

MINUTES OF THE MEETING
OF THE
ARKANSAS LEGISLATIVE COUNCIL

Friday, March 16, 2012

The Arkansas Legislative Council met at 9:00 a.m., Friday, March 16, 2012 in Committee Room A of the Big Mac Building, Little Rock, Arkansas. Co-Chair Tommy Lee Baker called the meeting to order and dispensed with the calling of the roll. The members who attended are listed on the sign-in sheets.

Minutes of the Last Meeting

Co-Chair Baker referred the members to the minutes of the January 20, 2012 meeting of the Legislative Council and asked if there were any questions. There were no questions.

Representative Garry Smith moved that the minutes of the January 20, 2012 meeting of the Legislative Council be approved. The motion received a second and the motion passed by voice vote.

February 2012 Revenue Report

Co-Chair Baker recognized Richard Wilson, Assistant Director for Research Services with the Bureau of Legislative Research, to present the monthly revenue report for February 2012. Mr. Wilson reported that the February 2012 revenue report reflects that after eight months of this fiscal year, gross collections are \$ 140.6 million ahead of the same period last year for a growth rate of four percent (4%). The adjusted net available for distribution is \$ 54.2 million ahead of the same period last year for a growth rate of one point eight percent (1.8%). The graph page indicates that revenue collections are approximately \$20 million above the official revenue forecast at the end of February. The spreadsheet reflects a growth rate for gross receipts of three point eight percent (3.8%) for February and a growth rate of one point eight percent (1.8%) for the eight months of the fiscal year. The spreadsheet also reflects an even better growth rate for income taxes. Mr. Wilson answered questions from the members of the Legislative Council.

Report of the Executive Subcommittee

Co-Chair Baker recognized Co-Chair Mary Anne Salmon to present the report of the Executive Subcommittee of the Legislative Council. Co-Chair Salmon reported that the Executive Subcommittee met on Thursday, March 15, 2012 and discussed the process for accepting applications for the position of the director of the Bureau of Legislative Research. Speaker Moore made a motion to open the job search nationwide with a posting on the National Conference of State Legislatures (NCSL) website and the motion was seconded and carried without objection.

The subcommittee also discussed a letter from the Legislative Council Co-Chairs concerning legislative requests to state agencies, which will be sent to all members of the General Assembly. Co-Chair Salmon asked members to contact the co-chairs if they had a question concerning the letter. The subcommittee heard a report from the director of the Bureau of Legislative Research concerning meeting attendance forms and the possibility of Wi-Fi access in the committee rooms located on the fifth floor of the Big Mac Building. Co-Chair Salmon responded to questions.

Co-Chair Salmon moved that the report of the Executive Subcommittee be adopted. Representative Rice seconded the motion and motion passed by voice vote.

Reports of Standing Subcommittees

Administrative Rules and Regulations Subcommittee

Co-Chair Baker recognized Senator Percy Malone to present the report of the Administrative Rules and Regulations Subcommittee. Senator Malone referred members to the report of the Administrative Rules and Regulations Subcommittee for the January 27, 2012, February 8, 2012, and the March 14, 2012 meetings. Senator Malone reported that all the items were approved with the exception of the proposed rule by the Department of Community Correction concerning electronic monitoring (see page 6). That rule was deferred to the April subcommittee meeting to allow the agency to provide more information.

Senator Malone moved that the report of the Administrative Rules and Regulations Subcommittee be adopted and the motion was seconded.

Co-Chair Baker recognized Representative Hobbs who asked for information regarding the increase in the permit of approval fee by the Health Services Permit Agency (see page 4). Senator Malone responded that the agency stated the increase was for new permits, that there was no opposition to the fee increase, and the agency had statutory authority to increase the fee. Senator Malone asked the subcommittee staff be recognized to respond to Representative Hobbs question regarding the amount of the increase and whether or not a public hearing was held. Matthew Miller, Administrator of the Administrative Rules Review Section, was recognized and stated he did not have that information on hand and would provide it later.

Representative Hobbs made a substitute motion to delay the adoption of the Administrative Rules and Regulations Subcommittee report until the information is provided. The substitute motion received a second.

Co-Chair Baker recognized Representative Cowling for a point of order. Representative Cowling asked if the report needed a motion to approve the report and Co-Chair Baker responded that a motion to adopt the report was needed since the subcommittee meeting occurred after the 2012 fiscal session. After further discussion the motion to adopt the report and the substitute motion to delay the adoption of the report were both withdrawn. Further discussion of the permit fee followed until Mr. Miller provided the information that the fee increased from \$1,500.00 to \$3,000.00 and two years ago the fee was raised from \$1,000.00 to the current \$1,500.00. Also, a public hearing was held on December 20, but the public comment period expired on October 31.

