

**MINUTES OF THE MEETING**  
**OF THE**  
**ARKANSAS LEGISLATIVE COUNCIL**

**Tuesday, May 28, 2013**

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The Arkansas Legislative Council met at 9:00 a.m., Tuesday, May 28, 2013 in Committee Room A of the Big Mac Building, Little Rock, Arkansas.

Seat Selection

Co-Chair John Charles Edwards called the meeting to order and stated the first order of business was the selection of seat assignments and asked that member's names be called in order of seniority for this purpose. The roll call for seat selection was conducted and is filed as Exhibit B.

**Minutes of the Last Meeting**

Co-Chair Edwards referred the members to the minutes of the December 21, 2012 meeting (Exhibit C) of the Legislative Council and asked if there were any questions. There were no questions. **The motion to adopt minutes of the December 21, 2013 meeting was passed by voice vote.**

**Presentation of Revenue Report**

Co-Chair Edwards recognized Richard Wilson, Assistant Director for Research Services with the Bureau of Legislative Research, to present the monthly revenue report for April 2013. Mr. Wilson reported that the Monthly Revenue Report for April 2013 (Exhibit D), reflects that after ten months of the current fiscal year, collections for gross receipts are \$ 239.7 million ahead of the same period last year for a growth rate of four point nine percent (4.9%) and the net revenue available is \$240.1 million ahead for a growth rate of six point one percent (6.1%). Mr. Wilson referred to the graph and reported that it shows that after ten months the net general revenue available for distribution is \$164 million ahead of the official revenue forecast. The spreadsheet reflects that gross receipts for sales and use tax collections continue to be flat, but the income tax collections are in excess of eight percent (8%). There were no questions.

**Report of the Executive Subcommittee**

Co-Chair Edwards recognized Co-Chair Paul Bookout to give an oral report for the Executive Subcommittee. Co-Chair Bookout reported that the Executive Subcommittee met at 8:00 a.m. this morning, May 28, 2013. The Executive Subcommittee discussed whether or not to increase the mileage reimbursement rate paid by the Bureau of Legislative Research to members of the General Assembly to \$0.565, which is the federal GSA reimbursement rate as well as the current reimbursement rate paid by the Arkansas Senate and the Arkansas House of Representatives. The Executive Subcommittee passed a motion by Representative Edwards to raise the mileage reimbursement rate paid by the Bureau of Legislative Research to \$0.565 and to set the meal reimbursement rate to match reimbursement rate of the federal GSA.

The Executive Subcommittee also discussed whether or not to cancel the August 2013 Legislative Council meeting due to conflicts with the meetings of the national legislative conferences and recommends cancelling the August 2013 meeting.

The Executive Subcommittee also discussed the option of providing electronic access to Legislative Council agenda items in light of Act 501 of 2013 Regular Session. The Executive Subcommittee passed a motion to recommend that only reports requiring action by the Legislative Council be printed for the members' meeting packets and that all other reports be available by electronic means with hard copies of these items available upon request of a member.

**Co-Chair Paul Bookout moved that the August 2013 meeting of the Legislative Council be cancelled to avoid conflicts with the meetings of the annual national legislative conferences and that actions of the Legislative Council subcommittees that would normally be reviewed by the Legislative Council at its August meeting would be considered final and reported to the Legislative Council during the meeting scheduled for September 2013. The motion was seconded and passed by voice vote.**

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

### **Standing Subcommittees**

Co-Chair Edwards referred members to the reports of the standing subcommittees and stated that reports from the subcommittee meeting during this month would be heard.

#### Performance Evaluation and Expenditure Review (PEER) Subcommittee

Co-Chair Edwards recognized Senator Bruce Maloch to present the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee. Senator Maloch reported that the Performance Evaluation and Expenditure Review (PEER) Subcommittee met on May 22, 2013 and took the following actions during the meeting: approved five items, appropriation transfers for the Arkansas State Police and the Department of Education, a contingency appropriation for the Securities Department, a GIF set-aside release of \$5.6 million for the Department of Correction, and the reallocation of resources request from the Department of Human Services. The subcommittee held one item, which was an appropriation transfer request from the Arkansas Building Authority for the Sustainable Revolving Loan Fund, until the June subcommittee meeting for the purpose of requesting additional information. All other agenda items were reviewed.

