MINUTES OF THE MEETING

OF THE

ARKANSAS LEGISLATIVE COUNCIL

October 21, 2022

The Arkansas Legislative Council met at 9:00 a.m., Friday, September 16, 2022, in Committee Room A of the Big Mac Building, Little Rock, Arkansas. Co-Chair Jeff Wardlaw called the meeting to order and recognized a quorum of members present. The members present are listed on the sign-in sheets. Representative Les Warren was recognized to give the morning prayer.

Minutes of the Previous Meeting

Co-Chair Wardlaw referred members to the minutes of the last Legislative Council meeting held on August 26, 2022 (Exhibit C), and asked if there were any questions. There were no questions.

Senator Mathew Pitsch moved that the minutes of the August 26, 2022 meeting of the Legislative Council be adopted. The motion was seconded and passed by voice vote.

Revenue Report

Co-Chair Wardlaw recognized Dr. Carlos Silva, Legislative Economist, to present the August 2022 General Revenue Report (Exhibit D). Dr. Silva began the report stating, for the month of August 2022, the collections of Gross General Revenues year-to-date are approximately \$1,230.6 million, an increase of \$41.7 million, or 3.5% above the \$1,188.9 million collected last fiscal year-to-date. Dr. Silva further reported, the Net General Revenue Available for Distribution this month of \$1,084.0 million, increased \$50.2 million, or 4.9% from the \$1,033.8 million available for distribution in August 2021. The cumulative deviation of collections from the forecast for July 2022 reflects \$46 million above the forecast. This is not a surplus, but only the amount above the forecast.

Co-Chair Wardlaw recognized members for questions. After questions, this concluded the August 2022 General Revenue report.

Announcements

Co-Chair Wardlaw made a few announcements in regard to Arkansas Legislative Council (ALC). He stated, without objection, ALC subcommittee meetings will be cancelled for the month of October 2022 due to Budget Hearings taking place, with the exception of ALC- PEER, Review, and Administrative Rules Subcommittees, which are authorized to meet on Monday, October 17th and Thursday, October 18th. ALC will meet on October 21, 2022, and all other business and/or subcommittees will be heard during that time. Co-Chair Wardlaw recognized members for questions. There were no objections from members.

Co-Chair Wardlaw then recognized Representative Haak for a motion as it relates to the General Assembly.

Representative Delia Haak moved that a member-elect of the General Assembly may receive mileage and per diem for attending Interim Committee Meetings of the General Assembly, or a Legislative Taskforce meeting for which members of the General Assembly are entitled to mileage and per diem, in the same manner as members of the General Assembly receive these payments. A person is considered a member-elect, after the general election or special election in which that person successfully ran for office. The motion was seconded and passed by voice vote.

Reports of the Standing Subcommittees

Administrative Rules Subcommittee

Co-Chair Rice recognized Senator Kim Hammer to present the report of the Administrative Rules Subcommittee (Exhibit F.1). Senator Hammer reported the Administrative Rules Subcommittee met on Thursday, September 15, 2022. The subcommittee filed a report of the Review Subcommittee concerning its review of a rule concerning procurement. The subcommittee received agency updates concerning outstanding rulemaking, pursuant to Act 595 of 2021. The subcommittee also filed the September 2022 monthly written updates, pursuant to Act 595 of 2021. The subcommittee voted to not approve the rules governing mandatory procurement training programs by the Department of Transformation and Shared Services – Office of State Procurement. All other rules were reviewed and approved. This concluded the report of the Administrative Rules Subcommittee, and there were no questions.

Senator Kim Hammer moved that the report of the Administrative Rules Subcommittee be adopted. The motion was seconded and passed by voice vote.

Higher Education Subcommittee

Co-Chair Wardlaw recognized Senator Jane English to present the report of the Higher Education Subcommittee (Exhibit F.5). Senator English reported that the Higher Education Subcommittee met on Monday, September 12, 2022, and reviewed reports from the institutions of higher education for annual certification of solvency. The subcommittee heard testimony regarding commitment to workforce and economic development at the University of Arkansas – Fort Smith. This concluded the report of the Higher Education Subcommittee, and there were no questions.

Senator Jane English moved that the report of the Higher Education Subcommittee be adopted. The motion was seconded and passed by voice vote.

