

MINUTES OF THE MEETING
OF THE
ARKANSAS LEGISLATIVE COUNCIL

Friday, September 18, 2009

The Arkansas Legislative Council met at 9:00 a.m., Friday, September 18, 2009 in Room 171 of the State Capitol, Little Rock, Arkansas. Co-Chair Maxwell called the meeting to order and dispensed with the calling of the roll. The members who attended are listed on the sign-in sheets.

Adoption of Minutes of the Last Meeting

Senator Faris made a motion to approve the minutes of the August 21, 2009 Legislative Council meeting and the motion passed without objection.

Monthly Revenue Reports

Annual Revenue Report for Fiscal Year 2008-2009

Co-Chair Maxwell recognized Richard Wilson, Assistant Director of the Bureau of Legislative Research, to present the Annual Revenue Report for fiscal year 2008-2009. Mr. Wilson reported that the annual revenue report is being presented approximately a month later than usual due to the Department of Finance and Administration's implementation of a new reporting system, called Arkansas Integrated Reporting System (AIRS), which generates reports in a different format that required study by Bureau staff.

The first page of the report includes a comparison of gross general revenue collections for the last ten years that reflects a negative growth rate in 2002 and in 2009. Also on the first page is a comparison of the percentage of increases in collections of gross income tax and gross sales and use taxes since 1980. Income tax collections grew at a negative rate in 2009 and sales and use tax collections grew at a negative rate in 2008 and 2009, which reflects both the recession and the decrease in taxation on food and groceries.

The figures on pages 2, 3, and 4 reflect the gross collections of general and special revenues in the State of Arkansas during fiscal year 2008-2009. The gross general revenue collections were \$5.6 billion and gross special revenue collections were \$1.67 billion for a total revenue collection of \$7.26 billion. The figures on page 5 show the net available for distribution, which equal the figures for distribution of general and special revenue shown on page 9.

The figures for the distribution of general and special revenues and all beneficiary accounts are shown on pages 6 through 9. A comparison of fiscal year 2008-2009 and fiscal year 2007-2008 distributions of net general revenues and the percentage of the total budget for the fiscal year is shown on pages 10 through 12. The distribution for health and human services for 2008-2009 was \$1.086 billion or twenty-four and one-half percent (24½%) of the budget as compared to the distribution of \$1.043 billion or twenty-three percent (23%) of budget for fiscal year 2007-2008, which reflects a growth rate of four point eleven percent (4.11%). The Educational Excellence Trust Fund distributions for fiscal year 2008-2009 compared to distributions for fiscal year 2007-2008 are shown on page 13 and reflects a negative growth rate of three point forty-one percent (-3.41%). Mr. Wilson answered questions regarding this report.

August 2009 Revenue Report

Co-Chair Maxwell recognized Richard Wilson, Assistant Director of the Bureau of Legislative Research, to present the monthly revenue report for August 2009. Mr. Wilson reported that for the first two months of fiscal year 2010, gross collections were down \$28.5 million from the previous year for a growth rate of negative three point four percent (-3.4 %). The adjusted net available for distribution of the first month of fiscal year 2010 is \$31.4 million dollars ahead of the same month in 2009, for a growth rate of four point three percent (4.3%), due to a transfer of \$61 million into the net. The graph on page 2 reflects that net general revenues are \$33 million below the official forecast, with the ten percent (10%) decrease in gross receipts collections being the main cause. Income tax collections are steady and collections for cigarette and tobacco tax are up \$18 million. The bingo tax collections are down seventy-five percent (75%) as intended by the General Assembly. There were no questions regarding this report.

Senator Horn moved the adoption of the Annual Revenue Report for Fiscal Year 2008-09 and the Monthly Revenue Report for August 2009 and the motion passed by voice vote.

Report of the Executive Subcommittee

Co-Chair Maxwell recognized Co-Chair Wilkins to present the report of the Executive Subcommittee. Senator Wilkins reported that the Executive Subcommittee met on September 17, 2009 and heard an update from Gary Dean with Williams and Dean Associated Architects on plans for use of the fifth floor of the Big Mac Building. The renovation would consist the two committee rooms, as well as space for offices for legislative staff. One committee room would seat 100 committee members and 85 members of the public and the second committee room would seat 30 committee members and 25 members of the public. The renovation plans also include construction of a new entry for security and accessibility purposes and construction of a tunnel between the Big Mac Building and the State Capitol at an approximate cost of \$1.8 million. The Executive Subcommittee passed a motion to recommend the current architectural plan to the Arkansas Building Authority as presented and to designate office space be occupied by legislative staff as feasible.