**Co-Chair Edwards recognized Senator David Meeks who moved that item E.2 and item E.4 on page 2 of the PEER Subcommittee report be removed from the report and considered separately. The motion was seconded by Senator English and the motion passed by voice vote.**

**Senator Maloch moved that the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee be adopted as amended. The motion was seconded and passed by voice vote.**

**Representative Edwards called for the vote on the motion to approve item E.2 and item E.4, which are requests from the Insurance Department for Level One "C" Co-Op Agreement and Affordable Care Act-Consumer. The motion received a second from Senator English.**

Prior to the vote, Co-Chair Edwards recognized Jay Bradford, the Insurance Commissioner, and Cindy Crone with the Insurance Department, to come forward to discuss these items. Ms. Crone stated that the Level One "C" cooperative agreement funded in April is approximately \$16.2 million of which \$15 million will go toward consumer assistance functions, outreach education, and the Guide Program, while the remaining funds will be used for the certification process to place plans on the marketplace this year and beginning the assessment for next year. Ms. Crone stated that open enrollment begins October 1 when funding for the Level One "B" is scheduled to end. Mr. Bradford and Ms. Crone answered several questions from the committee members regarding these items.

**Co-Chair Edwards called for the vote on the motion for a separate vote on the review of Item E.2 and E.4 and the motion passed by voice vote. Upon seeing three hands for the roll call vote, Co-Chair Edwards called for a roll call vote on the motion. The motion was passed by a roll call vote with 23 "yes" votes and 9 "no" votes.**

#### Policy-Making Subcommittee

Co-Chair Edwards recognized Senator Linda Chesterfield to present the report of the Policy-Making Subcommittee. Senator Chesterfield reported that the Policy-Making Subcommittee met on Friday, May 24, 2013, but a quorum was not present and she requested that the Legislative Council review the items attached to the report. Senator Chesterfield explained that Exhibit B to the Policy-Making Report is the Interim Committee Balances available at the beginning of this fiscal year for each committee. Senator Chesterfield explained that Exhibit C-1 to the Policy-Making Subcommittee is the current policy on reimbursement of travel expenses by members of the General Assembly and Exhibit C-2 is the policy that was updated to include the approval of travel requests by the Speaker of the House and the President Pro Tempore in addition to the approval of the committee chair. There were no questions regarding the report.

**Senator Chesterfield moved that the report of the Policy-Making Subcommittee be adopted and the motion was seconded and passed by voice vote.**

#### Review Subcommittee

Co-Chair Edwards recognized Senator David Sanders to present the report of the Review Subcommittee. Senator Sanders reported that the Review Subcommittee met on May 23, 2013 and reviewed the following: methods of finance, construction projects exceeding \$5 million; discretionary grants; professional consultant services contracts; and technical services contracts.

The following contracts were held by the subcommittee: (1) on page 88 of the report item 141, DHS-Behavioral Health with Southeast Arkansas Behavioral Healthcare System, contract number 4600028857; (2) on page 89 of the report item 142, DHS-Behavioral Health with Southwest Arkansas Counseling & Mental Health, contract number 4600024626; (3) on page 140 of the report item 250, DHS-Medical Services with Arkansas Foundation for Medical Care, contract number 4600025728; (4) on page 141 of the report item 251, DHS-Medical Services with Palco, Inc. ,

contract number 710DM08001; and (5) on page 141 of the report item 252, DHS-Medical Services with Phillips County Developmental Center, contract number 710DM1303.