Performance Evaluation and Expenditure Review (PEER) Subcommittee

Co-Chair Rice recognized Representative Michelle Gray to present the report from the Performance Evaluation and Expenditure Review (PEER) Subcommittee (Exhibit F.8). Representative Gray reported that the Performance Evaluation and Expenditure Review (PEER) Subcommittee met on three different days. The first two reports are from September 1 and September 6, 2022, when the Subcommittee gave final approval on the third (3rd) and fourth (4th) rounds of ARPA ESSER appropriation requests by the Department of Education. The last report is

from September 13, 2022, and includes the final approval of the fifth (5th) round of the ARPA ESSER appropriation requests. At the September 13th meeting, the subcommittee also considered appropriation requests, fund transfers, and received reports. Several items in the report were held. A various temporary appropriation request (*Item A.3*) was held, American Rescue Plan Act appropriations (*Items B.8 – B14, B.16, & B.18*) were held, and also a Restricted Reserve Fund Transfer (*Item D.1*) was held. This concluded the reports of the PEER Subcommittee.

Representative Michelle Gray moved that the reports of the Performance Evaluation and Expenditure Review (PEER) Subcommittee be adopted, and after adoption, there would be related items that require more discussion. The motion was seconded.

Co-Chair Wardlaw recognized members for questions on the motion. Senator Breanne Davis expressed her concerns with approving ARPA funds for one institution and not the others. Representative Gray and Senator Jimmy Hickey, Jr. responded. After lengthy discussion amongst the members, Co-Chair Wardlaw recognized Senator Davis to give a substitute motion.

Senator Breanne Davis made a substitute motion to move that the PEER report is amended to include approval of Item B.8, for Arkansas Tech University, and also Item B.11, for the Department of Finance & Administration – Disbursing Officer – Northwest Technical Institute, and approve the amended PEER report.

Co-Chair Wardlaw recognized Senator Linda Chesterfield for a substitute motion to the substitute motion made by Senator Breanne Davis.

Senator Linda Chesterfield moved to include Item D for approval – approving all items under Item D that has made a complete application and on-time.

Co-Chair Wardlaw recognized Senator Chesterfield to continue with discussion on the motion and to clarify her actual intent with the motion.

Senator Chesterfield clarified her intent was to move to amend the initial amended motion made by Senator Breanne Davis, to include all held items under <u>Item B</u> – American Rescue Plan Act Appropriation Requests, not Item D.1.

*Co-Chair Wardlaw requested that the record reflect the correction of the substitute motion made by Senator Linda Chesterfield, to include the approval of all items that were held under Item B, and omit her request of Item D.

Co-Chair Wardlaw recognized Representative Jim Dotson to speak on the substitute motion made by Senator Chesterfield. Senator Chesterfield responded. Senator Jim Hendren spoke on the substitute motion made by Senator Chesterfield. Senator Hickey responded.

After discussion, Senator Chesterfield withdrew her substitute motion, and yielded to Representative Gray.

Co-Chair Wardlaw recognized Representative Gray who requested to make a substitute motion to Senator Davis's motion.

Representative Michelle Gray moved to approve all items under Item B, with the exception of Item B.12 - Department of Finance and Administration – Disbursing Officer – Women and Children First, and Item B.14 – Department of Finance and Administration – Disbursing Officer – Arkansas Rural Health Partnership, and adopt the report. The substitute motion was seconded.

Co-Chair Wardlaw recognized Representative Gray to continue with discussion on the substitute motion. Senators Kim Hammer and Bob Ballinger were recognized for questions/discussion on the substitute motion.

*Senator Mark Johnson stated he will recuse himself from voting on the PEER report and any related items and only vote "present".

Co-Chair Wardlaw recognized Senator Hickey for discussion on the motion. Senator Hickey expressed his concerns with allowing Representative Gray's motion to pass, when two of the health-related agencies (Ouachita County Medical Center & North Arkansas Regional Medical Center) who submitted their requests for ARPA Steering Committee Funds were present and able to discuss their requests.

Co-Chair Wardlaw recognized Representative Gray to amend her substitute motion.

