

MINUTES OF THE MEETING
OF THE
ARKANSAS LEGISLATIVE COUNCIL

Friday, June 15, 2012

The Arkansas Legislative Council met at 9:00 a.m., Friday, June 15, 2012 in Committee Room A of the Big Mac Building, Little Rock, Arkansas. Co-Chair Mary Anne Salmon 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 Salmon referred the members to the minutes of the May 18, 2012 meeting of the Legislative Council and asked if there were any questions. There were no questions.

Representative Dale moved that the minutes of the May 18, 2012 meeting of the Legislative Council be approved. The motion received a second and the motion passed by voice vote.

May 2012 Revenue Report

Co-Chair Salmon recognized Richard Wilson, Assistant Director for Research Services with the Bureau of Legislative Research, to present the monthly revenue report for May 2012. Mr. Wilson reported that after eleven months of this fiscal year, the May 2012 revenue report reflects that gross collections increased \$220 million for a growth rate of four point three percent (4.3%) and the net available increased by \$143 million for a growth rate of three point five percent (3.5%). Mr. Wilson noted that the graph page shows the revision to the official revenue forecast on May 9, 2012 and that collections are currently \$13.3 million ahead of the revised forecast. Mr. Wilson stated that the spreadsheet reflects that gross receipts are growing at two point three percent (2.3%) and income tax collections are growing at six percent (6%). Mr. Wilson responded to questions.

Report of the Executive Subcommittee

Co-Chair Salmon recognized Co-Chair Baker to present the report of the Executive Subcommittee of the Legislative Council. Co-Chair Baker reported that the Executive Subcommittee met on Thursday, June 14, 2012 and discussed cancelling the July or August meeting of the Legislative Council to avoid conflicts with the annual legislative conferences. The subcommittee passed a motion to cancel the Legislative Council meeting in August 2012. The subcommittee also passed a motion that the actions of the Legislative Council subcommittees that would normally be reviewed by the Legislative Council at the August meeting would be considered final and reported to the Legislative Council at the meeting scheduled for September 2012.

The Executive Subcommittee also discussed the executive branch plan to block carry over funds in the Bureau of Legislative Research budget during the 2012-2013 fiscal year. The subcommittee passed a motion that the Co-Chairs will request a formal written request from the Governor to block the carryover funds. The formal request once received, would be discussed at the next meeting of the Executive Subcommittee.

The Executive Subcommittee also discussed possible updates to the Legislative Council rules and requested staff to provide the Executive Subcommittee with the proposed alternatives to the Legislative Council rules and to present them at the next Executive Subcommittee meeting. There were no questions regarding the report.

Co-Chair Baker moved that the report of the Executive Subcommittee be adopted. The motion was seconded and passed by voice vote.

Reports of Standing Subcommittees

Administrative Rules and Regulations Subcommittee

Co-Chair Salmon recognized Representative Word to present the report of the Administrative Rules and Regulations Subcommittee. Representative Word reported that the Administrative Rules and Regulations Subcommittee met on June 13, 2012 and a quorum was present. The subcommittee reviewed a total of twenty-one (21) rules from various departments. While the subcommittee discussed the Department of Education's Code of Ethics rule revisions, the department indicated that in the future the department will review applicable statutes and Standard 3 to consider strengthening the law regarding the reporting of child maltreatment. There were no questions regarding the report.

Representative Word moved that the report of the Administrative Rules and Regulations Subcommittee be adopted. The motion received a second and was passed by voice vote.

Higher Education Subcommittee

Co-Chair Salmon recognized Senator Sue Madison to present the report of the Higher Education Subcommittee. Senator Madison reported that the subcommittee met on June 14, 2012 and heard an updated report on student loan debt from Shane Broadway, the Interim Director of the Arkansas Department of Higher Education. The subcommittee has also been reviewing the debt owed to institutions of higher education and learned that some state agencies have outstanding debt. The Department of Workforce Services were present to explain that agency's debt. The subcommittee has been concerned about the for-profit colleges in Arkansas and Deputy Attorney General Jim DePriest spoke to the subcommittee regarding restricting access by for-profit colleges to GI Bill and veteran's benefits. The subcommittee received a letter from Congressman Mike Ross supporting the Attorney General's efforts. Mr. Shane Broadway presented an updated report on for-profit colleges. Senator Madison answered questions from the members and asked the subcommittee staff to provide Representative Stubblefield with information regarding the in-state student debt broken down by each institution.

