

MINUTES OF THE MEETING
OF THE
ARKANSAS LEGISLATIVE COUNCIL

August 23, 2019

The Arkansas Legislative Council met at 9:00 a.m., Friday, August 23, 2019, in Committee Room A of the Big Mac Building, Little Rock, Arkansas. Co-Chair Jeff Wardlaw called the meeting to order and recognized a quorum of members present. The members present are listed on the sign-in sheets.

Minutes of the Previous Meeting

Co-Chair Wardlaw referred the members to the minutes of the last Legislative Council meeting on June 21, 2019 (Exhibit C) and asked if there were any questions. There were no questions.

Representative Mark Lowery moved that the minutes of the June 21, 2019 meeting of the Legislative Council be adopted. The motion was seconded and passed by voice vote.

Presentation of Resolution

Co-Chair Wardlaw recognized Representative Dan Sullivan and Mr. Shane Broadway, Vice President for University Relations with Arkansas State University, to present Interim Resolution 2019-002, sponsored by Senator John Cooper. The resolution states the Arkansas Legislative Council remembers and thanks Wendy LeeAnn Anderson of Craighead County for her valuable contributions to Arkansas State University and to the State of Arkansas and sends deepest sympathy to Coach Anderson, his children, and extended family.

Senator Bart Hester moved that the Resolution be adopted. The motion was seconded and passed by voice vote.

Presentation of Citations

Co-Chair Wardlaw recognized Senator Cecile Bledsoe to present on behalf of the Arkansas State Senate, a Senate Citation to Mr. Richard Wilson, Bureau of Legislative Research Assistant Director for Research Services, for his retirement on August 30, 2019, after thirty-seven (37) years of dedication to Arkansas state government.

Co-Chair Wardlaw also presented a House Citation to Mr. Richard Wilson, on behalf of the Arkansas House of Representatives.

Revenue Reports

June 2019 Revenue Report

Co-Chair Wardlaw recognized Richard Wilson, Assistant Director for Research Services of the Bureau of Legislative Research, to present the June 2019 Arkansas Revenue Report (Exhibit D.1). Mr. Wilson reported that after twelve (12) months of Fiscal Year 2019, gross general revenue collections are \$500.3 million above collections during the same period last year for a growth rate of seven point four percent (7.4%). Mr. Wilson reported that net general revenues available are \$94.2 million above collections during the same period last year for a growth rate of sixteen point nine percent (16.9%).

Mr. Wilson reported the graph reflects that after a few good months, gross collections are \$295.4 million above the official forecast. Mr. Wilson reported that the spreadsheet reflects that the gross receipts are growing at two percent (2%), and income tax collections are at ten point eight percent (10.8%). This concluded the June 2019 general revenue report, and there were no questions.

2019 Annual Revenue Report

Co-Chair Wardlaw recognized Richard Wilson, Assistant Director for Research Services of the Bureau of Legislative Research to present the Arkansas Annual Revenue Report for Fiscal Year 2019 (Exhibit D.2). Mr. Wilson reported the annual revenue report generally reflects the collection and distribution of General and Special Revenues for Fiscal Year 2018-2019. He further reported that Fiscal Year 2018-2019 is the first year in the last ten (10) years to reach at or above \$7 billion, which is a seven point four percent (7.4%) growth rate.

Mr. Wilson reported the total gross income tax collections were at \$4.1 billion, a ten point eight percent (10.8%) increase and the general revenue sales and use tax collections were at \$2.5 billion, a two (2%) percent increase for Fiscal Year 2019. Mr. Wilson reported the General Revenue collection are at \$7.2 billion and the Special Revenue collections are at \$2.3 billion for Fiscal Year 2018-2019. Mr. Wilson acknowledged that Fiscal Year 2018-2019 is the first year without Desegregation Settlement money. The report further explained how the funds would be distributed. Co-Chair Wardlaw recognized Senator Elliott for a question. Senator Elliott asked if the Bureau of Legislative Research staff and/or Department of Finance & Administration would provide the Legislative Council members with an estimate of the amount of taxes that would have been collected over a certain period of time for vapes, if vapes were being taxed at the same rate as cigarettes. Co-Chair Wardlaw also recognized Representative Dotson and Senator Chesterfield for questions, and ended discussion with a question of his own. After no further questions, this concluded the 2019 annual report.

