

MINUTES OF THE MEETING
OF THE
ARKANSAS LEGISLATIVE COUNCIL

Friday, April 16, 2010

The Arkansas Legislative Council met at 9:00 a.m., Friday, April 16, 2010 in Room 171 of the State Capitol, Little Rock, Arkansas. Co-Chair Wilkins 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

Co-Chair Wilkins referred members to the minutes of the March 19, 2010 meeting of the Legislative Council and asked if there were questions. There were no questions regarding the minutes of the last meeting.

The motion by Senator Glover to adopt the minutes of the March 19, 2010 Legislative Council meeting passed without objection.

Revenue Reports

Co-Chair Wilkins recognized Richard Wilson, Assistant Director of the Bureau of Legislative Research, to present the monthly revenue report for March 2010. Mr. Wilson reported that the March 2010 revenue report shows that after nine months of fiscal year 2010, gross collections were \$133.6 million below the same nine months of last year for a growth rate of negative three point three percent (-3.3%). The adjusted net available for distribution is \$63.1 million dollars below the same period for last year, for a growth rate of negative two percent (-2%). Mr. Wilson noted that there were conflicting news reports saying that March 2010 was a good month and some saying it was a bad month. He stated this could be explained because the net general revenue available for distribution when compared year to year is \$285.2 million for March 2010 and is \$299.5 million for March 2009, but looking at March of 2008 it was \$343 million. The graph page indicates the net general revenue available for distribution is still \$16 million above the forecast. The spreadsheet indicates a negative nine percent (-9%) growth in gross tax receipts. The income tax receipts are negative two percent (-2%) and that number would be almost negative six percent (-6%) without the non-recurring corporate payments from a couple of months ago. There were no questions regarding this report.

Report of the Executive Subcommittee

Co-Chair Wilkins recognized Representative Maxwell to present the report of the Executive Subcommittee. Representative Maxwell reported the Executive subcommittee met on April 16, 2010 and heard an update on the status of the project to renovate the 5th floor of the Big Mac Building. The Executive Subcommittee recommends favorable review of Amendment #5 to the contract with the Arkansas Building Authority for this project. The subcommittee also discussed the NCSL memo announcing new IRS travel expense regulations for 2011 and directed staff to study the regulations. The subcommittee directed staff to request the assistance of Roger Norman, the Legislative Auditor, with analyzing the regulations and to report the findings at a future meeting.

Co-Chair Wilkins recognized Representative Lea who asked if the NCSL memo could be provided to the members via electronic mail. Co-Chair Wilkins asked staff to provide the members the NCSL memo and also noted that an additional and more detailed report will be presented to the members to inform members of how they will be affected.

Representative Maxwell moved that the report of the Executive Subcommittee be adopted and the motion passed by voice vote.

Reports of Standing Subcommittees

Administrative Rules and Regulations Subcommittee

Co-Chair Wilkins recognized Senator Malone to present the report of the Administrative Rules and Regulations Subcommittee. Senator Malone reported that the subcommittee had met on April 13, 2010 and the subcommittee reviewed all items on the agenda. There were no questions regarding the report.

Senator Malone moved the adoption of the report of the Administrative Rules and Regulations Subcommittee and the motion passed by voice vote.

Charitable, Penal and Correctional Institutions Subcommittee

Co-Chair Wilkins recognized Senator Glover to present the report of the Charitable, Penal and Correctional Institutions Subcommittee. Senator Glover reported that the Charitable, Penal and Correctional Institutions Subcommittee met on April 14, 2010 and heard reports concerning the Arkansas Department of Correction. Senator Glover provided the following statistical information to the members: (1) the inmate population will be 21,000 by the year 2020; (2) the population increases by about 330 a year; (3) the recidivism rate is about forty-two percent (42%); and (4) the Department of Correction can rehabilitate inmates, but when an inmate is released there is no follow-up. Senator Glover referred to the report entitled, "State by State: Controlling the Increasing Cost of Corrections" prepared by the Bureau of Legislative Research, which indicates that almost every state is having the same problem. The subcommittee will have recommendations for the Governor and the General Assembly before the next regular session. There were no questions regarding this report.