Senator Madison moved 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 Salmon recognized Senator Johnny Key to present the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee. Senator Key reported that the Performance Evaluation and Expenditure Review (PEER) Subcommittee met on June 7, 2012 and approved the following items: Appropriation transfers for the Department of Education and the Minority Health Commission; a reallocation of resources request from the Department of Human Services; and an increase from point three percent (0.3%) to two point three percent (2.3%) in the percentage deduction on both general and special revenue for State Central Services. All other items were reviewed and the subcommittee held no items. There were no questions regarding the report.

Senator Key moved the adoption of the report by the Performance Evaluation and Expenditure Review (PEER) Subcommittee. The motion was seconded and passed by voice vote.

Uniform Personnel Classification and Compensation Plan Subcommittee

Co-Chair Salmon recognized Senator Johnny Key to present the report of the Uniform Personnel Classification and Compensation Plan Subcommittee. Senator Key reported that the Uniform Personnel Classification and Compensation Plan Subcommittee met on June 8, 2012 and reviewed items 1 through 4.a on pages 1 and 2 of the report, which included reporting of existing grid usage, the approval of the rehire of Cynthia Edwards and Phyllis Wilkins, both spouses of members of the General Assembly, and an additional item for the College of the Ouachitas. Items 2a and 2b on the report were approved by the subcommittee and the subcommittee chose not to review item 4b. relating to the positions for the Arkansas Tech University. Items 5 through 12 on pages 3 through 6 of the report were not discussed as the meeting was adjourned due to the lack of a quorum.

Senator Key requested that the Legislative Council discuss items 6, 7, 8, 9, and 10 on pages 3 through 6 of the report for review by the full Legislative Council and that all other items can be held for the next subcommittee meeting. Senator Key stated that items 6, 7 and 9 represent requests from multiple agencies and from the Department of Finance and Administration to continue pool positions, salary administration grids, compensation differentials, labor market special entry rates and miscellaneous federal grant position titles that have been previously approved by the Personnel Subcommittee and the Legislative Council during the interim. These agencies are required to request continuation of these positions, grids, and differentials each fiscal year and without review, previously established pool positions will be eliminated as will the ability to compensate for hazardous duty, certification for law enforcement, and to hire nurses at competitive rates. The Department of Finance and Administration recommended the continuation and the subcommittee staff concurred.

Senator Key explained that on page 4 of the report, item 8 lists requests for approval of the new titles and one request for a continued title. The appropriation and positions have been approved by the Performance Evaluation and Expenditure Review (PEER) Subcommittee and the Legislative Council as of today.

Senator Key explained that on page 6 of the report, item 10 is a request from the Arkansas Economic Development Commission for a labor market rate equal to the maximum of a grade N908, which is \$106,919.00, for the AEDC Business Development Division Director. After the resignation of the incumbent employee, the agency is hoping to recruit an individual with extensive experience in sales and relationship building to lead the State's business recruiting team. The Department of Finance and Administration recommends the request and the subcommittee staff concurs.

Senator Key moved that the report of the Uniform Personnel Classification and Compensation Plan Subcommittee be adopted and that it include items 6, 7, 8, 9, and 10 listed on pages 3 through 6 of the report.

Co-Chair Salmon recognized Representative Dale who asked if item 4b on the report was included in Senator Key's motion. Senator Key responded that the action of the subcommittee was that item 4b not be reviewed. Representative Dale requested that the Legislative Council consider item 4b at the proper time. Co-Chair Salmon stated she would accept that motion after the Legislative Council votes on Senator Key's motion.

Co-Chair Salmon recognized Representative Hobbs who referred to the positions for the Insurance Department on page 4 of the Personnel Subcommittee report and the positions for the Insurance Department on page 4 of the PEER Subcommittee report and asked if these were the same five positions. Senator Key responded these are the same positions from the federal grant previously approved by the Legislative Council and this is the continuation of those positions into the next fiscal year. Senator Key explained that the action of the Personnel Subcommittee is to approve the titles and levels for those positions while the PEER Subcommittee action is the financial side for those positions.