July 2019 Revenue Report

Co-Chair Wardlaw recognized, Richard Wilson Assistant Director for Research Services of the Bureau of Legislative Research, to present the July 2019 revenue report. Mr. Wilson reported that after one (1) month of Fiscal Year 2020, gross general revenue collections are \$10.1 million lower during the same period last year for a decline in the growth rate of negative one point nine percent (-1.9%). Mr. Wilson reported that net general revenues available are \$6.5 million lower

during the same period last year for a decline in growth rate of negative one point four percent (-1.4%).

Mr. Wilson reported the graph reflects, gross collections are closely accurate with the official forecast. He stated the spreadsheet reflects that the gross receipts have declined in growth by negative one point five percent (-1.5%), and income tax collections are at negative three point five percent (-3.5%). This concluded the July 2019 general revenue report, and there were no questions.

Report of the Executive Subcommittee

Co-Chair Wardlaw recognized Co-Chair Cecile Bledsoe to present the Report of the Executive Subcommittee (Exhibit E). Co-Chair Cecile Bledsoe reported that the Executive Subcommittee met on July 18, 2019, and reviewed and approved two (2) emergency rules for the Department of Education, both of which were reported, in accordance with Arkansas Legislative Council rules.

Co-Chair Bledsoe reported that the Executive Subcommittee met on August 22, 2019, and reviewed and approved an emergency rule for the Department of Education, for Educator Licensure. The review and approval of the rule was effective upon adjournment of the Arkansas Legislative Council meeting held on August 23, 2019.

The Executive Subcommittee reviewed and approved a request from Senator Greg Leding requesting a change to the General Assembly website that will allow a member of the public to generate an email to all members of a legislative committee, at once. The Executive Subcommittee stated that the capability for the new communication must be in the same format as that used in South Carolina, and that Bureau of Legislative Research IT staff must be able to limit use by automated electronic mailers.

Co-Chair Bledsoe reported that Bureau of Legislative Research Director, Marty Garrity, presented the Director's Report to the Executive Committee. The report included a request to engage the legal services of Mitchell, Williams, Selig, Gates, and Woodyard, PLLC for the Bureau. This concluded the Executive Subcommittee Report.

Co-Chair Bledsoe made a motion to adopt the Executive Subcommittee report.

Co-Chair Wardlaw recognized Senator Terry Rice, who expressed his concerns regarding the General Assembly website changes and advised others to be cautious of blocking communications from being sent or received by outside contacts.

Senator Rice made a substitute motion to remove the issue of the website communications from the report for separate discussion and vote. Co-Chair Wardlaw asked for a second on the substitute motion and the motion was seconded and passed by voice vote.

Co-Chair Wardlaw recognized Representative Fredrick Love who requested that officials with the Department of Education come forward and respond to questions regarding the emergency rules. Co-Chair Wardlaw recognized Courtney Salas-Ford, Deputy General Counsel of the Department of Education, who responded to Representative Love's questions regarding the Department of Education emergency rules. Co-Chair Wardlaw recognized Representative Love who asked Director Marty Garrity for background

information concerning the contract with Mitchell Williams law firm. Director Garrity was recognized and stated that the Bureau of Legislative Research has received requests for confidential information and Mitchell Williams is assisting with responding to those information requests. Representative Matthew Shepherd was recognized and provided background information regarding the contract, and Director Garrity responded to other questions regarding the contract. There followed further discussion of the Executive Subcommittee Report.

Co-Chair Wardlaw called for a vote on the original motion to adopt the Executive Subcommittee Report, with the exception of the website and email issue. The motion was seconded and passed by voice vote.

