

MINUTES
Senate Committee on Public Health, Welfare, and Labor
House Committee on Public Health, Welfare, and Labor
Meeting Jointly

Wednesday, September 18, 2019

10:15 AM

Room A, MAC

Little Rock, Arkansas

Committee Members Present: Senators Missy Irvin; Chair, David Wallace; Vice Chair and Scott Flippo.

Representatives Deborah Ferguson; Vice Chair, Karilyn Brown and Josh Miller.

Other Legislators Present: Senators Jane English, Trent Garner, and Mathew Pitsch.

Representatives Stan Berry, Joe Cloud, Cindy Crawford, Dan Douglas, Steve Hollowell, Julie Mayberry, Tippi McCullough, Aaron Pilkington, Keith Slape, Nelda Speaks, Dan Sullivan, and Danny Watson.

Opening Remarks by Committee Chairs

Senator Irvin called the meeting to order. She stated that the purpose of the meeting was to discuss the importance of studying what is going on with vaping in secondary schools in Arkansas. She also asked the question if there is a place for government to act, and how can we support school officials and parents in curbing this epidemic.

Consideration to Adopt Interim Study Proposal 2019-138 – “Study the Impact of Vapor Products, Alternative Nicotine Products, and E-Liquid Products on the Citizens of Arkansas”

Senator Jim Hendren introduced ISP 2019-138 and provided an overview of the intent of the study. He referred to Exhibit B and discussed the impacts of vaping, future legislation, and the following:

- Find a way to solve the problem
- Draft legislation was submitted as a starting point
- Discuss problems with legislation to reach solution
- Vaping tax; fiscal impact approx. between 6-10 million dollars for vaping tax
- Find resources for school safety via vaping tax
- 400% increase in vaping in one school district

Representative Ferguson made a motion to adopt ISP 2019-138 and to keep any discussion in the full Joint Public Health committee instead of the subcommittee. Senator Wallace seconded the motion, and the motion carried.

Discussion of Interim Study Propoasal 2019-138- “Study the Impact of Vapor Products, Alternative Nicotine Products, and E-Liquid Products, on the Citizens of Arkansas”

Dr. Nate Smith, Secretary of Health, Arkansas Department of Health (ADH) was recognized to provide an update. The following issues were discussed:

- Currently Arkansas Department of Health has been notified of nine patients with vaping associated pulmonary illness. Of the nine cases, three are confirmed, three are probable, and three are under investigation. Of the six cases that have been interviewed, two vaped nicotine only, two vaped THC only and two vaped both nicotine and THC. The age range is 18yr-54yr with the majority being 18yr-24yr, six of the nine are males and eight of the nine were hospitalized
- The Arkansas Deptment of Health is working with the U.S. Centers for Disease Control (CDC) to investigate these cases, including collecting and reporting the medial information and vaping history. The ADC is also coordinating with the U.S. Food and Drug Administration to test any leftover vaping substances or devices for a wide range of chemicals including Vitamin E Acetate.
- The CDC currently has 380 cases of vaping related pulmonary illness that are either confirmed or probable in 36 states. There have been six reported deaths that are currently under investigation.

Dr. Matt Steliga, M.D., Associate Professor, Department of Thoracic Surgery. University of Arkansas for Medical Sciences(UAMS), Winthrop Rockefeller Cancer Institute was recognized. Issues included in the discussion:

- Aspects of electronic cigarettes should include public health, toxicology, addiction, behavioral science, pulmonary disease, etc.
- Various shapes, designs, sizes
- Liquid can be absorbed transdermal
- Multiple types of devices and terminology such as electronic cigarettes, e-cigarette, vape, ENDS (Electronic Nicotine Delivery Systems)
- Studies concerning e-cigarettes as an aid in cessation
- The makeup of vapor: nicotine, propylene glycol, glycerin, polyethylene glycol, water, flavoring, anti-irritants
- E-cigarettes contain less carcinogens than cigarettes
- Other issues besides cancer such as inflammatory lung diseases, scarring in the lungs, short/long term acute changes

Pebbles Fagan, PhD, MPH, Professor and Director of the Center for the Study of Tobacco, Department of Health Behavior and Health Education, UAMS Fay W. Boozman College of Public Health was recognized. Issues included in the discussion:

