

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

**Friday, November 20, 2020**

---

The Arkansas Legislative Council met at 9:00 a.m., Friday, October 16, 2020, 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 meetings on September 18, 2020 and October 1, 2020 (Exhibit C) and asked if there were any questions. There were no questions.

**Revenue Report**

Co-Chair Wardlaw recognized Mr. Richard Wilson to present the September 2020 Arkansas Revenue Report (Exhibit D). Mr. Wilson began by reporting the first three (3) months of the new Fiscal Year 2020-2021 reflects \$303 million ahead of the gross collections in comparison to Fiscal Year 2019-2020, with an 18% growth rate. The net is ahead at \$227 million with a growth rate of 15%. Mr. Wilson further reported, the state is \$159 million ahead of the official forecast. The gross receipts in taxes for the month are up 10% and income taxes are up 25%.

Co-Chair Wardlaw recognized members for questions. With no questions, this concluded the revenue report.

**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 Bledsoe reported that the Executive Subcommittee met at 11:30 a.m. on October 15, 2020. The subcommittee considered emergency rules from the Arkansas Department of Commerce and the Arkansas Department of Parks, Heritage and Tourism; the Arkansas Economic Division; and the Department of Finance & Administration. The emergency rules were reviewed and approved upon adjournment of the Arkansas Legislative Council on October 16, 2020. This concluded the report of the Executive Subcommittee.

Co-Chair Wardlaw recognized Senator Joyce Elliott for questions. Senator Elliott questioned the eligibility for the grant program (Fresh Start Program) which the Arkansas Economic Development Commission (AEDC) brought forth for approval of funding. Co-Chair Wardlaw recognized Mr. Jim Hudson, Chief Legal Counsel, AEDC, Ms. Terry Bearden, Executive Director, Arkansas Community Action Agencies Association, Inc., and Ms. Jean Noble, PCED, Director of Grants Management, AEDC, to respond. Mr. Hudson responded that the grant is available to individuals whose income is up to 80% of area median income, a number determined by HUD, those who have been impacted by COVID-19, and those behind on their rent, facing evictions. In

agreement with Mr. Hudson, Ms. Bearden also responded that other requirements for applicants will include an affirmation of use of the CDC Eviction Moratorium Declaration. Senator Elliott requested to receive a list of those guidelines from AEDC.

Co-Chair Wardlaw recognized Representative Fredrick Love for questions. Representative Love asked if there was a cap on the amount of assistance a family can receive. Mr. Hudson stated there are two caps that apply: up to 2 ½ months of rent; and the amount granted is based on the HUD determined fair market rental value.

Co-Chair Wardlaw recognized Senator Hammer for questions. Senator Hammer asked if the funds are paid to the landlord and what process is in place in determining if someone is legitimately in need and not just mismanaging affairs. Ms. Bearden responded that the funds are paid to the landlord, and that the household income 30 days prior to the application date is reviewed to make a determination, as the program is only considered an emergency service.

Co-Chair Wardlaw recognized Representative Deborah Ferguson for questions. Representative Ferguson asked if the funds would be for residential applicants only. Mr. Hudson replied, yes.

Co-Chair Wardlaw recognized Representative Denise Garner to express her gratitude to the agencies for all they do.

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

Co-Chair Wardlaw explained to members that due to Joint Budget hearings and with Arkansas Legislative Council (ALC) being the final decision maker for all ALC subcommittees, the following subcommittees will present their agency requests in ALC as if they were conducting a normal subcommittee meeting.

### **Reports of the Standing Subcommittees**

#### Administrative Rules Subcommittee

Co-Chair Wardlaw recognized Mr. Mark White, Chief of Legislative Affairs, Department of Human Services, to present the rule for DHS – Division of Medical Services (Exhibit F.1 – b.ii). Mr. White stated the rule, SPA #2019-0009, Transportation 1-19, administrative procedures for the Emergency Medical Transportation Assessment Fee and Access Payments, is for an ambulance assessment program that will allow the agency to collect an assessment from private ambulance services, government owned ambulance services are exempt, to use those revenues to draw down additional Medicaid dollars, that would go back to the ambulance services as access payments. This is similar to how the agency handles nursing homes and hospitals.