Co-Chair Baker recognized Senator Percy Malone who moved that the report of the Administrative Rules and Regulations Subcommittee be adopted. The motion was seconded and was passed by voice vote.

Higher Education Subcommittee

Co-Chair Baker recognized Representative Johnnie Roebuck to present the report of the Higher Education Subcommittee. Representative Roebuck referred the members to the report in their packets (Exhibit F.5) and stated that there is an error concerning the meeting on January 26, 2012. Representative Roebuck stated that the report indicates the subcommittee heard from Shane Broadway, Interim Director of the Arkansas Department of Higher Education, concerning remediation rates among Lottery Scholarship recipients and concerning the implementation of Act 971 of 2009 by institutions of higher education, but that is incorrect because those reports were not heard due to the length of the meeting on January 26. Representative Roebuck stated that these two reports would be heard at a joint meeting of the House and Senate Committees at a later date. Representative Roebuck reported that the subcommittee did hear a report on January 26 from Dr. Donald R. Bobbitt on cost containment at the Arkansas School for Mathematics, Sciences and the Arts.

The subcommittee also met on February 7, 2012 and heard reports from the institutions of higher education on revenue-producing contracts (see page 1). The subcommittee also met on March 15, 2012 and heard cost containment reports from the non-formula higher education institutions or entities (see page 2). The subcommittee will hear a report from the University of Arkansas for Medical Sciences (UAMS) and will have further discussion with the Arkansas School for Mathematics, Sciences and the Arts.

Representative Roebuck moved adoption of the amended report of the Higher Education Subcommittee. The motion was seconded by Senator Jimmy Jeffress and passed by a voice vote.

Performance Evaluation and Expenditure Review (PEER) Subcommittee

Co-Chair Baker recognized Representative Rice to present the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee. Representative Rice reported that the Performance Evaluation and Expenditure Review (PEER) Subcommittee met on February 8, 2012 and had no approval items and the subcommittee reviewed all items and no items were held. Representative Rice reported that the subcommittee actions were final on behalf of and under authority granted by the Legislative Council at their January 20, 2012 meeting, and that this report is presented for the Legislative Council's information.

Co-Chair Baker recognized Representative Burriss who asked what is the source of the federal grant in the amount of \$192,096.00 for the Arkansas State Crime Laboratory (see Item C.1 on page 1), whether or not it is ARRA-related, and whether or not it is a continuing or one-time grant. Co-Chair Baker recognized Brandon Sharp with the Department of Finance and Administration, who stated that the grant was not ARRA-related and that he believes it is an ongoing grant and an expansion of an existing grant. Mr. Sharp stated he did not have the total amount of the grant.

Co-Chair Baker also recognized Wendy Cartwright, with the Bureau of Legislative Research, to respond to a question from Representative Burris about what level of funding the agency received from federal grants. Ms. Cartwright responded that she did not have that information on hand, but she would get the information for Representative Burris. Representative Burris stated that he had the information in his office and that there was no need to contact the agency for that information.

Co-Chair Baker recognized Representative Hobbs who asked for more information regarding the contract between the Department of Human Services and the University of Arkansas for Medical Sciences (see item D.1 on page 2). Ms. Cartwright responded that this contract was one hundred percent (100%) state funding for additional funds to serve as the administrative entity for the overall operation of the statewide autism waiver program. Ms. Cartwright stated that testimony was received from Dr. Green with the Department of Human Services that the agency received approximately \$150,000.00 earmarked for autism, but lacked any further designation for the funds. An autism task force was created and the task force directed the agency to apply for an early-intervention autism waiver that provides intensive therapy. The agency testimony also included that providers will hire staff from the communities to deliver the intensive intervention in the homes of the families.

Co-Chair Baker recognized Representative Burris who asked if a motion was made to adopt the report. Co-Chair Baker recognized David Ferguson who responded that a motion is not required because this is one of the subcommittee meetings where the actions of the subcommittee were final. Representative Burris commented that it was frustrating that state agency representatives were not available at the meeting to answer questions on the last two reports. There were no further questions.

Claims Review Subcommittee

Co-Chair Baker stated that the report of the Claims Review Subcommittee was in the members' packets, but a report would not be presented at this time.

Review Subcommittee

Co-Chair Baker recognized Representative Larry Cowling to present the report of the Review Subcommittee. Representative Cowling reported that the Review Subcommittee met on February 9, 2012 and reviewed various methods of finance, construction projects exceeding \$5 million dollars, discretionary grants, various professional or consultant services contracts, and a technical services contract. Representative Cowling reported that all items were reviewed and are included in the report in the members' packets. Representative Cowling reported that the subcommittee actions were final on behalf of and under authority granted by the Legislative Council at their January 20, 2012 meeting and the report is presented for the Legislative Council's information.