Co-Chair Wardlaw opened the floor for further discussion on the General Assembly website and email changes. Senator Missy Irvin was recognized for questions and requested Tim Carlock, Assistant Director, Division of Information Technology with the Bureau of Legislative Research, to come forward and respond to questions.

Co-Chair Wardlaw recognized Senator Terry Rice who made a motion to refer the website and email issue to the House Management Committee and the Senate Efficiency Committee for further review and decision by the House and Senate Chambers. Co-Chair Wardlaw asked for a second, and the motion was seconded and passed by voice vote.

Reports of the Standing Subcommittees

Administrative Rules Subcommittee

Co-Chair Wardlaw recognized Senator Lance Eads to present the report of the Administrative Rules Subcommittee (Exhibit F.1). Senator Eads reported that the Administrative Rules Subcommittee met on July 19, 2019, and adopted the Executive Subcommittee report concerning an emergency rule, and reviewed and approved all rules on the agenda, with the following exceptions:

(1) the Department of Health, Center for Local Public Health/Environmental Health Protection rule-*Rules and Regulations Pertaining to Food Service Establishments* (see item 3a on page 2 of the report) was deferred to the August 21, 2019 meeting of the subcommittee; and

(2) the Commission for Arkansas Public School Academic Facilities and Transportation rule-*Specifications Governing School Bus Design* (see item 4.a. on page 2 of the report) be referred to the Senate Interim Committee on Transportation, Technology, and Legislative Affairs and the House Interim Committee on Public Transportation for final review and approval.

Senator Eads reported that the Administrative Rules Subcommittee also met on August 21, 2019, and adopted the Executive Subcommittee report concerning an emergency rule, and reviewed and filed the Quarterly Reports on Administrative Directives from the Division of Correction, the Division of Community Correction, and the Arkansas Parole Board pursuant to Act 1258 of 2015 (see items 2a-c on page 3 of the report) for the quarter ending June 30, 2019. The subcommittee also reviewed and approved all other rules on the agenda, with the following exceptions:

- (1) due to the absence of the agency personnel, the rule, 47-701.9 *Fiduciary Powers and State Banks* from the Arkansas State Bank Department was rescheduled for the September 2019 agenda (see item 7 on page 4 of the report); and
- (2) the Department of Education-*Special Education Catastrophic Occurrence Fund* rule was referred to the Senate and House Interim Committees on Education (see item 8 on page 4 of the report).

This concluded the report of the Administrative Rules Subcommittee, and there were no questions.

Senator Lance Eads moved that the report of the Administrative Rules Subcommittee be adopted. The motion was seconded and passed by voice vote.

Performance Evaluation and Expenditure Review (PEER) Subcommittee

Co-Chair Wardlaw recognized Representative DeAnn Vaught to present the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee (Exhibit F.8). Representative Vaught reported that the subcommittee met on August 20, 2019, and approved five (5) items: (1) a Rainy Day fund transfer to the Department of Finance & Administration Disbursing Office; (2) a Rainy Day fund transfer to the Department of Human Services Division of Child Care & Early Childhood Education; (3) a Rainy Day fund transfer to the Arkansas Law Enforcement Training Academy; (4) a Restricted Reserve fund transfer for the Arkansas Economic Development Commission; and (5) a fund transfer for the Arkansas Department of Transportation.

Representative Vaught reported that the subcommittee reviewed several items, including the following: cash fund appropriation increase requests; a budget classification transfer request for fiscal year 2020; a miscellaneous federal grant appropriation request for fiscal year 2020; various reports assigned to the subcommittee, including a full account on the Department of Finance and Administration, Rainy Day fund transfer for a conservation easement in the Buffalo National River Watershed; an emergency rule request that included a pay plan request for an appropriation that was approved on July 29, 2019 for the Division of Youth Services. This concluded the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee.

Representative DeAnn Vaught moved that the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee be adopted.

Co-Chair Wardlaw recognized the following officials to come forward to respond to questions: Michael Crump, Director, Division of Youth Services, and Lisa Ricks, CFO, Division of Youth Services.