The subcommittee also heard a report on the possibility of back-up power in the ABA-501 Building to prevent loss of access to the Internet and the General Assembly web page. The Arkansas Building Authority provided an estimate of \$100,000.00 for the installation of back-up

power to the building. The subcommittee also agreed to discuss with the Senate and House of Representatives, within the next thirty to sixty days, a uniform procedure for the introduction of non-appropriation bills during the fiscal session.

Senator Wilkins moved that the report of the Executive Subcommittee be adopted.

Co-Chair Maxwell recognized Anne Laidlaw, Executive Director of the Arkansas Building Authority, to respond to questions. Ms. Laidlaw provided the following information in response to questions:

- Buildings maintained by the Arkansas Building Authority do not have back-up power systems, with the exception of the Big Mac Building. The Arkansas Building Authority has purchased a portable generator that can be brought to a building to maintain critical services, but each state agency is responsible for making advance arrangements with the Arkansas Building Authority in the event that power is lost.
- The Arkansas Building Authority does not have information regarding back-up power systems for those buildings that are maintained by a state agency and not the Arkansas Building Authority.
- The loss of power to the ABA-501 Building the previous Monday was due to flooding in the Entergy vault from the excessive rain and that Entergy was on-site immediately.

Co-Chair Maxwell recognized David Ferguson, Director of the Bureau of Legislative Research to respond to questions. Mr. Ferguson provided the following information in response to questions:

- There are several reasons for the Subcommittee's recommendation, one of which is the long-standing need for additional legislative space. During the ALC/JBC meetings, Room 171 is at capacity and there is not enough room to accommodate committee members, legislative staff, state agency staff, and the general public. The storage of budget materials is also a factor in space considerations. The renovation would provide a committee meeting room that would accommodate 100 committee members, which would meet the space needs during the ALC/JBC budget hearings.
- There has also been a long-standing shortage of office space for Bureau of Legislative Research staff in the State Capitol and in the ABA-501 Building. The attorneys who draft legislation and the attorneys who review the legislation are in separate buildings, which limits communication between them.
- When the computer system maintained by the Bureau outgrew the space available in the State Capitol, it was moved to the ABA-501 Building and

failure of the computer system may be of concern in the event of a future power failure in the ABA-501 Building.

- The Big Mac Building would accommodate about 100 permanent Bureau staff in one cohesive unit and also temporary staff that are needed during legislative sessions. Bureau staff in the ABA-501 Building would be moved closer to the State Capitol. Some Bureau staff would remain in the State Capitol to provide bill request intake, budget request intake, reproduction services, and other essential services. This would free space in the ABA-501 Building for other state agencies and space in the State Capitol for office space for members of the General Assembly.
- Another factor is the need for more office space for members of the General Assembly, particularly now that the General Assembly will be meeting in annual sessions. The relocation of Bureau staff would provide space in the State Capitol for more offices for members of the General Assembly.
- The tunnel between the State Capitol and the Big Mac Building is necessary to allow Bureau staff to perform their jobs appropriately, due to the amount of documents and other meeting supplies would need to be transported between the buildings. Last session, the Bureau used 10.44 tons of paper.
- The tunnel would also improve access to the State Capitol by providing another ADA- accessible entrance. Currently, wheel-chair access to the State Capitol is in the middle of the parking lot at the west entrance. The tunnel and elevator would also provide a protected pathway and entrance for staff to safely transport carts loaded with meeting materials and supplies and for persons needing wheel-chair access.

Co-Chair Maxwell recognized the Speaker of the House, Representative Robbie Wills, to respond to questions. Representative Wills provided the following information in response to questions:

- The House Management Committee has not made a final determination on number of offices, but has noted that the Bureau offices located in the basement would not require any renovation prior to being occupied.
- The offices for House members will consist of small work spaces and cubicles similar to the cubicles currently available for House members in Room 07.
- The House Management Committee believes that all House members should have a space to work while they are at the State Capitol and currently only House committee chairs have an office in the capitol.