Representative Michelle Gray moved to amend her motion to approve all items under Item B, with the exception of Item B.12 - Department of Finance and Administration – Disbursing Officer – Women and Children First, Item B.14 – Department of Finance and Administration – Disbursing Officer – Arkansas Rural Health Partnership, *and* B.18 – Department of Human Services – Division of Medical Services, and adopt the report. The substitute motion was seconded.

Co-Chair Wardlaw explained to members that because there is no Supplemental Agenda, the body would hear and vote on the Department of Human Services requests from the two health-related *(Ouachita County Medical Center & North Arkansas Regional Medical Center)* entities separately, after the motion is complete.

Co-Chair Wardlaw recognized Senator Caldwell for a motion.

Senator Ronald Caldwell asked for a roll call, split by chamber, for the motion on the floor and any relative substitute motions. Seeing the hands of three members, Co-Chair Wardlaw instructed staff to call the roll.

Ms. Marty Garrity, Secretary, Legislative Council, began the roll call with the Senate chamber first, then the House of Representatives chamber. The Senate votes tallied at ten (10) "yays", ten (10) "nays", and one (1) "present". The substitute motion failed.

Co-Chair Wardlaw recognized Senator Davis to restate her substitute motion.

Senator Breanne Davis (*correcting her previous motion when she, too, referred to Items "D", instead of Items "B"*) moved that the PEER report is amended to include approval of Item B.8, for Arkansas Tech University, and also Item B.11, for the Department of Finance &

Administration – Disbursing Officer – Northwest Technical Institute, and adopt the amended PEER report.

Senator Ronald Caldwell asked for a roll call, split by chamber, for the motion on the floor and any relative substitute motions. Seeing the hands of three members, Co-Chair Wardlaw instructed members to call the roll.

Ms. Marty Garrity, Secretary, Legislative Council, began the roll call with the Senate chamber first. The Senate votes tallied at seven (7) "yays", thirteen (13) "nays", and one (1) "present". Therefore, the motion failed.

Co-Chair Wardlaw recognized Representative Gray to restate her original motion.

Representative Michelle Gray moved that the reports of the Performance Evaluation and Expenditure Review (PEER) Subcommittee be adopted, and after adoption, there would be related items that require more discussion.

Co-Chair Wardlaw recognized members for discussion on the motion.

After discussion, Co-Chair Wardlaw recognized Ms. Garrity to continue with the roll call, beginning with the Senate first. The Senate votes tallied at seven (7) "yays", fourteen (14) "nays", and one (1) "present". Therefore, the motion failed.

Representative Gray moved to adopt the report as read, with the exception of all items under Item B.

Adding an amendment to her motion, Representative Gray, moved to adopt the PEER report, as read, with the exception of Items B.8 - B.20, to be held and referred back to the PEER subcommittee. The motion was seconded.

Co-Chair Wardlaw recognized Senator Hickey, Jr. for discussion on the motion.

After discussion, Senator Hickey, made a substitute motion to adopt the report as it was stated in Representative Michelle Gray's motion, with the exception that members hear the presentations of the two health-related entities (*Ouachita County Medical Center & North Arkansas Regional Medical Center*), separately. The substitute motion was seconded.

Co-Chair Wardlaw recognized members for discussion on the motion. Senator Jim Hendren asked if all items under Item B will be delayed for the next 30 days, or if the PEER Subcommittee will be able to meet prior to the next regularly scheduled meeting for October 2022, to hear these items. Representative Frances Cavenaugh was recognized for discussion, and expressed her concerns of not considering the pre-approval of the Department of Agriculture's request for a \$280 million project, for cleaner drinking water.

Co-Chair Wardlaw stated the earliest date that ALC can meet to discuss the items is Thursday, October 6, 2022. Otherwise, the PEER Subcommittee Co-Chairs, are given permission to meet anytime during the next two (2) weeks leading up to October 6, 2022, and shall present a report of all the ARPA Steering Committee Funds requests at that time.

Co-Chair Wardlaw recognized Rep. Delia Haak for discussion on the motion.

Representative Haak requested to make an amended, or substitute motion to approve the Department of Agriculture's request for water and waste water for \$280 million. The motion was seconded.

