

MINUTES OF THE MEETING
OF THE
ARKANSAS LEGISLATIVE COUNCIL

Friday August 21, 2020

The Arkansas Legislative Council met at 9:00 a.m., Friday, June 24, 2020, in Committee Room A of the Big Mac Building, Little Rock, Arkansas. Co-Chair Cecile Bledsoe 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 Bledsoe referred the members to the minutes of the last Legislative Council meeting on June 19, 2020 (Exhibit C) and asked if there were any questions. There were no questions.

Co-Chair Bledsoe moved that the minutes of the June 19, 2020 meeting of the Legislative Council be adopted. The motion was seconded and passed by voice vote.

Revenue Report

Co-Chair Bledsoe recognized Mr. Richard Wilson to present the June 2020 Arkansas Revenue Report (Exhibit D). Mr. Wilson began by reporting the final numbers for the Fiscal Year 2020. He stated the gross collections are down \$256 million for the year, with a negative growth rate of -3.5%. The net available is down \$168 million in comparison to the previous fiscal year, with a growth rate of -2.8%.

Mr. Wilson referred members to the graph (Exhibit D), stating that the fiscal year was closed out at \$369 million above the official revised forecast of March 23, 2020. He continued by reporting, in order to provide a portion of the funding to state agencies, the revision included an increase of \$240 million, distributed according to the Revenue Stabilization Act. Mr. Wilson further stated the residual would be \$129 million, and any funds unspent or returned would be returned to the allotment reserve fund. Mr. Wilson continued, reporting that the sales tax is up 8% in June 2020 with a positive growth rate of 3%. The income tax is down at a -6.5%.

Co-Chair Bledsoe recognized Representative Fredrick Love, Senator Mark Johnson, Representative Jim Dotson, Senator Kim Hammer, and Senator Jonathan Dismang for questions. After responses from Mr. Richard Wilson, Mr. Jake Bleed, DF&A- Director of Budget, and Dr. John Shelnett, Administrator, DF&A - Office of Accounting, this concluded the revenue report.

Report of the Executive Subcommittee

Co-Chair Bledsoe recognized Co-Chair Jeff Wardlaw to present the report of the Executive Subcommittee (Exhibit E). Co-Chair Wardlaw reported that the Executive Subcommittee met at 12:00 p.m. on July 23, 2020. The subcommittee reviewed and approved an emergency rule for the Department of Commerce – Arkansas Economic Development Commission (AEDC) regarding administration of a new emergency loan program for developmental disabilities providers that are

facing hardships from COVID-19. The review and approval of the rule would be effective upon adjournment of the Legislative Council meeting (July 24, 2020).

This concluded the report of the Executive Subcommittee and there were no questions.

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

Reports of the Standing Subcommittees

Administrative Rules Subcommittee

Co-Chair Bledsoe recognized Representative Dan Sullivan to present the report of the Administrative Rules Subcommittee (Exhibit F.1). Representative Sullivan reported that the Administrative Rules Subcommittee met on July 22, 2020. The subcommittee adopted reports of the Executive Subcommittee concerning its approval of an emergency rule. One rule was deferred to the August 2020 agenda at the agency's request, while all other rules on the agenda were reviewed and approved as indicated in the report. The subcommittee also reviewed and filed letters concerning agency updates on delinquent rulemaking, under Act 517 of 2019.

Co-Chair Bledsoe recognized Representative Andy Davis for questions. Representative Davis requested Mr. Matt Gilmore, Department of Health, to come forward to respond. After questions, this concluded the report of the Administrative Rules Subcommittee.

Representative Dan Sullivan moved that the report of the Administrative Rules Subcommittee be adopted. The motion was seconded and passed by voice vote.

Charitable, Penal & Correctional Institutions Subcommittee

Co-Chair Bledsoe recognized Representative David Fielding to present the report of the Charitable, Penal & Correctional Institutions Subcommittee (Exhibit F.2). Representative Fielding reported that the subcommittee met on June 20, 2020. Due to her not being able to make the meeting, the Co-Chairs excused Secretary Wendy Kelley's absence. The Co-Chairs also expressed accolades for Secretary Kelley's service to the Department of Corrections and wished her well upon her departure. The Subcommittee then heard testimony from Solomon Graves, Chief of Staff, Department of Corrections, and Dexter Payne, Director, Division of Correction, and discussed the impact of COVID-19 on the Department of Corrections.

