

MINUTES OF THE MEETING
OF THE
ARKANSAS LEGISLATIVE COUNCIL

Friday, July 20, 2012

The Arkansas Legislative Council met at 9:00 a.m., Friday, July 20, 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 June 15, 2012 meeting of the Legislative Council and asked if there were any questions. There were no questions.

Senator Lavery moved that the minutes of the June 15, 2012 meeting of the Legislative Council be approved. The motion received a second and the motion passed by voice vote.

June 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 June 2012. Mr. Wilson reported that after twelve months of this fiscal year, the June 2012 revenue report reflects that gross collections are \$250 million ahead of the previous year for a growth rate of four point four percent (4.4%) and the net available is \$178.7 million ahead of last year for a growth rate of three point nine percent (3.9%). Mr. Wilson noted that the graph page shows that after June, the net general revenue available for distribution is \$145.6 million over the official revenue forecast for the year. Mr. Wilson referred to the spreadsheet and noted that gross receipts are growing at two point eight percent (2.8%), income tax collections grew at six point three percent (6.3%), tobacco tax collections were flat, tax collections on alcohol grew at a little less than two percent (2%), collections for racing were negative, and collections for electronic games compensated for that with a growth rate of sixty-three percent (63%) for the year.

Mr. Wilson responded to several questions. Richard Weiss, Director of the Department of Finance and Administration, also came forward at the request of Representative Burris and responded to several questions.

Report of the Executive Subcommittee

Co-Chair Baker recognized Co-Chair Salmon to present the report of the Executive Subcommittee of the Legislative Council. Co-Chair Salmon reported that the Executive Subcommittee met on Thursday, July 19, 2012 and discussed the Governor's request to hold two million dollars (\$2 million) in carry over funds in the Bureau of Legislative Research budget

from the Central Services Fund for fiscal year 2012-2013. The subcommittee passed a motion to table discussion of the issue to a later date.

The subcommittee also discussed proposed revisions to the Legislative Council Rules and chose to take up the issue at the Executive Subcommittee meeting in September 2012. The subcommittee passed a motion to provide information to the co-chairs of the Legislative Council subcommittees concerning the powers of the Legislative Council subcommittees.

The subcommittee also heard from Marty Garrity, Director of the Bureau of Legislative Research, regarding the usage of Wi-Fi in committee rooms and the public spaces on the fifth floor of One Capitol Mall, which will be available beginning August 2012. The Wi-Fi access in the lobby will only be available one hour before and after committee meetings. Ms. Garrity also introduced Matthew Miller as the new Assistant Director of the Legal Services Division. There were no questions regarding the report.

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

Co-Chair Salmon asked that the Legislative Council take a moment to recognize Marty Garrity as the new director of the Bureau of Legislative Research, and also Matthew Miller as the new Assistant Director of the Legal Services Division. The members applauded.

Co-Chair Salmon also asked Jerri Derlikowski to come forward and informed the Legislative Council that this would be her last meeting as a Bureau employee as she is retiring from 30 years of service. Ms. Derlikowski has been with the Bureau for thirteen years and the Administrator of the Policy Analysis and Research Section for seven years. As the administrator, Ms. Derlikowski has been the manager and leading author of every K-12 adequacy study produced by the Bureau since the Lake View case and has coordinated the efforts of seven research staff. Senator Salmon asked the Legislative Council to recognize Ms. Derlikowski for her service. The members stood and applauded.

Co-Chair Salmon also at this time read the letter from David Ferguson, thanking the members of the General Assembly for the gift of a voucher for a cruise and for the send off upon his retirement.

Co-Chair Baker also noted that in attendance today are new members of the General Assembly who will assume office in January 2013. Co-Chair Baker asked the new General Assembly members to stand and be recognized. The Legislative Council members applauded.

Reports of Standing Subcommittees

Administrative Rules and Regulations Subcommittee

Co-Chair Baker recognized Senator Malone to present the report of the Administrative Rules and Regulations Subcommittee. Co-Chair Baker also commented that members should attend one of meetings of this subcommittee to see how thoroughly proposed rules are reviewed. Senator Malone thanked Co-Chair Baker for his comments about the subcommittee and stated that there will be proposed legislation in the upcoming legislative session to give the General Assembly

more authority. Senator Malone referred members to the report of the July 13, 2012 meeting of the Administrative Rules and Regulations Subcommittee in their packets and offered to answer questions. There were no questions.