Co-Chair Wardlaw asked if there were questions from members, there were none. Co-Chair Wardlaw asked if any person from the public would like to speak for or against the rule. There were no public comments.

**Co-Chair Bledsoe made a motion to approve the rule. The motion was seconded and passed by voice vote.**

Performance Evaluation and Expenditure Review (PEER) Subcommittee

Co-Chair Wardlaw recognized Mr. Billy Parrish, Legislative Analyst II, Bureau of Legislative Research to present the agency requests of the Performance Evaluation and Expenditure Review (PEER) Subcommittee (Exhibit F.8). Mr. Parrish stated the CARES Appropriation requests were made by agencies to increase appropriation to spend funds related to the CARES Act, a federal program that provides direct economic assistance in response to COVID-19. The requests require prior approval by ALC. Mr. Parrish gave a brief overview on each of the following requests:

- Department of Human Services – Administration – Hunger Relief;
- Department of Human Services – Administration – Veteran’s Initiative;
- Department of Commerce – Arkansas Economic Development Commission – Short Term Rental Assistance;
- Department of Commerce – Arkansas Economic Development Commission – Economic Assistance to Arkansas Businesses;
- Department of Commerce – Division of Workforce Services;
- Department of Finance and Administration – Disbursing Officer;
- Department of Agriculture; and
- Department of Health.

Co-Chair Wardlaw requested Mr. Jake Bleed, Director of Budget, Department of Finance and Administration, come forward to respond to questions. Co-Chair Wardlaw asked if the \$2 million appropriation request is the cost solely for auditing the Business Interruption Program. Mr. Bleed responded but stated Mr. Paul Louthian could better respond. Mr. Paul Louthian, Director, Office of Accounting, Department of Finance and Administration, explained the \$2 million addendum has several facets to it. The original portal that was built for the cities and counties was basically a data-base management tool to gather information to review, approve, and then document the expenditures for the audit process. In this case we are asking *CTEH* to work alongside, to gather information from individual businesses that would make sure that the business is in good standing with the state. The expense reimbursements will be imported. There will be consent required to DFA to allow the agency to pull sales tax data from last year through this year, the period of time that the business was restricted, then make calculations. Mr. Louthian further explained, that *CTEH* has developed a formula to bring the two pieces together and allocate the funds to be disbursed to support the businesses. There will be three iterations to this to make sure the funds are being distributed to the businesses.

Co-Chair Wardlaw recognized Representative Jim Dotson for a question of clarification. Mr. Louthian responded. Representative Dotson asked how much of the CARES Act funding of the \$1.25 billion is left (after the approvals, *if* approved today). Mr. Bleed responded that if all requests presented today are approved, there will be \$81.6 million left.

Co-Chair Wardlaw recognized Senators Jonathan Dismang, Gary Stubblefield, Linda Chesterfield, and Missy Irvin for questions or remarks. Mr. Louthian and Mr. Bleed responded.

Co-Chair Wardlaw recognized Senator Bond for a disclosure. Senator Bond disclosed that on the DHS – Administration – Hunger Relief proposal in the CARES Act requests (Exhibit F.8), Ms. Kathy Webb, Executive Director, Arkansas Hunger Relief Alliance, has a nephew whom is a

partner at the law firm in which he is also employed. Senator Bond stated he has not represented the Arkansas Hunger Relief Alliance, but has represented Ms. Webb individually; Ms. Webb is also the City Director in his county. Senator Bond stated the disclosure is required by Senate rules.