- Electronic cigarette (e-cigarettes/vaping/ENDS) use is epidemic among youth, but less than 6% of adults in AR use e-cigarettes. The Centers for Disease Control (CDC) prevention data shows that less than 4% of all adults currently use e-cigarettes/vaping devices.
- There has been little fluctuation in adults use rates over the past 5 years, despite the fact that tobacco companies state that they market the product to adults and not youth.
- Current use of ENDS among adults aged 18 and over in AR 5.8% of Arkansans adults used ENDS in 2016 versus 2.8% of adults in the U.S. in 2017. In 2014, 6% of adults used ENDS.
- The proportion of high school students in United States current e-cigarette users who reported use on ≥ 20 of the past 30 days increased from 20.0% in 2017 to 27.7% in 2018 ($p = 0.008$). During 2017–2018, current use of any flavored e-cigarettes increased among current e-cigarette users (from 60.9% to 67.8%, $p = 0.02$)
- Current use of menthol- or mint-flavored e-cigarettes increased among all current e-cigarette users (from 42.3% to 51.2%, ($p = 0.04$) and current exclusive e-cigarette users (from 21.4% to 38.1%, $p = 0.002$).
- Proposal to expand clean-indoor air laws can protect children and families from the harms of tobacco smoke. Expanding clean indoor air laws to include e-cigarettes is step in a right direction.
- Possible legislation to include consideration of giving back local authority to regulate the advertising and promotion of tobacco products of any kind and restrict the number, location, and density and types of vape retail outlets.

Circuit Judge Thomas Smith, Division 3, Benton County, J.D., Presides over Juvenile Court, Drug Court, Veterans Court, Family Law, and Probate Cases was recognized. Judge Smith shared his observations from a judicial standpoint. He expressed his concern over current use of vaping devices among children and the importance of getting these devices out of the hands of the youth. Judge Smith explained that the vapes are being used for both nicotine and drug use. He stated that possession of a vape device for marijuana use is illegal and punishable as a criminal offense of possession of drug paraphernalia. He reiterated that his concern is the marketing to children and believes the focus should be creating a solution to keep vapes out of the schools.

Matt Sutton, LPC, LPE, CCMHC, NCC, CCTP, School-Based Mental Health Coordinator/Therapist, Mountain Home Public Schools and Kyle McCarn, Principal, Mountain Home Junior High School were recognized. Mr. Sutton gave an overview of what they experience in the school system. Mr. McCarn presented several vaping devices and paraphernalia that he has confiscated from students. He discussed the lack of resources to identify what chemicals are in the liquid and to regulate the issue. Mr. Sutton stated that another major issue is the lack of staff available to implement curriculum and programs that could help them to be proactive as students are caught with the devices. He reported that there have been five vape related incidents within the last two weeks, three of which required EMT transport to the hospital.

There being no further business, the meeting adjourned at 12:30 P.M.

MINUTES
SENATE COMMITTEE ON PUBLIC HEALTH, WELFARE, AND LABOR
HOUSE COMMITTEE ON PUBLIC HEALTH, WELFARE, AND LABOR
MEETING JOINTLY

OCTOBER 30, 2019

The Senate and House Committees on Public Health, Welfare, and Labor met jointly on Wednesday, October 30, 2019, at 1:30 p.m., at the Veterans Hall, 108 Noah Horton Memorial Drive, Marshall, Arkansas.

Committee members present: Senators Missy Irvin, Chair, and Kim Hammer. Representatives Jack Ladyman, Chair, Mary Bentley, Justin Boyd, John Payton, Clint Penzo, Bruce Coleman, and Jeff Wardlaw.

Other legislators present: Senator Breanne Davis. Representatives Stephen Meeks, Keith Slape, and Nelda Speaks.

Call to Order: Senator Irvin called the meeting to order.

Comments by the Chairs

Senator Irvin asked the legislators to introduce themselves and stated the purpose of the meeting as a discussion of Executive Order 19-14 issued by the Governor creating the Buffalo River Conservation Committee (BRCC) and a request for a \$1 million appropriation. (Handout 1) Representative Ladyman expressed his appreciation for the attendance by legislators and local residents.

Welcome To Searcy County

Senator Irvin recognized Jim Harness, Searcy County Judge, Kevin Elliott, Mayor of Marshall, and Daryl Treat, President, Searcy County Chamber of Commerce. Mayor Elliott thanked the legislators for holding the meeting in Marshall. Mr. Treat welcomed attendees.