Senator Malone 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 Baker recognized Representative Johnnie Roebuck to present the report of the Higher Education Subcommittee. Representative Roebuck reported that the subcommittee met on July 19, 2012 and heard and discussed several reports. Representative Roebuck referred to the presentation from Dr. Daniel Rahn, Chancellor of the University of Arkansas for Medical Sciences (UAMS), and commented his efforts on cost containment are a role model for other institutions. Representative Roebuck offered to answer questions on any of the items in the report. There were no questions.

Representative Roebuck 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 Baker 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 July 12, 2012 and approved one item; a GIF Set Aside Release request in the amount of \$587,003.00 for the Department of Veterans Affairs. The purpose of this requested funding is to repay veterans that were improperly charged over the last few years.

Senator Key also reported that the subcommittee reviewed a request for fiscal year 2012 from Northwest Arkansas Community College, listed as item D.1.a. on page one of the report, which was approved on an emergency basis by the CFO and co-chairs of the PEER Subcommittee. Representatives of the Northwest Arkansas Community College did not attend the subcommittee meeting due to scheduling issues and the subcommittee asked that they attend the Legislative Council meeting today in order to respond to questions. Senator Key stated that all items were reviewed and no items were held.

Senator Key moved the adoption of the report by the Performance Evaluation and Expenditure Review (PEER) Subcommittee. The motion received a second.

Co-Chair Baker recognized Mr. Jim House, the Executive Director for Government Relations at Northwest Arkansas Community College. Mr. House commented that he appreciated the opportunity to come today and answer questions.

Co-Chair Baker recognized Senator Madison who commented the subcommittee's questions centered on why an emergency appropriation was necessary this soon following the fiscal session and she asked what grants triggered the need for an extra appropriation. Mr. Hall responded that it was the result of a accumulation of medium-sized grants and that the college

had received a \$14 million Department of Labor grant, which is going to help all twenty-two two-year colleges with remediation programs. This grant will kick-in during fiscal year 2013 and most of the expenses will begin in fiscal year 2013.

Mr. Hall stated that the reason for an emergency request to the Department of Finance and Administration for additional appropriation was because the Northwest Arkansas Community College exceeded by June 2012 the cash appropriation for the extra help by about \$230,000.00. This was caused by the installation of a computer program, that was received in 2001 from the organization known as Arkansas Banner User Group (ABUG), for the purpose of transmitting and converting data from the student information and finance software system known as Banner to the AASIS program. Mr. Hall stated that the computer program picked up the unrestricted positions and salaries, but did not pick up the restricted positions and salaries. Mr. Hall commented that Northwest Arkansas Community College is one of eight schools that use the Banner software program and he is concerned that there may be other schools with the same problem experienced by Northwest Arkansas Community College.

Senator Madison commented that the investigation determined that the problem resulted from a computer program patch and she would like to have the discussion of this issue referred to the Higher Education Subcommittee. Senator Madison asked if a separate motion was needed to refer the issue.

Co-Chair Baker stated that a separate motion would be required. **Co-Chair Baker called for the vote on Senator Key's motion to adopt the report by the Performance Evaluation and Expenditure Review (PEER) Subcommittee and the motion passed by voice vote.**

Co-Chair Baker recognized Senator Madison for her motion. **Senator Madison moved that the issue of the translation patch and software differences between Banner and AASIS be referred to the Higher Education Subcommittee. The motion received a second and was passed by voice vote.**

Review Subcommittee

Co-Chair Baker recognized Senator Lavery to present the report of the Review Subcommittee. Senator Lavery reported that the Review Subcommittee met on July 11, 2012 and reviewed the following: various methods of finance; construction projects exceeding \$5 million dollars; discretionary grants; and professional consultant services contracts. Senator Lavery noted that on page two of the subcommittee's report is a revised transmittal form for the University of Arkansas' Founders Hall project, which includes the updated information on the project that was given verbally during the subcommittee meeting.

Senator Lavery reported that a professional consultant services contract submitted by the Department of Human Services was held for additional information, which the agency has now provided and the contract has been released.

Senator Lavery moved that the report of the Review Subcommittee be adopted with the following change; the hold on the professional services contract submitted by the Department of Human Services (listed as item 13 on page 9 of the report) has been released and the contract stands as reviewed.

Co-Chair Baker recognized Representative Roebuck who stated that from a discussion with the U of A officials she understands there is an amendment to the Founders Hall contract, on page 2 of the report, and the increased funding from Chartwells will not be complete for another two weeks. Representative Roebuck stated that she feels more time is needed to review the contract because not all of the information is available at this time.