Co-Chair Salmon recognized Senator Elliott who asked if item 10 on the Personnel Subcommittee report was included in the motion by Senator Key. Senator Key responded that it was included. Senator Elliott asked that a representative from the Arkansas Economic Development Commission be recognized to respond to questions.

Co-Chair Salmon recognized Harold Sharp, who identified himself as an employee of the Economic Development Commission. Senator Elliott asked what the individual would do and what implications that may have on the agency's function, specifically in the rural and underserved areas of the state. Mr. Sharp explained the agency wants to hire an individual who has extensive abilities and strong skills in team leadership and the ability to showcase Arkansas for business and this level of salary would allow the agency to hire such a person. Mr. Sharp stated this individual would be able to coordinate with the sales staff and the community development staff to help rural and underserved communities to better prepare themselves for being presented as a place to locate new business and to expand existing business. There were no further questions after Mr. Sharp's comments.

Co-Chair Salmon recognized Senator Key who asked to amend his motion. Senator Key explained that item 11 on page 6 of the report was held at his request and that his questions about this position have now been answered. He asked that this item be included among the items that are included in the report. There were no questions on this request.

Senator Key amended his motion to include item 6, item 7, item 8, item 9, item 10 , and item 11 in the report and that the report of the Uniform Personnel Classification and Compensation Plan Subcommittee be adopted. The amended motion received a second and was passed by voice vote.

Co-Chair Salmon recognized Representative Dale for his motion. **Representative Dale moved that the positions for Arkansas Tech University listed in item 4b of the Uniform Personnel Classification and Compensation Plan Subcommittee report be approved by the Legislative Council. The motion received a second.**

The Legislative Council members debated the motion by Representative Dale. Senator Elliott commented that there was an issue with the position for an assistant professor and Arkansas Tech University had not been forthcoming with information for the subcommittee. Co-Chair Salmon stated that she intended to refer that issue with the assistant professor to the Higher Education Subcommittee for discussion since it doesn't have anything to do with the other positions. Co-Chair Salmon clarified that the other positions were not being referred to the Higher Education Subcommittee.

In response to comments by Representative Clemmer, Co-Chair Salmon asked that a representative of Arkansas Tech University come forward to respond to questions. Co-Chair Salmon recognized Phil Davis, Vice President for Government Relations for Arkansas Tech University, who responded to several questions.

Representative Clemmer made a substitute motion that the Legislative Council approve the positions for Arkansas Tech University listed in item 4b of the Uniform Personnel Classification and Compensation Plan Subcommittee report, with the exception of the faculty positions and the faculty positions be delayed at this time. The motion was seconded by Representative Benedict.

Co-Chair Salmon recognized Senator Madison who commented that the motion by Representative Dale and the substitute motion by Representative Clemmer do not specify whether the positions under consideration are those listed as requested by the agency or those listed as recommended by the staff. Senator Madison felt that this is a reason for the discussion to be heard in the Personnel Subcommittee. Representative Clemmer responded that her substitute motion was only that the faculty positions be delayed and they could be referred back to the Personnel Subcommittee. Senator Madison commented that she remains opposed to the original motion and the substitute motion as well.

Co-Chair Salmon recognized Senator Malone who stated he is speaking against the substitute motion due to the length of time it takes to hire a candidate. Senator Malone asked if he could make a substitute motion to the substitute motion. Co-Chair Salmon stated the substitute motion may be amended one time.

Senator Malone moved that the substitute motion be amended to refer these positions to the Uniform Personnel Classification and Compensation Plan Subcommittee for consideration and action. The motion received a second.

Co-Chair Salmon asked if there were any comments on this motion. Co-Chair Salmon recognized Representative Dale who spoke against both the substitute motion and the amendment to the substitute motion. Representative Dale commented he would like to have a vote on his original motion and that the Personnel Subcommittee has had a chance to review and discuss these positions and it was time for a decision to allow the university to run their own business.