That concluded the report of the Charitable, Penal & Correctional Institutions Subcommittee.

Representative David Fielding moved that the report of the Charitable, Penal & Correctional Institutions Subcommittee be adopted. The motion was seconded and passed by voice vote.

Game and Fish/State Police Subcommittee

Co-Chair Bledsoe recognized Senator Keith Ingram to present the report of the Game and Fish/State Police Subcommittee (Exhibit F.4). Senator Ingram reported that the Game and Fish/State Police Subcommittee met on July 22, 2020, and discussed regulations adopted by the Arkansas Game and Fish Commission and received testimony on law enforcement training.

That concluded the report of the Game and Fish/State Police Subcommittee.

Senator Keith Ingram moved that the report of the Game and Fish/State Police Subcommittee be adopted. The motion was seconded and passed by voice vote.

Higher Education Subcommittee

Co-Chair Bledsoe recognized Representative David Whitaker to present the report of the Higher Education Subcommittee (Exhibit F.5). Representative Whitaker reported that the subcommittee met on June 23, 2020, and heard testimony on reopening plans for institutes of higher education and information on the Contact Tracing Exposure Notification App.

This concluded the report of the Higher Education Subcommittee, and there were no questions.

Representative David Whitaker moved that the report of the Higher Education Subcommittee be adopted. The motion was seconded and passed by voice vote.

Performance Evaluation and Expenditure Review (PEER) Subcommittee

Co-Chair Bledsoe recognized Representative DeAnn Vaught to present the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee (Exhibit F.8). Representative DeAnn Vaught reported that the PEER subcommittee met on July 21, 2020, and approved the following items: various temporary appropriation requests and Shared Services Appropriation Transfers. Two CARES requests were deferred to ALC to be considered by the full Legislative Council. Those items are Item B.2(b) – Department of Health for \$16,000,000 and Item B.2(d) – Department of Education – Educational Television Division – PBS for \$5.18 million. The subcommittee reviewed several other items and received monthly reports. This concluded the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee.

Representative DeAnn Vaught moved that the report of the PEER Subcommittee with the exception of Item B.2(b) – Department of Health and Item B.2(d) – Department of Education – Educational Television Division – PBS be adopted.

Senator Bart Hester was recognized for a question of clarification. Senator Jonathan Dismang was also recognized for questions. Mr. Jake Bleed, DF&A - Director of Budget, came forth to respond.

The motion was seconded and passed by voice vote.

Co-Chair Bledsoe recognized Representative DeAnn Vaught to continue. Representative Vaught requested to have representatives of PBS come forward to present their request. Co-Chair Bledsoe recognized Mr. Marty Ryall, Director of External Relations, PBS and Ms. Courtney Pledger, Executive Director, PBS, to give their presentation.

After the presentation, Co-Chair Bledsoe recognized Senator Jim Hendren for questions. Senator Hendren asked how many people in the state of Arkansas do not have access to the PBS content. Mr. Ryall responded that, about 20% percent of the state's population rely on over-the-air signals, mainly because they live in rural areas or areas where broadband is not available. That usually includes people that more than likely cannot afford the internet.

Co-Chair Bledsoe requested someone from the Department of Education to come forward to answer questions. Dr. Kiffany Pride, Assistant Commissioner of Learning Services, Arkansas Department of Education, Division of Elementary and Secondary Education, came forward to give testimony on the need for the educational content.

Co-Chair Bledsoe recognized Representative Megan Godfrey and Senator Jonathan Dismang for questions. Senator Dismang asked if the contract for the broadband towers was a competitive bid. Ms. Courtney Pledger responded that there was not a competitive bid process for the project.

Mr. Ryall stated they will not have any increased on-going maintenance costs after adding four (4) more towers, and the only added cost from the project will be mainly from electrical use. PBS will use existing police towers in order to keep costs down.

Co-Chair Bledsoe recognized Senators Eddie Cheatham, Bart Hester, Keith Ingram, Linda Chesterfield, Missy Irvin, Mark Johnson, and Jane English, and Representatives Jim Wooten, Megan Godfrey, DeAnn Vaught, and Andy Davis for questions. Co-Chair Bledsoe also recognized Mr. Andrew Bicknell, Chief Technology Officer, AETN to respond to questions.