Representative Roebuck moved that item A on page two of the report, which is the Founder Hall contract submitted by the University of Arkansas System, be referred back to the Review Subcommittee. The motion received a second from Senator Lavery and passed by voice vote.

Senator Lavery moved that the amended report of the Review Subcommittee be adopted. The motion received a second and was passed by voice vote.

Uniform Personnel Classification and Compensation Plan Subcommittee

Co-Chair Baker recognized Representative King to present the report of the Uniform Personnel Classification and Compensation Plan Subcommittee. Representative King reported that the Uniform Personnel Classification and Compensation Plan Subcommittee met on July 17, 2012 and reviewed the following reports: monthly reports pertaining to grid movements at multiple agencies based on approved salary administration grids; provisional position reports from the two-year and four-year institutions showing new and continued positions for fiscal year 2013; a report from the Department of Finance and Administration detailing exceptionally well-qualified candidates and labor market rates approved by the Chief Fiscal Officer; and requests for growth pool positions from the Department of Workforce Services, the Department of Higher Education, the Public Service Commission, and the Department of Community Correction that also included a request for a new title; a swap pool position request from the Department of Human Services for the Behavioral Health Division; and a request for exceptionally well-qualified applicants from the Department of Information Systems and the Board of Accountancy. The subcommittee also heard a discussion concerning an interpreter position at the Arkansas Rehabilitation Services Department of Career Education. The subcommittee passed a motion to request the Department of Finance and Administration audit the position and to submit a report to the Personnel Subcommittee when the audit is complete.

Representative King moved that the report of the Uniform Personnel Classification and Compensation Plan Subcommittee be adopted. The motion received a second and was passed by voice vote.

At this point, Co-Chair Baker reminded the co-chairs of the Legislative Council subcommittees that the Legislative Council will not meet during the month of August 2012 and that the actions of the subcommittees that meet in August will be final and reported to the Legislative Council in September 2012.

Co-Chair Baker recognized Representative Cowling who announced that the Review Subcommittee is scheduled to meet on Thursday, August 2, 2012 at 10:00 a.m. instead of the usual meeting date on Wednesday.

Reports of Interim or Special Committees

Arkansas Lottery Commission Legislative Oversight Committee

Co-Chair Baker recognized Senator Key to present a report from the Arkansas Lottery Commission Legislative Oversight Committee. Senator Key reported that the Arkansas Lottery Commission Legislative Oversight Committee met on June 19, 2012 and heard a brief update on the Lottery Commission from the newly-elected commission chair, Ben Pickard, and an agency update from Bishop Woosley, the Lottery Commission Director. The committee also heard a presentation of the Lottery Commission's budget for fiscal year 2013 that was reviewed without objection. The committee also heard a presentation of the revisions to the contract with Scientific Games, which resulted in an additional \$2 million of net proceeds to fund scholarships that was also reviewed without objection.

Representative Steel presented a final report on Act 122 of 2011 from Jerri Derlikowski, Administrator of the Policy Analysis and Research Section, that was reviewed without objection. Senator Key stated that the report will be made available to interested members. Senator Key also reported that the committee heard a report on the applications for the 2012 Academic Challenge Scholarships from Shane Broadway, Interim Director of the Department of Higher Education.

Senator Key moved that the report of the Arkansas Lottery Commission Legislative Oversight Committee be adopted. The motion received a second and was passed by voice vote.

Review of Communications

Co-Chair Baker referred members to the communications listed as Exhibits H.1 through H.19 in their packets and stated that Exhibit H.5, Exhibit H.11 and Exhibit H.17a require action by the Legislative Council. Co-Chair Baker asked if there were questions concerning any of the other communications.

Arkansas Oil and Gas Commission

Co-Chair Baker recognized Co-Chair Salmon who asked if a representative from Arkansas Oil and Gas Commission could be recognized to respond to questions. Co-Chair Baker recognized Mr. Lawrence Bengal, Director, of the Arkansas Oil and Gas Commission. Co-Chair Salmon referred to the Arkansas Oil and Gas Commission's quarterly report of activities in the Fayetteville Shale (Exhibit H.4) and noted that several citations had been issued with many issued to XTO Energy, Incorporated. Co-Chair Salmon asked if the company was doing any better since being cited. Mr. Bengal commented that there were seventeen (17) citations to XTO in this quarter that were a result of the company beginning work on the well site before permits were issued. Mr. Bengal stated that the company contractor began work on setting the conductor pipe before permits were issued. He stated that a rule was promulgated last summer that included the conductor pipe in the permit process, but that the Arkansas Oil and Gas Commission is proposing a rule revision to once again remove the conductor pipe from the permit process. Mr. Bengal stated there was one fine issued this quarter for a paperwork violation and that if a company corrects a non-compliance issue within the allowed time period,

the company will not be fined. He also stated the Arkansas Oil and Gas Commission will be requesting additional inspector positions in the next budget request.