Representative Clemmer asked for a point of order and asked if Senator Malone's motion to amend her substitute motion was the only motion on the floor. Co-Chair Salmon stated that there is the original motion by Representative Dale, the substitute motion made by Representative Clemmer, and the amendment to the substitute motion made by Senator Malone. Representative Clemmer stated that she would withdraw her substitute motion for clarity sake.

Co-Chair Salmon recognized Senator Malone who asked for a point order to clarify whether his motion to amend the substitute motion was still in order since Representative Clemmer withdrew her substitute motion. Co-Chair Salmon stated that no vote was taken on withdrawing the substitute motion by Representative Clemmer and therefore the substitute motion was still on the floor and the motion to amend the substitute motion by Senator Malone was still on the floor.

Co-Chair Salmon recognized Senator Chesterfield who commented that if no one objected to Representative Clemmer withdrawing her motion then the substitute motion has been withdrawn and that Senator Malone's motion is no longer on the floor because there is no substitute motion to be amended. Senator Chesterfield stated the original motion by Representative Dale is on the floor and she asked for immediate consideration of the original motion.

Representative Clemmer asked for a point of order and stated that she withdrew her motion because she did not understand how there could be three motions on the floor at the same time. Senator Chesterfield commented that it is constitutional to amend the main motion and the substitute motion may be amended, but after that no amendments may be considered. Senator Chesterfield stated that since there is no motion by Representative Clemmer for Senator Malone to amend, then the main motion is on the floor and she asked for immediate consideration of the main motion by Representative Dale.

Co-Chair Salmon asked Senator Chesterfield to restate her motion. **Senator Chesterfield moved for immediate consideration of the main motion by Representative Dale, which is the only motion on the floor since the others were withdrawn.**

Co-Chair Salmon asked Representative Dale to restate his motion. **Representative Dale stated his motion was that the Legislative Council immediately consider item 4b in the Uniform Personnel Classification and Compensation Plan Subcommittee report, which are the positions for Arkansas Tech University. Co-Chair Salmon stated that the vote would have to be taken now on the main motion.**

Co-Chair Salmon asked if Senator Madison wanted to raise a point of order and then recognized Senator Madison. Senator Madison asked if the vote must first be taken on Senator Chesterfield's motion to immediately consider the main motion. Co-Chair Salmon stated the vote would be on Senator Chesterfield's motion to immediately consider the main motion. **The motion to immediately consider the main motion was passed by voice vote.**

Co-Chair Salmon called for the vote on the main motion by Representative Dale that the Legislative Council review item 4b of the Uniform Personnel Classification and Compensation Plan Subcommittee report, which is the positions for the Arkansas Tech University. The voice vote on the motion passed.

There was a call for a roll call vote on the main motion and Co-Chair Salmon saw three hands for the roll call vote. Co-Chair Salmon asked that alternate members state who they are voting for when they vote. The roll call vote on the main motion was passed by twenty-three (23) yes votes and thirteen (13) no votes.

Review Subcommittee

The Review Subcommittee report was passed over earlier and presented following the report of the Personnel Subcommittee. Co-Chair Salmon recognized Representative Larry Cowling to present the report of the Review Subcommittee. Representative Cowling reported that the Review Subcommittee met on June 6, 2012 and reviewed the following: various methods of finance; discretionary grants; professional or consultant services contracts; and technical services contracts. Representative Cowling stated the information on these items are included in the report and that no items were held. Representative Cowling reported that three of professional services contracts approved by the subcommittee were items due to special language requirements in the agency's appropriation and each contract meets these requirements.

The subcommittee co-chairs asked Representative Summers, Senator Madison, Representative Stubblefield, and Senator Malone to meet with representatives of the Department of Correction for further discussion on the medical contract with Corizon and to provide a report to the Legislative Council. Representative Cowling asked that Representative Summers be recognized to present an oral report on that meeting.

Co-Chair Salmon recognized Representative Summers. Representative Summers reported that they had met with the department and discussed the current and future inmate medical contract. Representative Summers reported that their recommendation is that any future contracts to provide inmate medical services entered into by the department should allow the department to renegotiate with the providers the cost of the contract beyond a five-year term and that the department consider the possibility of not entering into a contract that includes an automatic increase from year to year based on the medical component of the consumer price index. They also recommend to the Legislative Council that members of the Charitable, Penal, and Correctional Institutions Subcommittee meet with the officials of the Department of Correction and Board of Correction to discuss the next request for proposal (RFP) for inmate medical services before the RFP is finalized and sent out for bids.