Representative Andy Davis was recognized for questions. He stated three points for PBS:

- Reach out to the Arkansas Governor's Office and the Arkansas Game and Fish Commission to talk about utilizing and sharing the state's assets that is already being purchased across the state;
- Installations and transmitters need to be competitively bid;
- Reach out to the Delta Regional Authority for federal grants outside of the CARES Act, that may assist with covering some costs.

After further discussion by the members and agency representatives, Co-Chair Bledsoe recognized Senator Jonathan Dismang who requested to make a motion.

Senator Jonathan Dismang made a motion to request the CARES Act Committee to reconsider the request for the \$5.18 million for Arkansas PBS and limit it to the first \$120,000 requested for the initial Stage 1 study needed, and once the study is complete, the agency can then move on to the next stages of the project.

Co-Chair Bledsoe recognized Mr. Marty Ryall to speak on the motion. He expressed his concern with the time frame and time crunch that the agency will have to face, if the agency is only approved a portion of the funds.

Co-Chair Bledsoe recognized Senator Jimmy Hickey for a question on the motion. Senator Hickey stated he did not oppose the motion but wanted to add a contingency based on whether or not the agency would have to come before ALC for approval of their future requests.

Co-Chair Bledsoe recognized Ms. Marty Garrity, Director, Bureau of Legislative Research to provide information. Ms. Garrity stated that the agency can make a future request and come before Arkansas Legislative Council (ALC); however, it would require a six (6) day notice, unless the ALC body gave advance authority in the motion, to call a meeting within the six (6) days.

Co-Chair Bledsoe recognized Senators Jonathan Dismang, Jim Hendren, Linda Chesterfield, and Jimmy Hickey for questions on the motion.

After questions, Senator Dismang stated he would like to withdraw his original motion and make a new motion.

Senator Dismang made a motion to approve the CARES Act appropriation for \$120,000 for the study for Arkansas PBS programming and AMI.

Co-Chair Bledsoe recognized Representatives Reginald Murdock, Andy Davis, and Fredrick Love, and Senators Jonathan Dismang, Keith Ingram, Mark Johnson, Alan Clark, Missy Irvin, and Jim Hendren for debate and questions on the motion.

Co-Chair Bledsoe recognized Senator Jimmy Hickey for a question on the motion. Senator Hickey gave insight to his agreement and concerns on the motion and requested to make a substitute motion.

Senator Jimmy Hickey made a substitute motion to suspend the rules for the six (6) day notice requirement in order to have another ALC meeting. The motion was seconded and passed by voice vote.

Co-Chair Bledsoe recognized Representative Jim Dotson for questions.

Representative Dotson made a motion for immediate consideration on the motion made by Senator Jonathan Dismang. The motion was seconded and passed by voice vote.

Co-Chair Bledsoe asked that Senator Dismang repeat his motion for clarity and for the record. Senator Jonathan Dismang repeated his motion.

Senator Dismang made a motion that the CARES Act appropriation request is approved at \$120,000 for Arkansas PBS expansion project and to waive the 6 day notice requirement.

The motion was seconded and passed by voice vote, as amended.

Co-Chair Bledsoe recognized Representative DeAnn Vaught for a synopsis of the next item for review. Representative Vaught stated that in the PEER subcommittee meeting there was discussion and concerns about contact tracing; therefore, the PEER subcommittee members wanted to present this request to the full ALC membership to make a decision on the appropriation request.

Co-Chair Bledsoe then recognized Ms. Stephanie Williams, Chief of Staff, Arkansas Department of Health (ADH) to present. Ms. Williams stated subcommittee members did express their concerns and/or dissatisfaction with the time intervals for notification of lab results, both positive and negative results, initiating case investigation in a timely manner, and proceeding with contact tracing for individuals that were potentially exposed. Ms. Williams continued by stating, the agency agrees it is an issue with the timeline, but that is due to a lack in manpower. The agency requested to move forward with the proposal to utilize two contractors which would triple the capacity to do contact tracing, and also to request additional funding to expand the contracts to include additional nursing staff for case investigation. The goal is to have a rapid turnaround on the process.