Arkansas State Parks Division Request

Co-Chair Baker referred members to the request from the Arkansas State Parks Division for the Legislative Council's advice concerning the priority land acquisitions (Exhibit H.5) and asked for a motion.

Co-Chair Salmon moved that the Legislative Council give favorable advice to the Arkansas State Park Division's priority land acquisitions as submitted in Exhibit H.5. The motion was seconded by Representative Stewart and passed by voice vote.

Annual Report for the Child Death Review Panel

Co-Chair Baker referred members to the Annual Report for Fiscal Year 2011-2012 from the Child Death Review Panel (Exhibit H.11) and asked for a motion to refer the report to the Senate Interim Committee on Children and Youth and the House Interim Committee on Aging, Children and Youth, Legislative and Military Affairs.

Representative Powers moved that the Annual Report for Fiscal Year 2011-2012 from the Child Death Review Panel (Exhibit H.11) be referred to the Senate Interim Committee on Children and Youth and the House Interim Committee on Aging, Children and Youth, Legislative and Military Affairs. The motion received a second and was passed by voice vote.

Arkansas Department of Health

Co-Chair Baker referred members to the request for the Legislative Council's review of the Arkansas Department of Health sub grant with Crittenden EMS LLC (Exhibit H.17a), which was submitted pursuant to A.C.A. § 19-11-264, and asked for a motion that it be reviewed.

Senator Chesterfield moved that the Arkansas Department of Health sub grant with Crittenden EMS LLC (Exhibit H.17a) be filed as reviewed. The motion received a second and was passed by voice vote.

Local Government Inmate Cost Report

Co-Chair Baker recognized Co-Chair Salmon who stated that the Association of Arkansas Counties has filed their Local Government Inmate Cost Report for 2011 (Exhibit H.7) as required Section 34 of Act 1097 of 2011. Co-Chair Salmon stated that the act also requires the Division of Legislative Audit to verify the accuracy of the information submitted, but that the Division of Legislative Audit will not be able to submit their findings until later. Co-Chair Salmon asked that the Division of Legislative Audit be recognized to come forward and discuss this requirement.

Co-Chair Baker recognized June Barron, Deputy Legislative Auditor, and Frank Arey, Legal Counsel, with the Division of Legislative Audit. Ms. Barron explained that the act requires that

the Association of Arkansas Counties submit the report to the Legislative Council by July 1 and requires the Division of Legislative Audit to verify the accuracy of the numbers during the routine audit of the selected counties. Ms. Barron stated audits are just beginning of the fifteen counties that were selected for the cost report and it will probably be December 2012 before the verification is submitted to the Legislative Council.

Co-Chair Salmon moved that the Legislative Council's review the Local Government Inmate Cost Report for 2011 (Exhibit H.7) from Association of Arkansas Counties be delayed until December 2012 meeting when the Division of Legislative Audit is able to submit the verification of the figures. The motion received a second and the motion was passed by voice vote.

Arkansas Department of Environmental Quality

Co-Chair Baker recognized Co-Chair Salmon who asked if officials from the Department of Environmental Quality could be recognized to respond to questions regarding the reports listed as Exhibit H.15a and Exhibit H.15b on the agenda. Co-Chair Salmon asked that the reports be held until the next meeting of the Legislative Council as representatives of the Department of Environmental Quality were not attendance today.

There were no further questions and the other communications were filed.

New Business

Co-Chair Baker asked if any member had new business to bring before the Legislative Council and there was none.

New Proposals and Resolutions

Co-Chair Baker referred the members to the two new interim study proposals in their packets and stated the action of the Legislative Council is to refer these interim study proposals to the appropriate committee.

Co-Chair Salmon moved that the Legislative Council refer Interim Study Proposal 2011-218 to the House Committee on Agriculture, Forestry and Economic Development and that the Legislative Council refer Interim Study Proposal 2011-219 to the House Committee on Judiciary. The motion received a second and was passed by voice vote.

Adjournment

The meeting adjourned at 10:20 a.m. as there was no further business to come before the Legislative Council.

Respectfully submitted,

ATTEST:

Representative Tommy Lee Baker
Co-Chair, House

Marty Garrity
Executive Secretary