Representative Cowling moved that the report of the Review Subcommittee be adopted with the additional report and recommendations presented by Representative Summers. The motion was seconded by Representative Benedict and passed by voice vote.

Review of Communications

Co-Chair Salmon referred members to the communications listed as Exhibits H.1 through H.14 in the their packets and stated that Exhibits H.1 through H.11 and Exhibits H.13 and H.14 do not require action, but will be discussed if a member has a question.

Arkansas Board of Parole

Co-Chair Salmon recognized Senator Rapert who asked if representatives from Arkansas Board of Parole could be recognized to respond to questions. Co-Chair Salmon recognized Mr. Solomon Graves, the Administrative Manager for the Arkansas Parole Board, and Mr. Jimmy Wallace, a Commissioner on the Arkansas Parole Board. Mr. Graves and Mr. Wallace responded to several questions regarding the Arkansas Board of Parole's report (Exhibit H.1).

The Legislative Council requested the Arkansas Board of Parole provide a report for the discussion of the Charitable, Penal, and Correctional Institutions Subcommittee that includes the information listed below and that members of the House and Senate Committees on Judiciary be invited to participate in the discussion of the report. The information to be included in the report is as follows:

- 1) A comparison of the number offenders released from the Department of Correction prior to the implementation of Act 570 of 2011 and the number of offenders released since the implementation of Act 570 of 2011, which includes statistical data reflecting the risk classification of the offenders, the crimes for which the offenders were convicted, and whether the offender is a repeat offender.
- 2) A comparison of the number of high risk offenders released by the action of the Parole Board with the number of high risk offenders released as required by Act 570 of 2011.
- 3) A comparison of the risk assessment tool used by the Department of Community Correction (ORAS) and the risk assessment tool used by the Parole Board in effectively assessing the risk classification of an offender.
- 4) A compilation of the number of offenders who had obtained a GED or high school diploma before they were incarcerated and the number of offenders who had obtained a GED or high school diploma by the time they were released.
- 5) What does the Parole Board consider to be the major drawback to Act 570 of 2011?
- 6) How can the Arkansas General Assembly assist the Parole Board and does the Parole Board have any recommendations for changes to current statutes?

Arkansas Building Authority

Co-Chair Salmon recognized Ann Laidlaw, Director of the Arkansas Building Authority, to respond to a question from Representative Debra Hobbs on the Arkansas Building Authority's report listed as Exhibit H.1. Representative Hobbs was recognized and asked about the new

lease listed on page 1 of the report concerning 59.2 acres in Jonesboro. Ms. Laidlaw responded that the Department of Human Services is leasing this acreage to the City of Jonesboro for the operation of an athletic complex.

Revenue Report for May 2012 by the Department of Finance & Administration

Co-Chair Salmon recognized Richard Weiss, Director of the Department of Finance and Administration to respond to a question from Representative David Meeks. Representative Meeks asked for the current balance in the Medicaid Trust Fund. Mr. Weiss responded that the figure reflected in the report is the amount deposited to the Medicaid Trust Fund from the soda pop tax and that his staff informs that the current balance is \$270 million. Mr. Weiss further explained that the Medicaid Trust Fund functions as source of last resort funding for when the Medicaid Program depletes funding from general revenue.

Division of State Parks Special Maintenance Program

Co-Chair Salmon referred members to the request from the Division of State Parks for the Legislative Council's approval of expenditures for the Special Maintenance Program (Exhibit H.12a) and stated this item requires action by the Legislative Council. Co-Chair Salmon recognized Jon Brown, Manager of Park Operations, who explained the process by which the Division of State Parks identifies projects from the fifty-two state parks for the Special Maintenance Program. The projects include repairs to leaking roofs and deteriorated facilities as well as repairs to buildings to comply with the Energy Reduction Act. These projects also include landscaping around lake shores and hiking trails to make them safe, and repairs to playgrounds and roads and improvements to campgrounds. Mr. Brown responded to questions following his explanation.