Senator Sanders stated that Representative Wardlaw has released the hold on the first two contracts and asks that these be reviewed: (1) on page 88 of the report item 141, DHS-Behavioral Health with Southeast Arkansas Behavioral Healthcare System, contract number 4600028857; and (2) on page 89 of the report item 142, DHS-Behavioral Health with Southwest Arkansas Counseling & Mental Health, contract number 4600024626.

**Senator Sanders moved that item 141, DHS-Behavioral Health with Southeast Arkansas Behavioral Healthcare System, contract number 4600028857, and item 142, DHS-Behavioral Health with Southwest Arkansas Counseling & Mental Health, contract number 4600024626, be reviewed. The motion was seconded and passed by voice vote.**

**Senator Sanders moved that the Review Subcommittee report be adopted as amended to include the review of items 141 and 142, and without items 250, 251, and 252. The motion was seconded and passed by voice vote.**

#### Personnel Subcommittee

Co-Chair Edwards recognized Representative Andrea Lea to present the report of the Uniform Personnel Classification and Compensation Plan Subcommittee. Representative Lea reported that the Personnel Subcommittee decided to set the third Wednesday of every month as the subcommittee's regular date and she asked if any of the other subcommittees had also decided to meet on a specific date. Representative Lea stated this would allow for consistency in the scheduling of meetings and asked that other subcommittees consider setting a specific meeting date.

Representative Lea reported that the Uniform Personnel Classification and Compensation Plan Subcommittee met on May 23, 2013 and reviewed the following: provisional positions reports from two-year and four-year institutions for fiscal year 2013; the third quarter employment report for fiscal year 2013; the quarterly report from the Department of Education detailing positions created using special language available in the department's appropriation act; requests for increased entry rates for exceptionally well-qualified applicants for the Board of Accountancy, the Arkansas State Police, and the Department of Human Services; a request for a labor market rate for one associate department director of science for the Center of Health Advancement at the Department of Health; a request from the University of Arkansas at Pine Bluff to maintain the current salary of an employee who was downgraded one grade due to the closing of the chancellor's home; six titles for eight MFG positions for the Insurance Department in support of the Health Benefits Exchange that are also reviewed by the PEER Subcommittee; and a request by the Arkansas State Police and the Arkansas Game and Fish Commission to establish thresholds for classification as enforcement division employees are promoted that also included a request for salary adjustments for most of the enforcement officers at the Game and Fish Commission and the corporals and sergeants of the Arkansas State Police. Representative Lea reported that the Personnel Subcommittee also voted to continue the policy of holding all requests from circuit court judges for increased entry rates for new employees and increased salary rates for current employees. Representative Lea noted that the Personnel Subcommittee would not make any such adjustments until this fund is solidified.

**Representative Lea moved that the report of the Uniform Personnel Classification and Compensation Plan Subcommittee be adopted. The motion was seconded and passed by voice vote.**

Co-Chair Edwards asked that the staff work on developing schedules for the meetings of the Legislative Council subcommittees.

### **Supplemental Agenda**

Co-Chair Edwards referred the members to the item on the Supplemental Agenda, which is the request from the Administrative Office of the Courts for the Legislative Council's approval of the employment status change of Amy Dunn Johnson, spouse of Senator David Johnson, which was submitted pursuant to Arkansas Code 21-1-402. Co-Chair Edwards recognized Connie Hickman Tanner with Administrative Office of the Courts to explain the request.

Ms. Tanner explained that several of the Supreme Court employees will be transferred to the state beginning on July 1, 2013, and that one is married to a state senator. The Administrative Office of the Court requests that the position of Amy Johnson be approved by the Legislative Council. There were no questions.

**Senator Bill Sample moved that the Legislative Council approve the employment status change of Amy Dunn Johnson, a spouse of Senator David Johnson. The motion was seconded by Representative Hobbs and passed by voice vote.**

### **Review of Communications**

Co-Chair Edwards referred members to the communications listed on the agenda as items H.1 through H.21, in their packets and stated that action by the Legislative Council would be needed on item H.6 and item H.8. Co-Chair Edwards stated that the other items would be filed, but not discussed unless a member had a question on a particular item. There were no requests to review the other communications that did not require action by the Legislative Council and these were filed without objection.