The motion was seconded, and after discussion, passed by voice vote.

Hospital and Medicaid Study Subcommittee

Co-Chair Wardlaw recognized Representative Fredrick Love to present the report of the Hospital and Medicaid Study Subcommittee (Exhibit F.6). Representative Love reported the subcommittee met July 18, 2019, and heard testimony regarding rural hospitals.

Dr. Cam Patterson, Chancellor, UAMS gave testimony on the following:

- There are one hundred and five (105) critical access hospitals.
- There are thirty-nine (39) counties with only one hospital and twenty-eight (28) counties with no hospital.
- Navigant Healthcare identified seventeen (17) other rural hospitals that are currently at a high level of financial risk.
- DeQueen Hospital recently closed; it's the first closure in Arkansas since the Medicaid Expansion through the Affordable Care Act.
- Rural populations have high numbers of elderly, obesity, tobacco users, and people with chronic diseases.
- Two-thirds (2/3) of the land mass in Arkansas is depopulating and moving to urban areas.
- Healthcare professionals of all types are needed in Arkansas.
- Rural hospitals are greatly impacted by the payer environment of various forms of reimbursement; such as private insurance, Medicare, and Medicaid.

Dr. Phillip Gilmore, President of Arkansas Rural Health Partnership & CEO of Ashley County Medical Center in Crossett gave testimony on the following:

- Rural communities need hospitals for their economic growth.
- The health status of a community declines when there isn't a hospital.
- Ashley County Medical Center has shown a profit in the last nine (9) of ten (10) years and receives a quarter of a cent sales tax from the county to buy medical equipment and to maintain the hospital buildings.

Bo Ryall, President and CEO, Arkansas Hospital Association gave testimony on the following:

- There are twenty-two (22) hospitals that are among the top three (3) employers in their counties.
- Hospitals are extremely grateful for the Medicaid Expansion because it reduced the uninsured rate and the uncompensated care for hospitals.
- Some of the hospitals financial challenges is their reliance on public payers such as Medicare/Medicaid which only reimburses an approximate seventy-eight percent (78%) cost of the care, in comparison to commercial insurance and self-pay.
- Many rural hospitals rely on mostly Medicare and Medicaid for reimbursement, therefore area hit the hardest financially.

This concluded the report.

Representative Love moved that the report of the Hospital and Medicaid Study Subcommittee be adopted.

Co-Chair Wardlaw recognized Kelley Linck, Arkansas Department of Human Services, Legislative Liaison for Governmental Affairs, to respond to questions by Senator Gary Stubblefield. There were no further questions.

The motion was seconded and passed by voice vote.

Policy-Making Subcommittee

Co-Chair Wardlaw recognized Senator Linda Chesterfield to present the report of the Policy-Making Subcommittee (Exhibit F.9). Senator Chesterfield reported that the Policy-Making Subcommittee met on August 21, 2019. Senator Jonathan Dismang, Senate Co-Chair of the Highway Commission Review and Advisory Subcommittee presented a request for review and approval of a consulting services contract with Guidehouse, LLP. Senator Dismang provided information on Guidehouse's proposal, which was submitted in compliance with the request of the Highway Commission Review and Advisory Subcommittee. Representatives of Guidehouse, LLP, Mr. Sagar Gokhale and Mr. Guarav Menon were both present at the meeting. Senator Chesterfield further reported that the contract maximum cost is \$722,463.19. The Subcommittee recommended approval of this contract. This concluded the report and there were no questions.

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

Review Subcommittee

Co-Chair Wardlaw recognized Representative Andy Davis to present the report of the Review Subcommittee (Exhibit F.10). Representative Davis reported that the Review Subcommittee met on July 18, 2019, and reviewed and approved all of the agenda items including the Office of State Procurement administrative rule, methods of finance, grants, and contracts. After discussion by the subcommittee on the Department of Human Services' (DHS) contract with Optum Government Solutions, Inc., a motion was made to review the contract and for the Department of Human Services to provide a monthly report to the Review Subcommittee on the status of the contract and ongoing assessments. The report should include real data so that the subcommittee may determine by October, whether the contract should continue or if DHS should initiate a new RFP in procurement for independent assessments. The motion was made by Senator Jim Hendren and adopted. Representative Davis reported that no items were held. This concluded the report.