Briefing and Overview of Governor Hutchinson's Executive Order 19-14 Creating Buffalo River Conservation Committee (BRCC)

Senator Irvin recognized Wes Ward, Secretary, Arkansas Department of Agriculture, Nathaniel Smith, MD, MPH, Director, Arkansas Department of Health and State Health Officer, Dr. Richard McMullen, Science Director, Arkansas Department of Health, and Stacy Hurst, Secretary, Department of Parks, Heritage, and Tourism. Mr. Ward provided an overview and background of the Buffalo River Watershed:

- Governor Hutchinson created the Beautiful Buffalo River Action Committee in 2016
- the committee was tasked with bringing state agencies together to work collaboratively in serving the area within the Buffalo River Watershed
- the committee worked with a contractor to review a watershed management plan
- implementation of the watershed management plan was completed in 2018
- the executive summary of the management plan found no stream or stream segments were impaired by non-point source pollution

During the 2019 legislative session, legislation was passed creating the transformation and reorganization of state government agencies. Departments were established consisting of; the Department of Parks, Heritage and Tourism, and the Department of Energy and the Environment. Regulation and activities within each of the agencies impacts the Buffalo River Watershed. During September, 2018, Governor Hutchinson announced a change from the former Beautiful Buffalo River Action Committee to the newly

created Buffalo River Conservation Committee (BRCC). The governor's directive included additional funding in core practices to provide resources within the watershed. The executive order provided guidance to state agencies directing any project or activity within the watershed area to be non-regulatory and voluntary. No mandates or restrictions may be enacted. Subcommittees of the BRCC are to be established working with local stakeholders. Mr. Ward provided examples of potential projects to be implemented; a septic tank replacement program, and/or repair of wastewater treatment facilities. Subcommittees will consist of stakeholders from within the watershed area, local residents and locally-elected officials. Discussion of the process and distribution of potential funding included:

- the BRCC subcommittees will develop recommendations and prioritize projects to be implemented
- Projects recommended by the BRCC and subcommittees will require approval by the Department of Agriculture
- the Department of Agriculture has been working on the unpaved roads programs with foresters located in the area to consider forest management and conservation plans
- a proposal to work with the United States Department of Agriculture (USDA) on the feral hog issue is being considered
- the rights of private land owners was thoroughly discussed

Dr. Smith gave examples of areas the Departments of Health and Environmental Quality have oversight, including; the issue of feral hogs, wastewater treatment plants, and septic systems.

Kevin Anderson, Legislative Staff, Bureau of Legislative Research responded to questions concerning funding formulas within state government used to address projects such as wastewater infrastructure needs by municipalities. A funding formula method is available using general revenue. Additional funding could be appropriated using rainy day funding, which currently has \$37 million covering a two year period.

Audience members gave testimony and asked questions of the panel of presenters.

There being no further business, the meeting adjourned at 3:30 p.m.

MINUTES
SENATE COMMITTEE ON PUBLIC HEALTH, WELFARE, AND LABOR
HOUSE COMMITTEE ON PUBLIC HEALTH, WELFARE, AND LABOR
MEETING JOINTLY

OCTOBER 30, 2019

The Senate and House Committees on Public Health, Welfare, and Labor met jointly on Wednesday, October 30, 2019, at 6:00 p.m., at the Carroll Electric Cooperative Building, 511 E. Court Street, Jasper, Arkansas.

Committee members present: Senators Missy Irvin, Chair, and Kim Hammer. Representatives Jack Ladyman, Chair, Cling Penzo, Justin Boyd, Bruce Coleman, and Jeff Wardlaw.

Other legislators present: Senator Bob Ballinger, and Breanne Davis. Representatives Jack Fortner, Ron McNair, Johnny Rye, Keith Slape, and Nelda Speaks.

Call to Order:

Senator Irvin called the meeting to order.