- The offices located in the basement would be occupied for legislators, but the Bureau would have a central location in the State Capitol where legislators would make requests for bill drafting and fiscal review.
- The Bureau staff being in one centralized location makes sense for the convenience of the General Assembly and the public and for the ability of administrators to supervise their employees. Also, 70,000 square feet at once of office space does not come available very often.
- Consideration must also be given to security issues, which makes the tunnel access necessary for the protection of staff, the public, the members of the press, and members of the General Assembly.

Co-Chair Maxwell recognized Gary Dean, with Williams and Dean Associated Architects, to respond to questions. Mr. Dean provided the following information in response to questions:

- The physical link between the Big Mac Building and the lower level of the State Capitol would be at the point where the tunnel comes above grade. At this point, there will be an approximately 400 square foot entry structure from the existing side walks in front of the Big Mac that will provide controlled-access entry into that side of the State Capitol as well as the fifth floor of the Big Mac Building.
- There is 66,000 square feet on that floor of the Big Mac Building, which is the biggest building in the capitol complex. The controlled-access entry point is an important aspect of this design.

There followed discussion among the members of the proposed renovation plan.

Senator Faris moved for immediate consideration of the motion to adopt the Executive Subcommittee report to the Legislative Council and the motion passed by voice vote.

Senator Broadway was recognized for a procedural question and he asked if the motion was to adopt the Executive Subcommittee report and where discussion of the renovation plans would next be considered. Co-Chair Maxwell responded that adoption of the Executive Subcommittee report would allow the project to go forward to the next step, which is consideration by the Joint Legislative Facilities Committee.

Co-Chair Maxwell called for the vote to adopt the Executive Subcommittee report to the Legislative Council and the motion passed by voice vote.

Reports of Standing Committees

Administrative Rules and Regulations Subcommittee

Senator Altes moved the adoption of the September 15, 2009 report of the Administrative Rules and Regulations Subcommittee and the motion passed by voice vote.

Charitable, Penal & Correctional Institutions Subcommittee

Co-Chair Maxwell recognized Senator Glover to present the report of the Charitable, Penal & Correctional Institutions Subcommittee. Senator Glover reported that the subcommittee met on September 8, 2009 at the Arkansas Department of Correction's Willis Sargent Training Academy and then toured the Tucker Maximum Security Unit. The subcommittee also viewed a video presentation of the history of the prison and heard a report on the employee turnover rate and the recidivism rate. There were no questions concerning this report.

Senator Glover moved the adoption of the September 8, 2009 report of the Charitable, Penal and Correctional Institutions Subcommittee. The motion was seconded by Senator Altes and passed by voice vote.

Claims Review Subcommittee

Co-Chair Maxwell recognized Representative Flowers to present the report of the Claims Review Subcommittee. Representative Flowers reported that the Claims Review Subcommittee met on September 14, 2009 and affirmed claims for outdated warrants to St. Vincent Infirmary and the DeWitt treasurer. The subcommittee also affirmed the Claims Commission's award to SSM, LLC for expenses incurred in setting up the business. One claim by a firefighter was remanded to the Claims Commission for further evidence or findings. The subcommittee also affirmed the Claims Commission's rulings regarding eight claims submitted by inmates of the Arkansas Department of Correction.

Representative Flowers moved the adoption of the September 14, 2009 report of the Claims Review Subcommittee. The motion was seconded by Senator Altes and passed by voice vote.

Higher Education Subcommittee

Co-Chair Maxwell recognized Representative Roebuck to present the report of the Higher Education Subcommittee. Representative Roebuck reported that the subcommittee met on September 17, 2009 and discussed Interim Study Proposal 2009-180 by Senator Jimmy Jeffress. Senator Jeffress pointed out to the subcommittee that there are three musts that must happen after the Arkansas lottery implementation: (1) the State must do its part to fund higher education; (2) there must be a net reduction cost to students; and (3) institutions must resist the urge to add new programs and growth in the short term. The subcommittee also heard a great presentation from Bureau staff regarding the Affordability of Higher Education for Undergraduate Students in

this State and an update on the proceedings of the Arkansas Academic Challenge Scholarship Advisory Council. There were no questions regarding this report.

Representative Roebuck moved the adoption of the September 14, 2009 report of the Higher Education Subcommittee. The motion was seconded by Senator Altes and passed by voice vote.

Performance Evaluation and Expenditure Review (PEER) Subcommittee

Co-Chair Maxwell recognized Senator Bryles to present the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee. Senator Bryles reported that the PEER Subcommittee met on September 3, 2009 and reviewed and approved all items on the agenda. There were no questions regarding this report.