Senator Glover moved the adoption of the Charitable, Penal and Correctional Institutions Subcommittee Report and the motion passed by voice vote.

Higher Education Subcommittee

Co-Chair Wilkins recognized Representative Roebuck to present the report of the Higher Education Subcommittee. Representative Roebuck reported that the Higher Education Subcommittee met on April 15, 2010 and heard from Dr. Jim Purcell who presented an update on the Universal Scholarship Application Process and explained how the cost of attendance is calculated for those scholarships. Representative Roebuck also announced that the Arkansas Department of Higher Education would be conducting meetings around the state and the schedule for the meetings would be provided to all the members. Members may contact Tara Smith with the Arkansas Department of Higher Education and the department will furnish members with materials and a PowerPoint presentation if a member wants to conduct their own meeting. The subcommittee also heard a presentation on career coaches from Sonja Wright-McMurray with Arkansas Works. There were no questions concerning this report.

Representative Roebuck moved the adoption of the Higher Education Subcommittee Report and the motion passed by voice vote.

Co-Chair Wilkins recognized Representative Abernathy who announced that he was asked by the Speaker-elect, Robert Moore, to moderate informational meetings for members of the House of Representatives to learn about higher education issues and financing. The first meeting is scheduled for May 6, 2010 at 10:00 a.m. in Room 138.

Co-Chair Wilkins recognized Senator Hendren who asked whether the committee could be given a report of how many judges were using an option under the law that allowed offenders to be sentenced to one day incarceration in the Arkansas Department of Correction. Co-Chair Wilkins asked the staff to obtain this information for the members.

Performance Evaluation and Expenditure Review (PEER) Subcommittee

Co-Chair Wilkins recognized Representative Dismang to present the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee. Representative Dismang reported that the PEER Subcommittee met on April 1, 2010 and approved all items on the agenda. There were no questions concerning this report.

Representative Dismang moved the adoption of the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee and the motion passed by voice vote.

Policy-Making Subcommittee

Co-Chair Wilkins recognized Representative George to give an oral report for the Policy-Making Subcommittee. Representative George reported that the Policy-Making Subcommittee met on April 16, 2010 and discussed interim committee fund balances and recommended the transfer of

funds from the Bureau's unallocated interim committee funds to the following: (1) \$60,000 to the House Interim Committee on Education; and (2) \$10,000 to the Senate Interim Committee on Education. The subcommittee also reviewed for germaneness the interim study proposals filed directly with committees and found no action was necessary. There were no questions concerning this report.

Representative George moved the adoption of the report of the Policy-Making Subcommittee and the motion passed by voice vote.

Review Subcommittee

Co-Chair Wilkins recognized Senator Horn to present the Review Subcommittee report. Senator Horn reported that the Review Subcommittee met on April 7, 2010 and reviewed various methods of finance, various discretionary grants, and a professional services contract. Senator Horn reported that all items were reviewed and none were held. There were no questions regarding this report.

Senator Horn moved the adoption of the report of the Review Subcommittee and the motion passed by voice vote.

Uniform Personnel Classification and Compensation Plan Subcommittee

Co-Chair Wilkins recognized Senator Faris to present the Uniform Personnel Classification and Compensation Plan Subcommittee report. Senator Faris reported that the subcommittee met on April 15, 2010 and reviewed several routine reports, one of which was a request from the Office of Personnel Management for a new title for a section manager; a request for three growth pool positions from the Insurance Department, a request for second language compensation differential from the Department of Workforce Services; and several requests for miscellaneous federal grant positions. There were no questions regarding this report.

Senator Faris moved the adoption of the Uniform Personnel Classification and Compensation Plan Subcommittee report and the motion passed by voice vote.