Comments by the Chairs:

Representative Ladyman requested legislators to introduce themselves. Senator Irvin stated the purpose of the meeting is an open discussion with staff of the executive branch appointed to the Buffalo River Conservation Committee (BRCC) by Governor Hutchinson by Executive Order 19-14. (Handout 1)

Briefing and Overview of Governor Hutchinson's Executive Order 19-14 Creating Buffalo River Conservation Committee (BRCC)

Senator Irvin recognized Wes Ward, Secretary, Arkansas Department of Agriculture, Nathaniel Smith, MD, MPH, Director, Arkansas Department of Health and State Health Officer, and Stacy Hurst, Secretary, Department of Parks, Heritage, and Tourism. Mr. Ward gave an overview of the executive order issued by Governor Hutchinson creating the BRCC and its directive to provide resources and assistance to the Buffalo River Watershed Management Area. Mr. Ward commented on the gubernatorial order and its directive:

- in 2016, the Beautiful Buffalo River Action Committee was created by the governor to bring state agencies together, work collaboratively to serve the area within the Buffalo River Watershed
- a review process of the Watershed Management Plan began through work with a contractor
- implementation of the watershed management plan was completed in 2018
- an Executive summary of the management plan found no stream or stream segments were impaired by non-point source pollution and a high quality of water exists within the watershed

During the 2019 legislative session, legislation was passed creating the transformation and reorganization of state government agencies. Departments were established consisting of the Department of Parks Heritage and Tourism, and the Department of Energy and the Environment. Regulations and activities of these departments impact the Buffalo River Watershed. Following the agency transformation, Governor Hutchinson announced a change from the former Beautiful Buffalo River Action Committee to the newly created Buffalo River Conservation Committee (BRCC) in September, 2018. The governor's directive

included additional funding in core practices to provide resources within the watershed. The executive order provided guidance to state agencies directing any project or activity within the watershed area to be non-regulatory and voluntary. No mandates or restrictions may be enacted. Subcommittees of the BRCC are to be established working with local stakeholders.

Mr. Ward provided examples of potential projects to be implemented; a septic tank replacement program, and/or repair of wastewater treatment facilities. Subcommittees will consist of stakeholders from within the watershed area, local residents and locally-elected officials. Discussion of the process and distribution of potential funding includes:

- the BRCC subcommittees will develop recommendations and prioritize projects to be implemented
- Projects recommended by the BRCC and subcommittees will require approval by the Department of Agriculture

Panel Discussion/Public Comment

Legislative members, locally-elected officials, local farmers, and stakeholders discussed the governor's executive order.

Mr. Ward - described an executive order issued by the governor, along with a request for approval by the legislature of a \$1 million appropriation to fund projects and assistance to areas within the Buffalo River Watershed. Governor Hutchinson appointed the four cabinet secretaries to the BRCC. The cabinet secretaries are directed to appoint subcommittee members guided and directed by local-elected officials, elected representatives, senators within the watershed area. Examples of projects include individual landowner request, septic tank replacement, wastewater treatment facility repairs, and forest management plans. When the governor announced the executive order, it was also made known that the Nature Conservancy and the Buffalo River Foundation pledged a donation of an additional \$1 million. The Department of Agriculture will have control and oversight of the \$1 million provided by state government, but not other funding that may be added through private donations.

Audience members participated through testimony and discussion with legislators.

There being no further business, the meeting adjourned at 7:45 p.m.

MINUTES
SENATE COMMITTEE ON PUBLIC HEALTH, WELFARE, AND LABOR
HOUSE COMMITTEE ON PUBLIC HEALTH, WELFARE, AND LABOR
MEETING JOINTLY

NOVEMBER 4, 2019

The Senate and House Committees on Public Health, Welfare, and Labor met jointly on Monday, November 4, 2019, at 1:30 p.m., in Room 171, State Capitol, Little Rock, Arkansas.

Committee members present: Senators Missy Irvin, Chair, Ronald Caldwell, Kim Hammer, Jimmy Hickey, Bill Sample, and David Wallace. Representatives Jack Ladyman, Chair, Mary Bentley, Karilyn Brown, Justin Boyd, Bruce Coleman, Deborah Ferguson, Kenneth Ferguson, Justin Gonzales, Michelle Gray, Lee Johnson, Stephen Magie, Josh Miller, John Payton, Clint Penzo, Chris Richey, and Jeff Wardlaw.

Other legislators present: Senators Bob Ballinger, Trent Garner, and Jason Rapert. Representatives Joe Cloud, Marsh Davis, David Fielding, Laurie Rushing, and Keith Slape.

Call to Order: Representative Ladyman called the meeting to order.

Comments by the Chairs

Representative Ladyman thanked legislators for attending. Senator Irvin thanked legislators who were able to attend the meetings held in Marshall and Jasper, Arkansas on October 30, 2019

Consideration to Adopt the October 7 and 8, 2019 Meeting Minutes (Exhibit C)

A motion was made by Representative Wardlaw to adopt the October 7 and 8, 2019 meeting minutes. Without objection, the motion carried.