### **Arkansas Public Employees Retirement System**

Co-Chair Edwards recognized Gail Stone, Executive Director of the Arkansas Public Employees Retirement System (APERS) and asked that she explain the request. Ms. Stone explained that these two limited partnerships have been submitted under Arkansas Code 19-11-1304 (Exhibit H.6a and Exhibit H.6b), and recent legislation requires these to be reviewed separately. The first limited partnership is with NTP Timber Plus+ Fund 1, L.P. (Exhibit H.6a) and is submitted because a new contract must be established as the old winds down, which will take to the end of the year. This limited partnership extends to December 31. The second limited partnership is a reduction of the investment with PFI Timberfund 1, L.P. (Exhibit H.6b), which is coming to its natural termination date. The Arkansas Public Employees Retirement System wants to renew with the PFI Timberfund because they invest substantially in south central Arkansas and the APERS board voted to reduce the amount of exposure by approximately \$80 million. Ms. Stone answered questions from the committee members.

**A motion was seconded and passed by voice vote to file as reviewed the termination of investment with NTP Timber Plus+ Fund 1, L.P. and the reduction of investment in PFI Timberfund 1, L.P. submitted by the Arkansas Public Employees Retirement System.**

Arkansas Teacher Retirement System

Co-Chair Edwards stated the other item requiring action is the request from the Arkansas Teacher Retirement System for the Legislative Council's retrospective review of the imminent need investments submitted pursuant to A.C.A § 19-11-1303 (Exhibit H.8a and H.8b). Co-Chair Edwards recognized George Hopkins, Executive Director of the Arkansas Teacher Retirement System to explain the investments with the following: Big River Steel, L.L.C. (Exhibit H.8a); LaSalle Growth & Income Fund VI, L.P.; KPS Special Situations Fund IV, L.P.; and Levine Leichtman Capital Partners V, L.P. (Exhibit H.8b). Mr. Hopkins referred to the first investment and explained that the Arkansas Teacher Retirement Board has recommended an investment of \$60 million with Big River Steel that equates to a twenty percent (20%) ownership equity position by the retirement system. Currently, the retirement system has invested \$600 million in this project and will finalize the project this summer.

Mr. Hopkins explained the second investment is with LaSalle Growth and Income Fund, which is a fund that invests in value-added real estate across the country and which targets taking non-core assets in strategic markets and turning the non-core assets into core assets to sell for an improved return. This fund has about a twenty percent (20%) internal rate of return and has about a one percent (1%) management fee and a twenty percent (20%) carry after a nine percent (9%) preferred return. The retirement system has invested \$20 million with LaSalle Growth and Income Fund.

Mr. Hopkins explained the third investment is with KPS Special Situations Fund and that the retirement system has already invested in KPS Supplemental 3 Fund. Mr. Hopkins stated that KPS is a very strong fund historically and in the past has had about a thirty-four percent (34%) internal rate of return annually and about two times the money at the end of the fund. KPS has a one percent (1%) management fee and a thirty percent (30%) carry after an eight percent (8%) preferred return to investors. The retirement system has invested \$25 million in KPS Special Situations Fund.

Mr. Hopkins explained the fourth investment is with Levine Leichtman Capital Partners, which is a private equity fund that invests in the debt and equity of companies. This fund has historically had twenty percent (20%) annual return, a one point five (1.5%) exit for the partners, a management fee of a blended one point seven (1.7%), and an eight percent (8%) preferred return with a twenty percent (20%) carry. The retirement system has invested \$20 million with Levine Leichtman Capital Partners.

Mr. Hopkins answered questions from members regarding these investments and a question about the Arkansas Teacher Retirement System leases as listed in the Arkansas Building Authority's monthly report (Exhibit H.2).