Review of Communications

Co-Chair Wilkins referred members to the communications in their packets and noted that action is necessary on Exhibit H.4a through Exhibit H.4d. Co-Chair Wilkins asked if there were any questions regarding the other communications.

Co-Chair Wilkins recognized Representative Lea who asked if the Legislative Council would be receiving monthly updates on the implementation of the trauma system. Co-Chair Wilkins asked staff to request the Department of Health to provide the Legislative Council with monthly updates.

Arkansas Development Finance Authority

Co-Chair Wilkins referred members to the Program Fact Sheet (Exhibit H.4a) submitted by the Arkansas Development Finance Authority and asked if there was a motion to review.

Senator Horn moved that the Program Fact Sheet concerning bonds issued for the acquisition of land and a LEED-certified facility located at 900 West Capitol Avenue in Little Rock, Arkansas be filed as reviewed.

Co-Chair Wilkins recognized Representative Maloch who asked that Mr. Gene Eagle be recognized for comments regarding the bond issue and a proposed constitutional amendment. Co-Chair Wilkins recognized Gene Eagle, Vice President for Development Finance with the Arkansas Development Finance Authority. The following is a summary of the information provided by Mr. Eagle through his comments and answers to questions:

- The building was financed for \$19,520,000.00 by utilizing federal bonding authority, which is called the Build America Bond Program that are taxable bonds recently authorized by the federal government last year.
- The Build America Bond Program provided a big savings and provided new purchasers. The difference in the interest rate on this one transaction saved \$1,720,000.00 over twenty years.
- The Build America Bond Program was set to expire at the end of this year, but will likely be extended because it is a very popular program. We have a federal preemption of interest rates that was put into place with the help of Senator Lincoln, which is good through the end of this year. The financing for the building could not have been done without the federal preemption.
- The federal preemption benefits the State of Arkansas in the financing of other types of programs, such as industrial development projects. Every county and city in the state utilizes that and there is a separate category of Build America Bonds specifically for economic development, which are called recovery zone bonds. Recovery zone bonds are taxable bonds that carry a higher federal subsidy of forty-five percent (45%) that is paid back to the city or county that issues the bonds.
- In Arkansas, there is a constitutional amendment that limits the spread above the discount rate and city tax-supported bond issues cannot be issued at a higher than two percent (2%) net interest cost. Thirty-year, two point five percent (2.5%) bond issues cannot be sold. In the fall, we will have a chance to pass a constitutional amendment that will permanently address this problem.
- Each county receives an allocation of recovery zone bonds, based upon a formula, which must be used by July 1, 2010. There is a process in place that allows unused allocations to be returned to the Arkansas Development Finance Authority

and then used for other projects. The allocation for each county is posted on the Arkansas Development Finance Authority web page under the Recovery Zone link.

There were no further questions and Co-Chair Wilkins asked if there was a motion.

Senator Horn moved that the Program Fact Sheet concerning bonds issued for the acquisition of land and a LEED-certified facility located at 900 West Capitol Avenue in Little Rock, Arkansas be filed as reviewed. The motion passed by voice vote.

Arkansas Department of Rural Development

Co-Chair Wilkins recognized Butch Calhoun, Director of the Arkansas Rural Development Commission, to explain the request for the Legislative Council's approval of Cycle III of fiscal year 2010 grant funding (Exhibit H.4b). Mr. Calhoun stated that this was the last offering of grants for fiscal year 2010 and all eligible grant requests were funded. In August 2010, the first cycle of grants for fiscal year 2011 will begin. Mr. Calhoun asked that members encourage the local government entities to continue applying for the grants.

Senator Faris moved that the Legislative Council approve funding for Cycle III of fiscal year 2010 rural community grants and rural fire protection grants as presented and the motion passed by voice vote.