Arkansas Department of Environmental Quality, Office of Water, Review of 3rd Party Rulemaking Regarding Arkansas Pollution and Control and Ecology (PC&E) Commission Regulation 2 Establishing Water Quality Standards for Surface Waters of Arkansas (Exhibit D)

Representative Ladyman recognized Michael Grappe', Chief Program Officer, Arkansas Department of Environmental Quality (ADEQ) and Allan Gates, JD, Mitchell/Williams Law Firm. Following an explanation by Mr. Grappe' and Mr. Gates, Chairman Ladyman stated that without objection, the rule has been reviewed by the committee.

Arkansas Department of Environmental Quality, Office of Land Resources, Review of Rule which repeals a regulation that is obsolete (Exhibit E)

Representative Ladyman recognized Michael Grappe', Chief Program Officer, Arkansas Department of Environmental Quality (ADEQ). Following an explanation by Mr. Grappe, Chairman Ladyman stated that without objection, the rule has been reviewed by the committee.

Department of Human Services, Division of Medical Services, Review of Rules which removes Domiciliary Care from the Arkansas Medicaid State Plan and all corresponding rules (Exhibit F)

Representative Ladyman recognized Mark White, Chief of Office of Legislative and Intergovernmental Affairs, Department of Human Services, Chief of Staff and Janet Mann, Director, Division of Medical Services, Department of Human Services (DHS). Following an explanation by Mr. White and Ms. Mann, Chairman Ladyman stated that without objection, the rule has been reviewed by the committee.

Department of Human Services Division of Medical Services, Review of Rule regarding State Medicaid Plan Amendment (SPA #18-0013) (Exhibit G)

Representative Ladyman recognized Mark White, Chief of Office of Legislative and Intergovernmental Affairs, Department of Human Services, Chief of Staff and Janet Mann, Director, Division of Medical Services, Department of Human Services (DHS). Following an explanation by Mr. White and Ms. Mann, Chairman Ladyman stated that without objection, the rule has been reviewed by the committee.

Department of Human Services, Division of County Operations, Review of Rule which complies with Act 59 of 2019 which prohibits an agency from recovering Achieving a Better Life Experience (ABLE) account proceeds upon the death of a designated beneficiary (Exhibit H)

Representative Ladyman recognized Mark White, Chief of Office of Legislative and Intergovernmental Affairs, Department of Human Services, Chief of Staff ,and Larry Crutchfield, Division of County Operations, Department of Human Services. Following an explanation by Mr. White and Larry Crutchfield, Chairman Ladyman stated that without objection, the rule has been reviewed by the committee.

Department of Human Services, Division of Provider Services and Quality Assurance, Office of Long-Term Care (Exhibit I)

Representative Ladyman recognized Mark White, Chief of Office of Legislative and Intergovernmental Affairs, Department of Human Services, Chief of Staff and Jerald Sharum, Director, Division of Provider Services and Quality Assurance. Following an explanation by Mr. White and Mr. Sharum, Chairman Ladyman stated that without objection, the rule has been reviewed by the committee.

Department of Human Services, Division of Medical Services, Review of Rule to comply with recommendations of the American Academy of Pediatrics by adding three childhood screenings for Medicaid and ARKids B beneficiaries (Exhibit J)

Representative Ladyman recognized Mark White, Chief of Office of Legislative and Intergovernmental Affairs, Department of Human Services, Chief of Staff and Janet Mann, Director, Division of Medical Services, Department of Human Services (DHS). Following an explanation by Mr. White and Ms. Mann, Chairman Ladyman stated that without objection, the rule has been reviewed by the committee.

2018-2019 Vision Screening Report from the Department of Education (A.C.A. 6-18-1803) (Exhibit K)

Representative Ladyman recognized Cheria Lindsey, BSN, RN, NCSN, State School Nurse Consultant, Division of Elementary and Secondary Education, Department of Education. Following an explanation by Ms. Lindsey, Chairman Ladyman stated the committee accepted the report.

Epilepsy Foundation in Arkansas

Representative Ladyman recognized Ms. Bridgit Patterson, Program Director who gave a presentation to the committee. (Attached is her presentation)

There being no further business, the meeting adjourned at 2:30 p.m.