**A motion was seconded and passed by voice vote to file as reviewed the imminent need investment with Big River Steel, L.L.C., that was submitted by the Arkansas Teacher Retirement System pursuant to A.C.A § 19-11-1303 (Exhibit H.8a).**

**A motion was seconded and passed by voice vote to file as reviewed the imminent need investments with LaSalle Growth and Income Fund VI, L.P.; KPS Special Situations Fund**

**IV, L.P.; and Levine Leichtman Capital Partners V, L.P., that were submitted by the Arkansas Teacher Retirement System pursuant to A.C.A § 19-11-1303 (Exhibit H.8b).**

### **New Proposals and Resolutions**

At this point, Co-Chair Edwards asked the members to briefly review the items under new interim study proposals that are included in the meeting packet as Exhibits K.1 through K.9. Co-Chair Edwards stated that without objection, he would entertain a motion to refer these interim study proposals to the appropriate committee rather than hearing a presentation on each one.

**Senator Robert Thompson moved that Act 107 of 2013 and the interim study proposals now before the Legislative Council be referred to the appropriate committee and the motion was passed by voice vote.**

The Legislative Council made the following referrals:

1. Interim Study Proposal 2013-001, by Senator David Johnson, referred to the Senate Committee on Education;
2. Act 107 of 2013, by Senator Linda Chesterfield, referred to the Senate Committee on Education and the House Committee on Education;
3. Interim Study Proposal 2013-047, by Representative Bob Ballinger, referred to the House Committee on State Agencies and Governmental Affairs;
4. Interim Study Proposal 2013-151 (H. B. 2002), by Representative Greg Leding, referred to the House Committee on Revenue and Taxation;
5. Interim Study Proposal 2013-152 (H. B. 2005), by Representative Greg Leding, referred to the House Committee on Revenue and Taxation;
6. Interim Study Proposal 2013-153 (H. B. 1814), by Representative Greg Leding, referred to the House Committee on State Agencies and Governmental Affairs;
7. Interim Study Proposal 2013-154 (H. B. 1859), by Representative Greg Leding, referred to the House Committee on State Agencies and Governmental Affairs;
8. Interim Study Proposal 2013-155 (H. B. 1860), by Representative Greg Leding, referred to the House Committee on State Agencies and Governmental Affairs;
9. Interim Study Proposal 2013-156 (H. B. 2015), by Representative Greg Leding, referred to the House Committee on State Agencies and Governmental Affairs.

### Oral Report on the Arkansas Medicaid Program

Co-Chair Edwards recognized John Selig, Director of the Department of Human Services, for an oral report on progress made toward implementing changes to the Arkansas Medicaid Program in accordance with acts passed during the 2013 Regular Session of the General Assembly.

Mr. Selig provided the following information in his presentation and then answered questions from the committee members:

- The Medicaid Private Option legislation was passed that allows the state to take federal money to use for the purchase of private insurance for low-income adults between the ages of nineteen (19) and sixty-four (64).
- There are three or four pieces involved with putting the Private Option in place in Arkansas. One piece is to get insurance carriers involved in the exchange, which includes the private option as well as insurance for people with higher income levels. Another piece is the development of the Arkansas state plan for the private option, that is called a Medicaid waiver, and submitting it to the federal government, CMS. The other pieces are the data systems for the private option and the outreach to clients.
- The legislation also requires the department to begin work on health savings accounts and medical savings accounts, as well as, looking at other existing Medicaid clients and moving them into the private sector to the degree that is feasible.
- The Department of Human Services has worked very closely with the Arkansas Insurance Department on the most urgent goal, which is to provide guidance information on how the private option will work to the insurance carriers that may participate in the exchange. The guidance information went out last week and the department is now waiting for responses from insurance companies that intend to participate in the exchange.
- The Department of Human Services has now turned its attention to developing the Medicaid waiver, which is the specifics of the plan that must be submitted to CMS. The department hopes to have a draft developed during the next month and to hold public hearings on the plan with the goal of having the plan approved by October 1, 2013, when people can begin signing up for the health insurance exchange. The department has until January 1, 2014 to have the plan approved, but the department does not anticipate any major concerns from the federal government.
- Among the other acts of the 2013 Regular Session, is the creation of the Office of Inspector General that requires the Inspector General to report to the Governor. The Department of Human Services currently has a Program Integrity Unit that does much of the same functions, but the Office of Inspector General will have a higher profile and a number of new responsibilities and additional authority that will make that office stronger in the ability to pursue waste and fraud and to ensure integrity in the Medicaid Program.
- The Department of Human Services is working on how the department will interact with the Office of Inspector General including discussion with the Office of the Attorney General's Medicaid Fraud Unit. The inspector general