Senator Bryles moved the adoption of the September 3, 2009 report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee. The motion was seconded by Senator Altes and passed by voice vote.

Consideration of Request from the Lieutenant Governor's Office

Senator Bryles moved that the rules be suspended to allow the consideration of a request from the Lieutenant Governor's Office for an emergency transfer of \$15, 000 in appropriation from operating expenses to extra help (see Exhibit F.12), which is allowed by special language with prior review of the Legislative Council. The motion was seconded by Senator Altes and passed by voice vote.

Senator Bryles moved that the request from the Lieutenant Governor's Office for an emergency transfer of \$15, 000 in appropriation from operating expenses to extra help has been reviewed by the Legislative Council. The motion was seconded by Senator Altes and passed by voice vote.

Policy-Making Subcommittee

Co-Chair Maxwell recognized Representative George to present an oral report from the Policy-Making Subcommittee. Representative George reported that the Policy-Making Subcommittee met at 8:30 a.m. on September 18, 2009 and reviewed committee balances and reviewed for germaneness the interim study proposals filed directly with committee and determined no action was necessary. The subcommittee also approved the technical services contract in the amount of \$90,200.00 between the Joint Committee on Public Retirement and Social Security Programs and the Osborn, Carreiro, and Associates for actuarial services from September 15, 2009 through June 30, 2011.

Representative George moved that the September 18, 2009 report of the Policy-Making Subcommittee be adopted. The motion was seconded by Senator Faris and passed by voice vote.

Review Subcommittee

Co-Chair Maxwell recognized Senator Horn to present the Review Subcommittee report. Senator Horn reported that the Review Subcommittee met on September 2, 2009 and all items on the agenda were reviewed and approved and no items were held.

Senator Horn moved the adoption of the September 2, 2009 report of the Review Subcommittee. The motion was seconded by Senator Altes and passed by voice vote.

Co-Chair Maxwell recognized Senator Sue Madison for a question. Senator Madison stated that the Review Subcommittee had received 68 pages of information from the Department of Education concerning scholastic audits. Senator Madison asked that the Department of Education be requested to provide members the annual cost of the scholastic audits and the effectiveness of the audits.

Co-Chair Maxwell asked that staff convey the request to the Department.

Uniform Personnel Classification and Compensation Plan Subcommittee

Co-Chair Maxwell recognized Senator Faris to present the report of the Uniform Personnel Classification and Compensation Plan Subcommittee. Senator Faris reported that the subcommittee met on September 17, 2009 and heard and approved routine reports, two requests for special entry rates for exceptionally well-qualified applicants, two requests for OPM pool positions, requests from the Department of Correction and the Department of Finance and Administration for salary administration plan grids, miscellaneous federal grant positions, and circuit court salary grid adjustments. There were no questions concerning this report.

Senator Faris moved the adoption of the September 17, 2009 report of the Uniform Personnel Classification and Compensation Plan Subcommittee. The motion was seconded by Senator Altes and passed by voice vote.

Reports of Interim or Special CommitteesArkansas Legislative Task Force on Autism

Co-Chair Maxwell recognized Representative Lindsey to present the report from the Arkansas Legislative Task Force on Autism. Representative Lindsey reported that the Arkansas Legislative Task Force on Autism held its first meeting on August 21, 2009, elected co-chairs (Senator Mary Ann Salmon and Representative Uvalde Lindsey), set in place rules and regulations, and set the meeting calendar. The Task Force is fully functional and is moving forward.

Legislative Audit Performance Audit

Co-Chair Maxwell recognized David Ferguson, Director of the Bureau of Legislative Research, to present the referral of the Performance Audit. Mr. Ferguson explained that the Legislative Joint Auditing Committee referred to the Legislative Council the Performance Audit on the

Arkansas Natural Resources Commission Levee District Oversight and requested that it be referred to a standing committee for review. Mr. Ferguson stated that it has been suggested that the performance audit be referred to the City, County, and Local Affairs Committee.

Representative George moved that the Performance Audit on the Arkansas Natural Resources Commission Levee District Oversight be referred to the City, County, and Local Affairs Committee for review. The motion received a second from Senator Altes and passed by voice vote.