After the presentation, Co-Chair Bledsoe recognized Senator Mark Johnson and Senator Missy Irvin for questions. Senator Irvin asked Ms. Williams for the total amount that has been spent to-date on contact tracing. Ms. Williams stated the amount spent to-date is a little over \$1.2 million and the approved appropriations were in the amount of \$22 million in May 2020 and the current \$16 million is a secondary request. (*Department of Higher Education was also approved for \$5 million for contact tracing.*)

Co-Chair Bledsoe recognized Senator Kim Hammer for questions. Senator Hammer asked how much of the funds had already been spent. Ms. Williams stated that of the \$22 million that was authorized in May 2020, \$1.2 million had been spent. The remaining difference is being held for use by the two contracts, if they are approved. Ms. Williams stated, the request for the additional \$16 million is because the agency anticipates that there will be a need to exceed the capacity intended for the first two contracts. The contracts allow for hiring 350 contractors, each contract, in addition to needing nursing staff, and the agency will need more.

Co-Chair Bledsoe recognized Senator Hendren for questions.

Co-Chair Bledsoe then recognized Representative Jim Dotson for questions. Representative Dotson asked Ms. Williams, how will it be known that third party entities with contractors that the State is contracting with, will protect and/or properly destroy personal identifiable information from the contact tracing app. Ms. Williams stated that clauses are included in the contract that contractors have to meet security standards, and that there are penalties in the contract if they fail to meet those standards.

Co-Chair Bledsoe recognized Representative LeAnne Burch and Senator Jimmy Hickey for questions. Co-Chair Bledsoe recognized Ms. Stephanie Williams, ADH, Mr. Jake Bleed, DFA, and Ms. Jo Thompson, CFO, Department of Health (ADH) to respond.

Ms. Thompson stated, the first contract was started July 1, 2020, the second contract is not yet effective so no costs have been incurred.

Co-Chair Bledsoe recognized Representative Fredrick Love for questions. Representative Love asked the dollar amount of each contract. Ms. Thompson stated each contract is for \$20 million. She further stated the total amount of the money needed will be funded, first by the CARES Act for the first six months, and the other will be funded by federal grants.

Co-Chair Bledsoe recognized Representative DeAnn Vaught for a motion. Representative DeAnn Vaught made a motion to hold the Department of Health CARES Appropriation Request in the amount of \$16 million until the next scheduled ALC meeting.

Co-Chair Bledsoe recognized Senator Jim Hendren and Co-Chair Wardlaw for questions on the motion.

The motion was seconded and passed by voice vote.

Review Subcommittee

Co-Chair Bledsoe recognized Senator Scott Flippo to present the report of the Review Subcommittee (Exhibit F.10). Senator Flippo reported that the Review Subcommittee met on July 21, 2020, and reviewed a lease agreement disclosure, various methods of finance, and grants and services contracts. No items were held and all items were reviewed. This concluded the report of the Review Subcommittee and there were no questions.

Senator Scott Flippo 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 July 21, 2020, and received and discussed various reports that required no action. The subcommittee reviewed new requests, as well as continuation requests made by institutions of higher education and executive branch agencies and departments, listed as Items 4-11 on the report. This concluded the report of the Uniform Personnel Classification and Compensation Plan Subcommittee.

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.

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 July 22, 2020. The subcommittee heard recommendations on Organizational Structure and People Capabilities by Guidehouse, LLP from their study of the Arkansas Department of Transportation as required by Act 298 of 2019, and responses to the recommendations from the Arkansas Department of Transportation. This concluded the report of the Highway Commission Review and Advisory Subcommittee, 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.

Data-Sharing and Data-Driven Decision-Making Subcommittee

Co-Chair Bledsoe recognized Senator Jane English to present the report of the Data-Sharing and Data-Driven Decision-Making Subcommittee (Exhibit G.01). Senator English reported that the Data-Sharing and Data-Driven Decision-Making Subcommittee met on July 20, 2020. The subcommittee received a presentation on the Statewide Longitudinal Data System, along with the 2019 Economic Security Report, and a presentation from the Arkansas Health Department (ADH) on updates on COVID-19 data collection and disbursement. This concluded the report of the Data-Sharing and Data-Driven Decision-Making Subcommittee, and there were no questions.

Senator Jane English moved that the report of the Data-Sharing and Data-Driven Decision-Making Subcommittee be adopted. The motion was seconded, and passed by voice vote.

Review of Communications

Co-Chair Bledsoe referred members to the communications listed as Item H.3(a) and H.3(b) on the agenda, and noted that action by the Legislative Council is needed for those items.

Co-Chair Bledsoe referred members to the communication listed as Item H.3(a).

Co-Chair Wardlaw made a motion to file as reviewed Item H.3(a) for the Arkansas Development Finance Authority. The motion was seconded and passed by voice vote.