has not been appointed yet, but Mr. Selig believes the Governor will appoint someone to that position by July 1, 2013.

- Another act of the 2013 Regular Session is the establishment of the Automated Eligibility Verification System that requires the Department of Human Services to use a new system that automatically checks both federal and state data bases to determine eligibility in various ways, such as verifying income, citizenship, and other things. The federal portion is expected to be in place by October 1, 2013, but the state portion should be running by January 1, 2014.
- Another act of the 2013 Regular Session is the Primary Case Management Pilot program. The state payment improvement initiative is based on patient-centered medical homes, which provides that every client has a primary care physician who helps coordinate the client's care with a focus on wellness and prevention.
- The Department of Human Services has provided additional resources to help those primary care physicians that includes help with changing their practices to do outreach and to have extended hours, a payment of per member per month and resources up front, and technical assistance from outside companies if a physician wants it.
- The Department of Human Services' payment currently goes directly to the physician who can use the resources to pay for extra help. The Primary Case Management Pilot program allows the Department of Human Services to conduct a competitive bid and contract with a private company to help physicians who do not want to do the case management themselves or who feel they want more help with their more intensive clients. The company will assist physicians by managing the physician's top ten to twenty percent of their clients. In this instance, the payments from the Department of Human Services go to the private company instead of the physician and in turn the company will share the savings with the physician. This is not a requirement, but is another option for physicians.
- The Department of Human Services is beginning the process of implementing the legislation from the 2013 Regular Session with the biggest effort being toward implementing the private option plan since it is the most urgent.

### **Business Carried Over from Previous Meetings**

Co-Chair Edwards recognized Marty Garrity, Executive Secretary of the Legislative Council, and asked that she explain the item carried over from the last Legislative Council meeting. Ms. Garrity referred members to the report to the Legislative Council of emergency review, pursuant to Rule 17 of the Arkansas Legislative Council Rules, of the contract between the Department of Human Services and Allcare Pharmacy (Exhibit I.1).

Ms. Garrity explained that this contract between the Department of Human Services and Allcare Pharmacy was submitted for review in accordance with Arkansas Code Annotated 19-11-265 because Allcare Pharmacy was owned by Senator Percy Malone who was a member of the General

Assembly until December 31, 2013. The previous co-chairs of the Legislative Council, Senator Mary Anne Salmon and Representative Tommy Lee Baker, and the previous co-chairs of the Review Subcommittee, Senator Randy Lavery and Representative Larry Cowling, reviewed the contract pursuant to Rule 17 of the Legislative Council Rules and that action is being reported to the Legislative Council as required. In answer to a question from Representative Rice, Ms. Garrity explained that the emergency review was necessary because the Legislative Council would not meet for several months due to the convening of the 2013 Regular Session and Senator Malone would no longer be in office after December 31, 2013.

### **Adjournment**

Co-Chair Edwards stated that this concluded the business on the agenda and the meeting adjourned at 10:45 a.m. as there was no other business to come before the Legislative Council.

Respectfully submitted,

ATTEST:

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Representative John Charles Edwards  
Co-Chair, House

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Marty Garrity  
Executive Secretary