Co-Chair Bledsoe recognized Senator Kim Hammer for questions. Kelley Linck, Chief Legislative and Intergovernmental Affairs Officer, Department of Human Services, and Mary Kathryn Williams, Office of State Procurement, Department of Human Services, came forth to respond. Senator Hammer, in regards to the Magellan Health Services contract, requested of DHS, information on ongoing litigation in other states, and/or defaults due to ongoing litigation, and asked if it can be considered a "disqualifier" for the contract here in the state of Arkansas. There was further discussion among the members in regards to the Optum contract.

Kelley Linck and Mary Kathryn Williams of DHS informed members that the agency does have a corrective action plan for the Optum contract, regarding timeliness, but no funds have been recouped from the contractors. Mr. Linck assured members that if Optum does not further meet expectations, the agency will terminate the contract and begin the sole source process for a replacement contract.

Co-Chair Bledsoe recognized Senator Jim Hendren, who provided clarification to his motion made in regard to the Optum contract.

Representative Mark Lowery requested that the Department of Human Services provide a report to the Arkansas Legislative Council and the Review Subcommittee on the actions of the Division of Youth Services regarding the Lewisville Juvenile Treatment Center.

Representative Andy Davis moved that the report of the Review Subcommittee be adopted. The motion was seconded and passed by voice vote.

Uniform Personnel Classification and Compensation Plan Subcommittee

Co-Chair Wardlaw recognized Representative Jim Wooten to present the report of the Uniform Personnel Classification and Compensation Plan Subcommittee (Exhibit F.11). Representative Wooten reported that the Uniform Personnel Classification and Compensation Plan Subcommittee met on August 20, 2019, and reviewed communications and reports, which included a report of provisional position continuations and parole and probation officers caseload reports from the Department of Community Correction. Representative Wooten expressed his concerns with parole officers each overseeing more than one hundred (100) cases.

Representative Wooten reported that the subcommittee also reviewed several action items, which included a new Equal Employment Opportunity Report template to provide to Department Secretaries in an attempt to ensure compliance by the Departments in submitting required reports. This concluded the report, and there were no questions.

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

Lottery Oversight Subcommittee

Co-Chair Wardlaw recognized Senator Joyce Elliott to present the report of the Lottery Oversight Subcommittee (Exhibit F.12). Senator Elliott reported that the Lottery Oversight Subcommittee met on August 22, 2019 and heard testimony regarding an informational overview of the activities and operations of the Office of the Arkansas Lottery from Bishop Woosley, Director of the DFA-Office of Arkansas Lottery and an update on the Academic Challenge Scholarship program from Nick Fuller, Deputy Director, Arkansas Department of Higher Education. Senator Elliott reported that the subcommittee also reviewed the following reports from Nick Fuller: Workforce Challenge Student Status, Academic Challenge Student Status, ADHE Grants Fund and Net Proceeds Trust Fund, and the Academic Challenge Scholarship Program Administration Financial Report. This concluded the report of the Lottery Oversight Subcommittee, and there were no questions.

Senator Joyce Elliott moved that the report of the Lottery Oversight Subcommittee be adopted. The motion was seconded and passed by voice vote.

Highway Commission Review and Advisory Subcommittee

Co-Chair Wardlaw recognized Senator Jonathan Dismang to present the report of the Highway Commission Review and Advisory Subcommittee (Exhibit F.13). Senator Dismang reported that the Highway Commission Review and Advisory Subcommittee met on August 1, 2019, and discussed a proposal that was presented by Guidehouse, LLP for the study of the Arkansas Department of Transportation as required by Act 298 of 2019. The subcommittee authorized the Bureau of Legislative Research to enter into a contract with Guidehouse, LLP for provision of consulting services. The subcommittee also authorized the chairs of the Highway Commission Review and Advisory Subcommittee to approve the final form of the contract that was presented to and approved by the Policy-Making Subcommittee and the Arkansas Legislative Council. This concluded the report, and there were no questions.