Uniform Personnel Classification and Compensation Plan Subcommittee

Co-Chair Baker recognized Senator Mike Fletcher to present the report of the Uniform Personnel Classification and Compensation Plan Subcommittee. Senator Fletcher reported that the Uniform Personnel Classification and Compensation Plan Subcommittee met on

February 7, 2012 to further review the Arkansas Forestry Commission's reduction in workforce. There was only discussion at this meeting and no action was taken. There were no questions.

Reports of Interim or Special Committees

Arkansas Lottery Commission Legislative Oversight Committee

Co-Chair Baker referred the members to the report of the Arkansas Lottery Commission Legislative Oversight Committee and stated there was no action required by the Legislative Council on this report. Co-Chair Baker asked if any member had a question concerning the report.

Co-Chair Baker recognized Senator Linda Chesterfield who asked what is the percentage of increase for the new director of the Arkansas Lottery Commission. Co-Chair Salmon was recognized who responded that the percentage of increase is sixteen point five percent (16.5%) and noted that increase reflects the change in position from staff attorney to director. Co-Chair Salmon also noted that this amount is less than the salary paid to the previous director.

Co-Chair Baker recognized Senator Jimmy Jeffress who asked who has the authority to allow the use of debit cards to purchase lottery tickets. Co-Chair Salmon responded that this was proposed as a possibility by the director, but that it is not a matter of discussion by the oversight committee at this time. Co-Chair Salmon stated the proposal would have to be considered by the Arkansas Lottery Commission and the commission would vote on the proposal. The oversight committee would review the decision of the commission. Senator Jeffress commented that this body should be allowed to express an opinion or any concerns on this proposal to the commission. Co-Chair Salmon commented that the commission has been very receptive to the legislature's attitudes on issues. Co-Chair Baker recognized Representative Darrin Williams who commented that the director, Bishop Woosley, had stated that a change in the statute by the legislature would be required in order for debit cards to be used to purchase lottery tickets. There were no further comments or questions on the report.

Review of Communications

Co-Chair Baker referred members to each of the communications (Exhibits H.1 through H.15) in their packets and asked for questions on the communications listed as Exhibit H.1 through H.14. There were no questions raised at this time.

Arkansas Teacher Retirement System

Co-Chair Baker referred members to the request by the Arkansas Teacher Retirement System for the Legislative Council's review of the partial equity ownership agreement with NGP Natural Resources X, L.P. (Exhibit H.15) that was submitted pursuant to A.C.A § 19-11-1302 and noted that a motion was necessary on this item.

Representative Rice moved that the partial equity ownership agreement with NGP Natural Resources X, L.P. (Exhibit H.15) submitted by the Arkansas Teacher Retirement System be filed as reviewed. The motion received a second and was passed by voice vote.

Co-Chair Baker recognized Representative Hobbs who asked what is the role of the Hospital and Medicaid Subcommittee in the review of the Medicaid Program in Arkansas. Co-Chair Baker recognized Representative Leding who responded that the subcommittee plans to meet during the upcoming months and will be reviewing this program.

New Business

Co-Chair Baker recognized Senator Kim Hendren who commented that his family had visited the State Capitol during the past fiscal session and were unable to enter the State Capitol through the second floor entrance with the bronze doors. After inquiring at the Secretary of State's Office about the reason the doors remain locked, Senator Hendren was informed that this was security policy established after the 911 terrorist attack. Senator Hendren commented that he did not feel terrorism should be allowed to keep the doors locked on a continuing basis.

Senator Hendren moved that the Legislative Council recommend to Secretary of State Mark Martin that the bronze doors at the east entrance to the State Capitol on the second floor be made available as an entrance to the State Capitol Building beginning Monday, March 19, 2011. Representative Burris seconded the motion and the motion passed by voice vote.

New Proposals and Resolutions

Co-Chair Baker referred the members to the new interim study proposals in their packets and stated that these would require a motion to refer the interim study proposals to the appropriate committee.

Co-Chair Baker recognized Representative Webb who commented that she is the sponsor of Interim Study Proposal 2011-197 and it was proposed by the Arkansas Department of Environmental Quality (ADEQ) and a group of stakeholders including Representative Altes. Representative Webb commented that she and Senator Key were working with them on this proposal.

Representative Tyler moved that Interim Study Proposal 2011-197 be referred to the House Committee on Public Health, Welfare and Labor. Representative Webb seconded the motion and the motion passed by voice vote.