Co-Chair Wardlaw stated, at this time, he will not take that motion, but will revisit it, if necessary, after all members have had an opportunity to discuss the motion. Co-Chair Wardlaw continued with recognizing members for questions or discussion on the motion. After discussion, Co-Chair Wardlaw recognized Representative Cavenaugh for a motion.

Representative Frances Cavenaugh made a substitute motion to the substitute motion, and moved to accept the PEER Report as read, with the exception of Items B.12, B.14, B.18, and B.19, approving all items under the PEER report, except B.12, B.14, B.19, and leaving B.18 out separately, so Item B.18 is reviewed separately by members.

Co-Chair Wardlaw recognized Senator Jonathan Dismang to clarify and further discuss the actions taken on the PEER report. Afterwards, Co-Chair Wardlaw continued with recognizing members for questions or discussion on the motion.

Co-Chair Wardlaw recognized Senator Jimmy Hickey, Jr. for an amendment to the substitute motion on the floor.

Senator Hickey, moved to amend the substitute motion to send all requests under the PEER report back to the PEER Subcommittee, with the exception that the two (2) hospitals *(Ouachita County Medical Center & North Arkansas Regional Medical Center)* will be heard, not considering the full \$60 million request, and include for approval, the Department of Agriculture's request for \$280 million.

After conferring with BLR staff, Co-Chair Wardlaw accepted the motion.

The motion was seconded.

Co-Chair Wardlaw recognized Representative Jim Dotson for discussion on the motion. It was then clarified that the PEER report itself is included with the approval, with the exception of Items B.8 – B.20, and that Ouachita County Medical Center and North Arkansas Regional Medical Center will be heard by members after action is taken on the PEER report, and Item B.20 will be considered approved. Representative Dotson requested any items on the PEER Report be specifically identified when votes are taken on the motion.

Senator Mark Johnson was recognized for discussion. Co-Chair Wardlaw then recognized Senator Linda Chesterfield for a motion.

Senator Linda Chesterfield made a substitute motion, and moved to accept the PEER report, including Items B.8, B.9, B.10, B.11, B.13, B.15, B.16, B.17, B.18, B.19, and B.20. Senator Chesterfield also included Items C.1 and C.2 within her motion. The motion was seconded.

Co-Chair Wardlaw declined to accept Senator Chesterfield's substitute motion, as a motion to expunge a previous motion would first be necessary.

Co-Chair Wardlaw recognized Senator Blake Johnson for discussion on the motion. Senator Hickey was recognized to clarify and state his motion with specifics.

Senator Hickey restated his motion and moved that the PEER report be adopted, with the exception of Items B.8 – Arkansas Tech University, Item B.9 – University of Arkansas at Monticello, B.10 – University of Arkansas at Pine Bluff, B.11 Northwest Technical Institute, B.12 – Women and Children First, B.13 – Philander Smith College, B.14 – Arkansas Rural Health Partnership, B.15 – Black River Technical College, B.16 – Southeast Arkansas College, B.17 – Aging, Adult, and Behavioral Health, and B.19 – Vaccination Testing Reimbursement. Item B.18, in regards to the two (2) hospitals – Ouachita County Medical Center and North Arkansas Regional Medical Center - will be heard separately in this meeting. Item B.20 – Department of Agriculture will also be approved as it originally was, during the PEER Subcommittee meeting.

Co-Chair Wardlaw recognized Senator Linda Chesterfield for discussion on the motion. Co-Chair Wardlaw clarified that with this motion, all other held items on the PEER report will be referred back to that subcommittee. Co-Chair Wardlaw then recognized Senator Ronald Caldwell for a motion.

Senator Caldwell moved for immediate consideration. The motion was seconded, and passed by voice vote.

Co-Chair Wardlaw then referred members back to the motion made by Senator Hickey and called for votes on that substitute motion.

The motion was seconded and passed by voice vote.

Co-Chair Wardlaw recognized Mr. Mark White, Chief of Staff and Chief Legislative and Intergovernmental Affairs Officer, Department of Human Services, to present the American Rescue Plan Act requests from the two (2) hospitals, Ouachita County Medical Center and North Arkansas Regional Medical Center. After the presentation, Co-Chair Wardlaw recognized members for questions. Co-Chair Wardlaw also recognized Ms. Jodianne Tritt, Executive Vice President of the Arkansas Hospital Association, and Ms. Sammie Cribbs, Chief Executive Officer, Mr. Kenneth Pannel, Chief Financial Officer, and Mr. Joshua Bright, Vice President of Operations, all of North Arkansas Regional Medical Center, to respond to questions. Co-Chair Wardlaw then recognized Ms. Peggy Abbott, President/Chief Executive Officer, and Mr. Joe Givens, Corporate Compliance Officer, both of Ouachita County Medical Center, to respond to questions.