Senator Bledsoe moved that the Legislative Council approve the expenditures from the Special Maintenance Program as presented. The motion received a second and was passed by voice vote.

Division of State Parks General Revenue Comparison

Co-Chair Salmon referred members to the semi-annual report by the Division of State Parks (Exhibit H.12b) that is a comparison of disbursements of general revenue for fiscal year 2012 with the actual expenditures for fiscal year 2011 and anticipated expenditures for fiscal year 2013 and stated this item requires action by the Legislative Council. Co-Chair Salmon recognized Kevin Carr, Manager of Park Administration to explain the report. Mr. Carr explained the report is required to be reviewed by the Legislative Council and offered to answer questions. There were no questions regarding this report.

Senator Chesterfield moved that semi-annual report by the Division of State Parks be filed as reviewed. The motion received a second and was passed by voice vote.

New Business

Co-Chair Salmon referred the members to the item from the Department of Information Systems listed as Exhibit I.1 on the agenda and stated this would be passed over at this time as there was more work needed on this item.

Review of Professional Services Contract

Co-Chair Salmon referred the members to the item listed as Exhibit I.2 on the agenda, which is the request for the Legislative Council's review of the Department of Veterans Affairs professional consultant contract. Co-Chair Salmon recognized Tracy Pearsall with the Department of Veterans Affairs and asked that he explain this request. Mr. Pearsall explained that the Department of Veterans Affairs wants to contract with one person to serve as both the medical director and primary care physician in a post that will be vacated as of June 30, 2012 when the current medical director's contract expires. Mr. Pearsall answered questions from the members.

Senator Chesterfield moved that the Department of Veterans Affairs professional contract with Robert L. Kerry be filed as reviewed. The motion received a second and was passed by voice vote.

Consideration of Proposed Interim Resolution

Co-Chair Salmon recognized Representative Terry Rice. **Representative Rice moved that the rules be suspended for the purpose of considering a draft resolution that is not included on the agenda. The motion received a second and was passed by voice vote.**

Representative Rice explained that the draft resolution that is being passed out now is in support of the Arkansas Congressional delegation with their efforts in support of the legislation to award the Purple Heart medal to the victims of the shooting incidents in Little Rock, Arkansas and Fort Hood, Texas and calling for the signing of this legislation into law. Representative Rice stated that there has been some opposition to the legislation and he asked the Legislative Council to support this resolution.

Representative Rice moved that the Legislative Council file the resolution to show support for this legislation. The motion received a second and was passed by voice vote.

New Proposals and Resolutions

Co-Chair Salmon referred the members to the thirteen new interim study proposals in their packets and stated that these interim study proposals would be referred to the appropriate committee.

Representative Baker moved that the Legislative Council refer the new interim study proposals as follows: Interim Study Proposal 2011-205 and Interim Study Proposal 2011-206 are referred to the House Committee on Education; Interim Study Proposal 2011-207 is referred to the House Committee on Judiciary; Interim Study Proposals 2011-208, 2011-209, 2011-210, 2011-211, 2011-212, 2011-213, and 2011-214 are referred to the House

Committee on Revenue and Taxation; and Interim Study Proposals 2011-215, 2011-216, and 2011-217 are referred to the House Committee on Public Health, Welfare and Labor. The motion received a second and was passed by voice vote.

Presentations and Announcements

Co-Chair Salmon recognized Co-Chair Tommy Lee Baker for a presentation. Representative Baker presented to David Ferguson a plaque from the House of Representatives and thanked him for his service as the Director of the Bureau of Legislative Research commented that he had very much enjoyed working with him.

Co-Chair Salmon also presented a citation from the Arkansas Senate commending him on his exemplary years of service and wishing him all good things in his well-deserved retirement.

Co-Chair Salmon announced that members and staff are invited to the reception for Mr. Ferguson following the adjournment of the meeting.

Adjournment

The meeting adjourned at 11:00 a.m. as there was no further business to come before the Legislative Council.

Respectfully submitted,

ATTEST:

Senator Mary Anne Salmon
Co-Chair, Senate

David Ferguson
Executive Secretary