Review of Communications

Co-Chair Maxwell referred members to the Arkansas Natural Resources Commission's request (Exhibit H-1) for the Legislative Council's advice concerning the issuance of bonds in accordance with the 2010-2011 Biennium Plan of Work for the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program, submitted pursuant to A.C.A. § 15-20-1303(c)(2)(B)(ii).

Co-Chair Maxwell recognized Randy Young, Executive Direction of the Arkansas Natural Resources Commission to present this request. Mr. Young reported that the Arkansas Natural Resources Commission has adopted its Plan of Work for the 2010-2011 Biennium for the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Financing Program. Mr. Young explained that the law requires that the plan be submitted for the review of the Governor and the review and advice of the Legislative Council; and therefore, he is here requesting the advice of the Legislative Council.

The plan authorizes the commission to issue up to \$60,000,000 in general obligation bonds, as approved by the voters at the last general election, which will be used for financing water and waste water projects. Two projects have been approved by the commission: (1) a deferred loan to the Northwest Arkansas Conservation Authority to finance the regional waste water plant in northwest Arkansas; and (2) a grant to the Ozark Mountain Regional Public Water Authority to finance a project to bring drinking water to that region. The plan also details the money that will be used to match the federal funds under the Clean Water and Drinking Water Revolving Loan Program. Mr. Young answered questions from the members.

Representative Overbey moved that the Legislative Council has favorably reviewed the Arkansas Natural Resources Commission's the 2010-2011 Biennium Plan of Work for the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program. The motion was seconded by Senator Altes and passed by a voice vote.

Co-Chair Maxwell referred members to the other communications before the Legislative Council and stated these are routine communications and are submitted for the members review.

Co-Chair Maxwell recognized Representative Rice for a question. Representative Rice referred to the Cost-Effectiveness of State-Owned Vehicles Report (Exhibit H.7b) and asked for a comparison of the ratio of vehicles to employees between the University of Arkansas at

Fayetteville and the ratio of vehicles to employees at a smaller university campus, and whether the ratio of vehicles to employees is proportional between the universities.

The Department of Finance and Administration staff provided this information to Representative Rice following the meeting. There were no further questions and the remaining communications (Exhibits H.2 through H.10) were filed without objection.

New Business

Co-Chair Maxwell recognized Senator Luker who asked the chairmen to consider setting aside time at a subsequent meeting for discussion of what consideration, if any, the committee gave to moving out of this building some non-legislative activities that could just as well be performed in other space instead of separating the legislature from its staff. Senator Luker commented that he would like some discussion about what has that been weighed in the proposals that were before us earlier. Co-Chair Maxwell stated this would be discussed at future time.

Co-Chair Maxwell recognized Senator Hendren who asked that the staff determine whether or not the State had made an offer to purchase the Victory Building from the Arkansas Teachers Retirement System. He asked whether the State should consider buying the building instead paying rent for office space. Co-Chair Maxwell recognized Senator Malone who commented that the Teachers Retirement System declined an offer to purchase the building for \$18 million dollars and is now offering the Victory Building for \$20 million. Senator Hendren responded that he feels the state should consider purchasing the Victory Building. Co-Chair Maxwell stated that Senator Hendren's request would be referred to the Arkansas Building Authority.

New Proposals and Resolutions

Co-Chair Maxwell recognized Senator Glover to present Interim Study Proposal 2009-187, which requests the Senate Interim Committee on Public Health, Welfare, and Labor study the prevalence of strokes and hypertension among Arkansans. Senator Glover commented he that filed Interim Study Proposal 2009-187 at the request of an organization that works with people affected by hypertension and stroke.

Senator Glover moved that the Legislative Council refer Interim Study Proposal 2009-187 to the Senate Interim Committee on Public Health, Welfare, and Labor for study and the motion passed by voice vote.

Report of the Executive Secretary

Co-Chair Maxwell recognized David Ferguson who reported that the statutory requirement for the Bureau of Legislative Research to provide assistance to the Arkansas Lottery Commission expired as of September 1, 2009 and the Arkansas Lottery Commission has commended Bureau staff for the extensive assistance provided to the Lottery Commission. The Bureau of Legislative Research also assigned other Bureau staff to assist the Arkansas Lottery Commission Oversight Committee to keep the two functions separate.

Adjournment

There being no further business to come before the committee the meeting was adjourned at 10:30 a.m.

Respectfully submitted,

ATTEST:

Representative Allen Maxwell
Co-Chair, Senate

David Ferguson
Executive Secretary