After the presentations by the hospitals, and questions from members, Co-Chair Wardlaw recognized Senator Jimmy Hickey, Jr. for a motion.

Senator Hickey moved that the Arkansas Legislative Council approve the request of the Department of Human Services for appropriation and expenditure funding under the American Rescue Plan Act of 2021, in an amount up to \$6,077,852.65 for Ouachita County Medical Center, subject to this hospital certifying to the department (DHS) that the receiving hospitals, as a condition of receiving ARPA funds, will within 60 days, repay the full outstanding balance owed by the receiving hospital to the Centers of Medicare and Medicaid Services (CMS) for the COVID-19 Accelerated and Advanced Payment Program;

or they will repay the CMS an amount equal to or greater than the amount of ARPA funds received by the hospital under this request. The motion was seconded. Senator Hickey was recognized to amend the motion to reflect within "90 days" instead of within "60 days". The amendment was accepted.

Co-Chair Wardlaw recognized members for questions or discussion on the motion.

Senator Chesterfield requested to make an amendment to the motion made by Senator Hickey. Co-Chair Wardlaw denied acceptance of the amendment to the motion at this time. Senator Ballinger was recognized and also requested to present a motion, which was also denied, with the possibility of being heard at a later time. Co-Chair Wardlaw expressed that only one motion, per hospital request, would be accepted.

The motion made by Senator Hickey passed by voice vote.

Co-Chair Wardlaw recognized Senator Chesterfield for a motion.

Senator Chesterfield moved to approve funds for North Arkansas Regional Medical Center, in the amount requested to pay back what is owed. The motion was seconded.

Senator Hickey was recognized to gain clarification on the specific amount that should be approved according to the motion made by Senator Chesterfield.

After discussion, Senator Chesterfield withdrew her motion.

Co-Chair Wardlaw recognized Representative Gray for a motion.

Representative Gray moved that the request for the North Arkansas Regional Medical Center be referred back to the ALC PEER Subcommittee to be reviewed at a later date, if the need shall arise again. The motion was seconded.

Senators Bob Ballinger, Jimmy Hickey, Jr., Stephanie Flowers, and Larry Teague, were recognized for discussion on the motion.

After questions and discussion, the motion passed by voice vote.

Review Subcommittee

Co-Chair Wardlaw recognized Senator Scott Flippo to present the report from the Review Subcommittee (Exhibit F.10). Senator Flippo reported that the Review Subcommittee met on Tuesday, September 13, 2022, and reviewed methods of finance, discretionary grants, and services contracts. In addition, a rule pertaining to state procurement for mandatory training programs was reviewed. No items were held. This concluded the report of the Review Subcommittee.

Senator Scott Flippo moved that the report of the Review Subcommittee be adopted. The motion was seconded and passed by voice vote.

Uniform Personnel Classification and Compensation Plan Subcommittee

Co-Chair Wardlaw recognized Senator David Wallace to present the report of the Uniform Personnel Classification and Compensation Plan Subcommittee (Exhibit F.11). Senator Wallace reported the Uniform Personnel Classification and Compensation Plan Subcommittee met on Wednesday, September 14, 2022, and reviewed requests and reports listed as Items 1 – 12 on the report. Item 7 was a report, required pursuant to Act 796 of 2021, Arkansas Code § 21-5-226, which provided information related to the process of appropriating and budgeting positions, and allow recommendations to be made by the subcommittee. There were no recommendations by the subcommittee to change the current process of appropriating or budgeting positions. This concluded the report of the Uniform Personnel Classification and Compensation Plan Subcommittee, and there were no questions.

Senator David Wallace moved that the report of the Uniform Personnel Classification and Compensation Plan Subcommittee be adopted. The motion was seconded and passed by voice vote.

