physical safeguards to protect confidential information at the field office. Further, field offices did not appear to be operating as intended by the Department. For the 10 field offices tested and 15 itinerant offices with telephones, we inquired anonymously about the hours of operation with the VSOs. We then compared the hours stated by the Veterans' Service Officers with the hours listed on the Department's website. Three of 10 field offices and 3 of the 15 itinerant offices stated hours of operation which varied from the hours listed on the Department's website. Two of 15 itinerant offices did not answer the telephone.

This concludes our opening remarks. Thank you.

Mautino Thank you, Bruce. Director, welcome. Thank you for joining with us. I believe this is—in the past, I recall we—for each of the five homes that we have, we did individual audits. I think this is the first combined audit.

Borggren That's right, Mr. Chairman. Actually it's the second combined audit.

Mautino Second. OK. Please make some opening statements. Address some of the findings and then we'll go to questions.

Borggren Thank you, Mr. Chairman and members of the Commission. I'm Erica Borggren, director of the Illinois Department of Veterans' Affairs. I welcome the opportunity to discuss with you today the findings of our 2012 OAG audit. Actually, the prior report from the 2010 audit was one of the first major items that hit my desk when I took over in August of 2011. It has been a major focus of the Department to address those findings and to continually improve our performance since then.

We, at the Illinois Department of Veterans' Affairs, have built a very strong relationship with the audit team of 19 folks who were with us through an 18-month audit period. We do that not just because we were supposed to or because of charming personalities, but because all of us at IDVA see this as an opportunity to improve and that makes it important to us—the full process.

As you just heard, there were 22 findings during this audit period and while I should note that I'm not happy with that number, it is less than what it was in the previous combined audit that you mentioned, Mr. Chairman, and it's something we continue to work to drive down by the next audit. Four of those findings were new, and all of those new findings have now been fully corrected. So that means that of course there were 18 repeat findings. And on those repeat findings—I suppose I should note that I'm encouraged that many of them, the majority of them—around recordkeeping and reporting rather than on the quality of services that we provide to our veterans or something reflecting a loss or misuse of government funds. Still very important, of course, but I'm encouraged that they're in relation to that recordkeeping and reporting.

Of the 18 repeat findings, we have fully implemented corrective action for 10 if them, but I should note that just given the timing of these audits and the fact that our next 2014 audit is already en route and started, we anticipate that as many as five of those audit findings will—even though we've corrected them—will pop up as repeats, possibly in the 2014 audit, just because we were not able to fix them before the start of that 2014 audit period.

Finally, I'll say we've taken significant action on those items that remain not yet fully implemented but we are very much acting on those. I would say that these eight remaining are some of our stickier findings in the sense that we acknowledge the difficulty in meeting the very high standards of the auditor's staff with, as you've heard already this morning, manual processes to do so many of our fiscal and HR operations.

These administrative notes aside, I would like to reiterate again how much we very much welcome the audit process and the opportunity to improve. I believe we're doing that day in and day out as we address audit findings and take on our day-to-day mission.

I'm happy to answer any questions any of you might have.

Mautino Thank you, Director. Questions, Representative Crespo.

Crespo Thank you, Chairman. Welcome, Director, and thank you for your service, by the way. It gives a little highlight of what you have done in the past. I'll be short. As I read the audit report, it seems like the prevalent issue here has to deal with management or mismanagement. Questions about grant fees—not getting information that you need. Subrecipients not giving information that you need. Do you care to comment about that? And then have you seen any strides in the right direction in terms of management issues? Because it seems to me, that's your biggest problem. I appreciate the fact that you mention that when it comes to the quality of service for veterans, there's not a problem with that. I don't know. If you have some management issues I think it does impact the quality of service so ---

Borggren Management absolutely matters, that's right.

Crespo --- If you can comment on that. With that—if you can also comment because I understand that you've implemented some type of process where the grantees sign an agreement and they understand that if they don't do what they're supposed to do you could deny future grant applications. The second part of my question is have you denied any grant applications based on that new process?

Borggren So actually, it seems like the majority of the question you're asking, Representative, is specifically in relation to that grants finding—that is the Veterans' Cash Lottery Grant Program that the Illinois Department of Veterans' Affairs runs—it's the only grant program that we run where we do these kind of selective and then require reporting back-type grants. As was noted earlier, there was an issue with the number of grantees that were discovered to have not filed full reports, whether semi-annual interims or finals. We've taken a ton of action on this front. I think it's the audit finding we have put actually the most effort into it as a repeat findings. What we've done on that front ranges from management—we've moved that position from a kind of floating position directly under the chief of staff—this one person that manages the Vets' cash program. We've moved that position to Springfield under a broader grant section on other individual veteran grants so that there's an additional layer of oversight. There's now a different person in that position whose sole job it is is to administer the Veterans' Cash Grant program, and she's wonderfully experienced and has really moved us forward very quickly since arriving in late summer, I believe. Though we've also put other processes in place, and so we've, as you noted, updated the grant agreement so that if and when the applicant for our grant is approved by the independent committee that approves of those grants, we will not award that grant unless they can update or show us that their previous reports have been submitted. So in this last round, to your particular question, there were a couple of grantees among the—I want to say nine or so—in the last quarter that did have a missing interim report, and so when we said you've been selected it was with that caveat, with the contingency and the report has since been received. So we've done a lot of catching up in reports that were missing from the data base.