Arkansas Teacher Retirement System

Co-Chair Wilkins recognized George Hopkins, Executive Director of the Arkansas Teacher Retirement System, to explain the request for the Legislative Council's review of the immediate need to enter into a partial equity ownership agreement with the State Street Global Advisors Passive Aggregate Non Lending Index Fund (Exhibit H.4c). Mr. Hopkins explained that the Arkansas Teacher Retirement System terminated its \$330 million investment with the PIMCO PARS II fund because of the loss of its strategic leader, Mr. Changhong Zhu, who had justified the higher fees for that fund. The Arkansas Teacher Retirement System needed a place for those funds that would provide liquidity and not lose market share while the funds were being liquidated; and therefore, the Arkansas Teacher Retirement System immediately established a passive non-lending index fund for fixed income with their custodial bank, State Street. Mr. Hopkins answered questions from the members.

Senator Faris moved that the Legislative Council file as reviewed the request for review of the immediate need to enter into a partial equity ownership agreement with the State Street Global Advisors Passive Aggregate Non Lending Index Fund and the motion passed by voice vote.

Co-Chair Wilkins recognized George Hopkins, Executive Director of the Arkansas Teacher Retirement System, to explain the request by the Arkansas Teacher Retirement System for the Legislative Council's review of five investments submitted pursuant to A.C.A § 19-11-1302 (Exhibit H.4d). Mr. Hopkins explained that the law requires review by the Legislative Council

whenever a retirement system participates in a partial equity ownership vehicle. The Arkansas Teacher Retirement System is submitting the following investments for the Legislative Council's review:

1. increased allocation by \$50 million to JP Morgan, a core real estate fund for a total commitment of \$170 million;
2. an allocation of \$50 million to UBS Trumbull, also a core real estate fund;
3. invested \$40 million in Mason Wells Buyout Fund, which is a company that buys out private equity in properties and refurbishes them for resale;
4. investment of \$25 million in Audax Mezzanine Fund III, which is a private equity mezzanine fund. This means the retirement system lends money to private companies and receives partial equity ownership rights to that company over time with a twenty percent return on the investment; and
5. an investment of \$25 million in Franklin Park International Fund, which is an emerging markets private equity fund. This is a company that helps its clients find opportunities for investments throughout the United States, and the only expense to the retirement system is the cost of the audit and the legal expense.

There were no questions regarding this request for review.

Representative Green moved that the Legislative Council file as reviewed the request for review of the five investments, submitted by the Arkansas Teacher Retirement System pursuant to A.C.A § 19-11-1302, and the motion passed by voice vote.

Announcement

At this point, Co-Chair Wilkins announced that Bureau staff in the telephone room are accepting the legislative conference selection forms and encouraged members to make their selections promptly to ensure the best rates for accommodations and airline reservations.

Business Carried Over from Previous Council Meeting

Co-Chair Wilkins recognized Representative Pennartz for comments concerning the information that was requested by Representative Pennartz and provided by the Department of Workforce Services (Exhibit I.1) concerning the projected increase in unemployment insurance tax collections resulting from the increase in taxable wage base. Representative Pennartz thanked the chair for holding this over because of her unexpected absence at the last meeting. Representative Pennartz commented that she would be following this closely and may be requesting updates in the future. She also commented that she appreciated the information and the effort that went into providing it to the members. There was no further discussion of this information.

New Proposals and Resolutions

Co-Chair Wilkins referred members to Interim Study Proposal 2009-236 (Exhibit K.1) in their packets and asked if the Legislative Council members had any comments.

Senator Malone moved that Interim Study Proposal 2009-236 be referred to the House Interim Committee on Public Health, Welfare and Labor and the motion passed without objection.

Announcement

Co-Chair Wilkins recognized Representative Roebuck who announced that a meeting to discuss the interim study proposal concerning non-parental rights of grandparents is scheduled for Thursday, April 22, 2010 at 9:00 a.m. in Room 130 of the State Capitol.

Adjournment

There being no further business to come before the committee the meeting was adjourned at 9:50 a.m.

Respectfully submitted,

ATTEST:

Senator Henry "Hank" Wilkins, IV
Co-Chair, Senate

David Ferguson
Executive Secretary