Senator Jonathan Dismang moved that the report of the Highway Commission Review and Advisory Subcommittee be adopted. The motion was seconded, and passed by voice vote.

Arkansas Health Insurance Marketplace Oversight Subcommittee

Co-Chair Wardlaw recognized Senator Kim Hammer to present the report of the Arkansas Health Insurance Marketplace Oversight Subcommittee (Exhibit F.14). Senator Hammer reported the Arkansas Health Insurance Marketplace Oversight Subcommittee met jointly with the House and Senate Public Health, Welfare, and Labor Committees August 19, 2019, and heard testimony from Allen Kerr, State Insurance Commissioner, who reported that effective August 1, 2019, there were 54,963 people covered under health insurance plans purchased through the marketplace. Senator Hammer stated that the Arkansas Health Insurance Marketplace (AHIM) had a balance of \$4.3 million, which should pay for the marketplace operations over the next 7-8 years. The Commissioner also mentioned that the Arkansas Insurance Department has a set of proposed rules out for public comment on Multiple-Employer Welfare Benefit Plans (MEWA's). Commissioner Kerr noted that all persons obtaining insurance through the marketplace can choose from four (4) providers and preliminary rate changes range from .51% to 2.89% for Plan Year 2020.

Janet Mann, Director, Division of Medical Services, Department of Human Services (DHS), Dawn Stehle, Deputy Director for Health & Medicaid, DHS, and Kelley Linck, Chief Legislative & Intergovernmental Affairs Officer, DHS; discussed the process of enrolling Medicaid providers, systematically reviewing Medicaid provider rates, and the status of the Medicaid Trust Fund.

Arthur Boutiette, Director, Disability Determination for the Social Security Administration, discussed the federal and state partnership in the operation of this agency. Laura Shue, Stephanie Williams, James Bledsoe, and Greg Brown, all with the Arkansas Department of Health, gave an update of the Trauma System. Matt Gilmore, Public Health Programs Policy Coordinator, Arkansas Department of Health (Former Director, ATSC), gave a brief review of the Tobacco Settlement Commission Annual Report for 2018. Maurice Rigsby, Vice Chancellor for Institutional Relations, UAMS, gave a brief update on the activities of the Arkansas PANS/PANDAS Advisory Council (Act 878 of 2019). He noted that Richard Smith, M.D., Chief of Psychiatry, UAMS, had recently visited the PACE Foundation in Arizona, which has funded research and clinics on the study of PANS/PANDAS. This concluded the report, and there were no questions.

Senator Kim Hammer moved that the report of the Arkansas Health Insurance Marketplace Oversight Subcommittee be adopted. The motion was seconded, and passed by voice vote.

Review of Communications

Co-Chair Wardlaw referred members to the communications listed as Exhibit H.1 through Exhibit H.14 on the agenda, and noted that action by the Legislative Council is needed for the following item:

- 1) Department of Parks, Heritage, and Tourism-Division of State Parks, report comparing anticipated expenditures for FY2019 with estimated expenditures for FY2019 and actual expenditures for FY2018, submitted pursuant to Section 19 of Act 721 of the 2019 Regular Session.

Co-Chair Wardlaw asked if there were any questions or discussion regarding the other items listed under Communications. There were no questions concerning the other communications listed on the agenda.

Senator Bart Hester moved that the report of the Arkansas Division of State Parks be adopted and filed as reviewed. The motion was seconded, and passed by voice vote.

Adjournment

At 10:55 a.m., the meeting was adjourned as there was no further business to come before the Legislative Council.

Respectfully submitted,

ATTEST:

Representative Jeff Wardlaw
Co-Chair, House

Marty Garrity
Executive Secretary