Co-Chair Bledsoe referred members to the communication listed as Item H.3(b).

Co-Chair Wardlaw made a motion to approve Item H.3(b) for the Arkansas Economic Development Commission. The motion was seconded and passed by voice vote.

New Business

Co-Chair Bledsoe directed members to Item I.03 – ARBuy Procurement Program on the agenda.

Co-Chair Bledsoe recognized Ms. Amy Fecher, Secretary, Department of Transformation and Shared Services and Mr. Brian Utley, CEO, Periscope Holdings, to present. Ms. Amy Fecher gave an overview. Co-Chair Bledsoe then recognized Mr. Utley to present.

Co-Chair Bledsoe stepped away and Co-Chair Wardlaw momentarily presided.

The following information was provided about the program:

The Program

- eProcurement system available to State departments, cities, counties, universities, and K-12;
- Fully automated digital workflows;
- Expand usage of State contracts through online shopping

Our Solution

- BuySpeed eProcurement solution;
- Implemented in 8 states and 1,000 agencies;

Funding Model

- ARBuy is zero cost to the State Budget or General Revenue;
- 1% convenience fee to vendors;
- \$4.1 million revenue estimate to the State over 5 years (total fee collection of \$20.6 million)

Co-Chair Wardlaw recognized Senator Kim Hammer and Representative Dotson for questions. Co-Chair Wardlaw then recognized Representative Jon Eubanks. Representative Eubanks asked if the state has any administrative costs involved, and if not, why not reduce the 1% convenience fee to .8% instead. Ms. Fecher responded stating that there are staffing costs involved.

Co-Chair Wardlaw asked a follow-up question, asking if the percentage that is coming back to the State is enough to cover staffing costs. Ms. Fecher stated she did not know the total costs of staff salaries because she has procurement staff in each division.

Co-Chair Wardlaw asked Ms. Fecher to present that information to the Bureau of Legislative Research staff before the next ALC meeting.

Co-Chair Wardlaw recognized Senators Terry Rice, Jimmy Hickey, Linda Chesterfield, Scott Flippo, and Kim Hammer, and Representatives Fredrick Love, John Payton, Robin Lundstrum, Reginald Murdock, and Jim Wooten for questions.

Co-Chair Bledsoe returned to preside over the meeting.

Ms. Fecher stated that the State entered into a 5-year contract with Periscope Holding, with no costs associated, so it is not required by state procurement law to run it through an RFP; however a RFP was run, in order to maintain transparency. She further stated that 20% of the convenience fee will be returned to the state.

After questions and expressions of concern, Co-Chair Bledsoe moved on the next section of the agenda.

New Interim Study Proposals and/or Interim Resolution

Co-Chair Bledsoe informed members that Item I.1 – ISP 2019-032 and Item I.2 - ISP 2019-033, Interim Study Proposals by Representative Jim Sorvillo, would be deferred to the next ALC meeting (August 21, 2020), at the request of Representative Sorvillo.

Co-Chair Bledsoe requested a motion to batch Items J.01- Interim Study Proposal 2019-159, by Representative Aaron Pilkington, Item J.02- Interim Study Proposal 2019-160, by Representative DeAnn Vaught, and Item J.03- Interim Study Proposal 2019-161, by Senator Kim Hammer.

Co-Chair Wardlaw made a motion to batch the Interim Study Proposals (J.01 - J.03) and refer them to their respective Committees. The motion was seconded and passed by voice vote.

Interim Study Proposal 2019-159, by Representative Aaron Pilkington was referred to the House Committee on Public Health, Welfare, and Labor. Interim Study Proposal 2019-160, by Representative DeAnn Vaught was referred to the House Committee on Public Health, and Interim Study Proposal 2019-161, by Senator Kim Hammer was referred to the Senate Committee on State Agencies and Governmental Affairs.

Supplemental Item

Co-Chair Bledsoe made a motion to suspend the rules to take up the Supplemental Agenda.

The motion was seconded, but failed by voice vote.

A roll call was requested.

Upon a showing of three hands, a roll call, by division, was initiated, starting with House members. The House roll call resulted in a fourteen (14) to nine (9) vote against the motion; therefore the motion failed.

Adjournment

At 12:12 p.m., the meeting was adjourned as there was no further business to come before the Legislative Council.

Respectfully submitted,

ATTEST:

Senator Cecile Bledsoe
Co-Chair, Senate

Marty Garrity
Executive Secretary