Co-Chair Baker recognized Senator Eddie Joe Williams who commented Interim Study Proposal 2011-200 came about from a meeting with the Governor and military dependents in the State of Arkansas and Tom Kimbrell. Senator Williams stated that military dependents move six to nine times in twelve years to different schools throughout the United States.

Senator Rapert moved that Interim Study Proposal 2011-200 be referred to the Senate Committee on Education. Senator Laverty seconded the motion and the motion passed by voice vote.

Co-Chair Baker asked if there was any further business to come before the Legislative Council. Co-Chair Baker recognized Senator Kim Hendren who noted that retired military personnel come to military funerals to perform honor guard duties and that they travel to the funerals at

their own expense. Senator Hendren asked if some of the funds generated by the special license plates for veterans could be used to reimburse persons who travel to military funerals to perform honor guard services. Senator Hendren asked if someone could come to a future meeting and answer the question of how much money is available through these license plates and could it be used to reimburse travel expenses of the persons performing honor guard services. David Ferguson was recognized and commented that he believes this may be a regular license plate fee and that an additional fee is charged for funds going to a specific fund. Mr. Ferguson stated that the staff would get the information for him.

Co-Chair Baker recognized Senator Rapert who referred to the Alternative Fuel Vehicle Report for 2011 (Exhibit H.12b) and noted that there is no vehicle in the state fleet that uses natural gas. He commented that there would be a tremendous savings to the State of Arkansas if CNG (compressed natural gas) vehicles were used in areas with access to this resource. He commented that this was something that should be closely reviewed in the next session and he asked that the Department of Finance and Administration help to publicize the suggestion to use natural gas vehicles in the state fleet.

Co-Chair Baker recognized Senator Chesterfield who referred to Local Government Inmate Cost Report (Exhibit H.7a) and asked for more information on the specific travel and training expenditures that amount to \$61,522.30 by the Columbia County Detention Center because this amount is higher than expenditures by other detention facilities. Co-Chair Baker stated that the staff would obtain this information for Senator Chesterfield.

Co-Chair Baker recognized Representative Clemmer who referred to the Summary of Approved Travel Recommendations (Exhibit H.8) and noted that the trips listed in the report appear to be in violation of the ethics bill that was passed at the last regular session. Representative Clemmer asked that she be provided a clarification of whether the act should be further clarified and if the information could come before the committee so the members are clear on the interpretation of the law. Co-Chair Baker recognized David Ferguson who asked if Representative Clemmer was referring to the policy of obtaining approval of the Speaker of the House and the President Pro Tempore on certain travel. Representative Clemmer responded that she was inquiring about travel during a session. Mr. Ferguson stated he would get more information on this for Representative Clemmer.

Co-Chair Baker recognized Representative Efre Elliott who referred to the Department of Community Correction report of population totals as of March 5, 2012 (Exhibit H.10) and asked if the capacity of 350 noted for the Southeast Arkansas facility in Pine Bluff reflects the number of inmates residing at the half-way house there and asked for information on status and grade of those inmates. Co-Chair Baker stated the staff would obtain that information for Representative Elliott.

Co-Chair Baker recognized Representative Kim Hammer who referred to the Revenue Report (Exhibit D) and asked for further explanation of the increase in central services. Co-Chair Baker recognized Richard Wilson, Assistant Director for Research Services Division, to respond. Mr. Wilson referred to the first page of the Revenue Report and explained that the State Central Services and Constitutional Officers Fund receives three percent (3%) of revenues off the top and therefore net general revenues and those two accounts should be growing at four percent (4%) because one is a function of the other. He noted that the State Central is growing at about

twenty percent (20%) because there has been an additional \$14 million taken out and the Chief Financial Officer (CFO) has the authority to do that when he sees the need.

Representative Hammer asked if Richard Weiss, Director of the Department of Finance and Administration, could be recognized to provide further details. Co-Chair Baker recognized Mr. Weiss and he responded that the increase in the overall fund was increased because the fund was not sufficient to meet the needs of the entities financed by the fund, which includes the Department of Finance and Administration, all the constitutional officers, the House of Representatives, the Senate, and the operations of all the elected officials. Mr. Weiss stated that the fund was increased in July of 2011 as authorized by law and that the Department of Finance and Administration presents a report each month the Legislative Council or the Performance Evaluation and Expenditure Review (PEER) Subcommittee on the expected budget and expected spending and actual expenditures. Representative Hammer stated that he had additional questions and that he would meet with Mr. Weiss after the meeting for answers.

Adjournment

The meeting adjourned at 10:27 a.m. as there were no further questions and no further business to come before the Legislative Council.

Respectfully submitted,

ATTEST:

Representative Tommy Lee Baker
Co-Chair, House

David Ferguson
Executive Secretary