Employee Benefits Division Oversight Subcommittee

Co-Chair Wardlaw recognized Senator Kim Hammer, to present the report of the Employee Benefits Division Oversight Subcommittee (Exhibit F.14). Senator Hammer reported that the Employee Benefits Division Oversight Subcommittee met on Wednesday, September 14, 2022, and heard the following items: a Proposed Bariatric Surgery Policy; an RFP for an Employee Assistance Program; and received the Formulary Recommendations Report. No action was taken on the EBD drug formulary changes that were submitted last month and is still being held in the subcommittee. This concluded the report of the Employee Benefits Division Oversight Subcommittee, and there were no questions.

Senator Kim Hammer moved for the approval for the Proposed Bariatric Surgery Policy and the RFP for an Employee Assistance Program, and for the report of the Employee Benefits Division Oversight Subcommittee be adopted. The motion was seconded and passed by voice vote.

Reports of Interim or Special Committees

Co-Chair Wardlaw recognized Senator Joyce Elliott, to present the report of the Arkansas Legislative Arts and Technology Boot Camp Task Force (Exhibit G.1). Senator Elliott reported that the Arkansas Legislative Arts and Technology Boot Camp Task Force met on Tuesday, August 30, 2022, and finalized the Executive Summary and Legislative Committee recommendations to ALC in a final report. The entire report can be found on the Arkansas State Legislature's website (<u>www.arkleg.ar.arkansas.gov</u>). This concluded the report of the Arkansas Legislative Arts and Technology Boot Camp Task Force, and there were no questions.

Senator Joyce Elliott moved that the report of the Arkansas Legislative Arts and Technology Boot Camp Task Force be adopted. The motion was seconded and passed by voice vote.

Review of Communications

Co-Chair Wardlaw referred members to the communications listed on the agenda as Items H.01 - H.11 and noted action by the Legislative Council was needed for Item H.02.

H.02 - Arkansas Teacher Retirement System, Request for Legislative Council's review of Investment Summaries, submitted pursuant to A.C.A. §19-11-1302.

a. LaSALLE VALUE PARTNERS U.S. IX, L.P

With no questions, Co-Chair Wardlaw requested a motion on Item H.2.

Representative DeAnn Vaught moved to file the Arkansas Teacher Retirement System's request as reviewed. The motion was seconded and passed by voice vote.

Business Carried Over

K.1 - Department of Transformation and Shared Services:

Division of Building Authority, Request for the Legislative Council's review of the sale of property below the appraised price, submitted pursuant to A.C.A. § 22-6-601(h)(2);

With no questions, Senator Gary Stubblefield moved to approve the request for review of the sale of property below the appraised price, from the Division of Building Authority. The motion was seconded and passed by voice vote.

Review of Communications *(continued)*

Co-Chair Wardlaw then recognized Ms. Cindy Gillespie, Secretary, and Mr. Mark White, Deputy Director and Chief of Staff, Legal, and Legislative Affairs, both of Department of Human Services (DHS), to respond to questions on the report regarding assisted living facility reimbursements rates under the Living Choices Assisted Living Waiver. After questions, this concluded the DHS report. Senator Bob Ballinger, with the support of ALC, congratulated Ms. Cindy Gillespie for her service to the State of Arkansas, as she is set to retire October 7, 2022.

Supplemental Agenda

Co-Chair Wardlaw requested a motion to suspend the ALC rules and take up the Supplemental Agenda.

Representative DeAnn Vaught moved to suspend the ALC rules and take up the Supplemental Agenda. The motion was seconded and passed by voice vote.

Interim Resolution

Co-Chair Wardlaw referred members to Interim Resolution 2021-005, by Representative Fredrick Love, and explained it was a proclamation recognizing September 2022 as "Sickle Cell Disease Awareness Month" in Arkansas.

With no questions from members, Co-Chair Wardlaw requested a motion.

Representative DeAnn Vaught moved to approve Interim Resolution 2021-005, by Representative Fredrick Love. The motion was seconded and passed by voice vote.

Adjournment

At 12:54 p.m., the meeting was adjourned as there was no further business to come before the Legislative Council.

Respectfully submitted,

ATTEST:

Representative Jeff Wardlaw Co-Chair, House of Representatives Marty Garrity Executive Secretary