Crespo In terms of the evaluation process, are you all caught up with evaluations of employees?

Borggren It's actually one of the findings in this audit period that we were delinquent in—I think at the time about 22%--of evaluations. I'm pleased to say we're now under 3% that are running about within a 30-day period of the final due date. Again, the standard is perfection. I very much echo what Director Hamer said previously, but I think that 3%--actually, only half of that is within 30 days we could safely say we're doing timely evaluations in the agency. I see it every week—who is delinquent on evals and our weekly stuff.

Crespo Thank you. Thank you again, Director. Thank you, Chairman.

Mautino Further questions? Representative Reis or Brauer? Any questions?
Representative Brauer.

Brauer Thank you, Mr. Chairman. Director, welcome. I guess I want to second the thing that was said earlier about Tony being back, because he does a great job for you which really wasn't the case with the previous person that you had in that spot. So when I called your office before, I didn't know if I was going to get a call back or not, so it's nice to see Tony there because I think that's important. I guess I look at this 25 prior and 22 repeat and don't see much change, and that causes a lot of concern for me. So I guess I'm going to ask Bruce. Do you think that they're cooperative, doing everything they need to do with you and your people?

Bullard We found the Department officials to be cooperative in our audit effort, and in June we will start the next examination for the two years ended June 30, 2014 and we'll follow-up on all of these and we hope to see significantly less. That's our hope.

Brauer Well, I certainly hope so too, because I think we're too high of them on this agency. I had a president come to my office the other day and asked me about something I've never heard of.

She was talking about a G-133 waiver for tuition. Now these veteran tuition waivers are very important, and I think it is a very well-deserved perk of their service to this country and I certainly appreciate your service. What happened 12 years ago is that these were always funded. And then that governor took away that funding and the previous governor has not put that back, so it's putting a huge burden on our colleges and universities. But they've talked about this G-133 waiver coming from the federal government, and that is not being pursued by ISAC and I think it's something that can really help with the cost to the state and for us to not take advantage of a program that's out there on the federal level is very disconcerting.

Borggren Representative, the program that you're referring to is the relationship between Illinois Veterans' Grant, which as many of you know, is something that has not been funded in recent years as part of a bigger education draw down in funding ---.

Brauer For 12 years now?

Borggren In varying degrees, yes. And how that IVG program and the eligibility for it relates to the federal GI bill—the post-911 GI bill—and so the waiver to which you're referring talks about the precedence. Right now, the federal government requires of the post-911 GI bill, be the payer of last resort. So what that means is that a lot of schools are having to use IVG first, which is, of course, an unfunded mandate and they're absorbing that cost as opposed to veterans using the post-911 funded federal GI bill. We actually are pursuing that conversation with ISAC. It is an ISAC program, not a DVA program but we've worked extensively with ISAC over the last several months and are actively pursuing the waiver for a large cohort of veterans.

Brauer And you're—we're in that process then—if **(inaudible)** for several months, I would think it would be resolved.

Borggren We need to change the rules—the Administrative Rules need to change, because the—we're not going to change the federal rules—but we can request from them an exemption from the order of precedence if State law, or in this case rules, requires that we be the payer of last resort they would then cede that precedence to what the State determines our eligibility for the State benefit. So we're working with ISAC to rewrite the rules.

Brauer OK. Well the President brought this forward as a retired colonel, so I think that she carries a lot of weight and I think this is something I want to keep informed on to make sure that we move forward on this.

Borggren Absolutely.

Brauer OK.

Mautino Director, the question I would have—and actually Jane, our Executive Director, sent this over. Recommendation #1. The expenses were much greater to operate the Prince Home--\$736,000 from \$162. What changed?

Borggren It has to do with how the funding was received. So in the year where the funding looks low, that was actually a lump sum budget and we moved funding over to operate the Prince Home.

Mautino That makes sense, thank you.

Borggren It's within \$30,000 or so, in actuality.

Mautino Field claims were processed in 12—this is 5,300 compared to the 8,400 claims processed in Fiscal Year 2010. If you can briefly just—because session is about to start. You should send a thank you to Senator Barickman for using up all the time for our questions.

Borggren I absolutely will, Representative. The grants to which you're referring are individual entitlements to veterans--\$100 if you served in Iraq or Afghanistan, various conflicts and associated one-time bonuses for those veterans. So the decrease in the amount of those grants and in the funding is simply that veterans have used their one-time grant and not reapplying.

Mautino Thank you very much. Seeing no further questions, Representative Reis moves that we accept the Veterans' Affairs Compliance Audit Review No. 4420, seconded by Representative Crespo. All in favor say yes? Opposed, no? And the yeses have it. Your audit is accepted. Have a great day.

Next we have the **Consent Calendar**. Everyone received that in their packets. Representative Reis moves that we accepted the consent calendar, seconded by Representative Rita. All in favor say yes? Opposed, same sign? Yeses have it. Consent calendar is adopted.

Under **Other Items** I would like to note that we received—and everyone should have received—the Emergency Purchase report for the third quarter of FY14 ending March 31, 014. There is no motion necessary for that. We just acknowledge the receipt.

Our next meeting will be on **May 13** in this room **at 9:30** and I will get back to the members if we are going to have Mr. Cutrone as available for questions.

With that, I have a motion from Representative Reis who has been really busy on this first day to adjourn, seconded by Representative Rita. All in favor? We stand adjourned.

Adjourned at 12:05 p.m.