**Co-Chair Bledsoe moved to batch and approve all items from the CARES Appropriation requests. The motion was seconded, and passed by voice vote.**

### Review Subcommittee

Co-Chair Wardlaw recognized Ms. Kathy Schmidt, Senior Legislative Analyst, Bureau of Legislative Research, to present the agency items for review of the Review Subcommittee (Exhibit F.10). Ms. Schmidt gave a short overview of the following items:

- **Discretionary Grant**

- Arkansas Department of Human Services with Ouachita Regional Counseling and Mental Health Center dba Ouachita Behavioral Health and Wellness;

- **Services Contracts for Legislative Review**

**Construction Related Contracts:**

- Arkansas State Police with Wittenberg, Delony and Davidson, Architects;

**Intergovernmental Contracts:**

- Arkansas Department of Human Services with Arkansas National Guard Welfare & Recreation; and
- U of A Little Rock with University of Wyoming;

**Out-of-State Contracts:**

- DFA – Child Support Enforcement with Laboratory Corporation of America;
- Arkansas Department of Human Services with SYMPO, Inc.;
- Arkansas Department of Human Services with Free Will Baptist Family Ministries, Inc.;
- Arkansas Department of Human Services with Hornby Zeller Associates/Public Consulting Group;
- Arkansas Department of Human Services with National Council on Crime and Delinquency;
- Arkansas Department of Human Services with Magellan Medicaid Administration;
- Arkansas Department of Human Services with Milliman, Inc.;
- Arkansas Department of Human Services with Optum Government Solutions, Inc.; and
- U of A Pine Bluff with Demographic and Institutional Research Services – *(this item was removed from the agenda, upon the agencies' request);*

**In-State Contracts:**

- Department of Finance and Administration with The Center for Toxicology and Environmental Health;
- Arkansas Department of Human Services with Cathy George;
- Arkansas Department of Human Services with Terri L. Grimes;
- Arkansas Department of Human Services with Arkansas Foundation for Medical Care; and
- Public Defender Commission with Mathew Sanders.

Co-Chair Wardlaw recognized Senator Kim Hammer for questions. Senator Hammer stated he would reach out to the department directly for additional information.

**Co-Chair Bledsoe moved to review all discretionary grants and service contracts. The motion was seconded and passed by voice vote.**

Co-Chair Wardlaw recognized Ms. Schmidt to continue with her presentation on the following items:

- **Vehicle Contract Disclosure**
  - Department of Transportation and Shared Services Office of State Procurement with JSJ Ford; and
- **Lease Agreement Disclosure – Approval**
  - Arkansas Department of Corrections, Division of Community Corrections with CSC, LLC a/k/a/ McGrew Properties.

**Co-Chair Bledsoe moved to approve the vehicle contract disclosure and the lease agreement disclosure. 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 October 5, 2020 and October 12, 2020. Senator Dismang reported:

On October 5, 2020, per the study of the Arkansas Department of Transportation as required by Act 298 of 2019, the subcommittee:

1. Moved to have recommendations presented at previous meetings on Expenditures, Procurement, and Information Technology be included in the subcommittee draft report;
2. Moved to include draft legislation on Oversight Powers for the subcommittee and a related rule change for the Arkansas Legislative Council be included in the subcommittee draft report; and
3. Moved to include draft legislation on Merit Pay included in the subcommittee draft report.

On October 12, 2020, per study of the Arkansas Department of Transportation as required by Act 298 of 2019, the subcommittee:

1. Heard responses to the draft report by the Arkansas Department of Transportation;
2. Discussed the draft subcommittee report and moved to amend the report; and
3. Moved adoption of the amended subcommittee report and will provide a final written report of its activities, findings, and recommendations, including recommended legislation and a recommended amendment to the ALC Rules related to the study, to the Arkansas Legislative Council at its November 2020 meeting per council rules.

This concluded the report of the Highway Commission Review and Advisory Subcommittee, and there were no questions.

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

#### Occupational Licensing Review

Co-Chair Wardlaw recognized Senator Missy Irvin to present the report of the Occupational Licensing Review Subcommittee (Exhibit F.15). Senator Irvin reported that the Occupational Licensing Review Subcommittee met on October 12, 2020, and discussed and approved two pieces of draft legislation. The subcommittee will review the draft report and the legislation packet at the next meeting in the month of November 2020.

This concluded the report of the Occupational Licensing Review Subcommittee, and there were no questions.

**Senator Irvin moved that the report of the Occupational Licensing Review Subcommittee be adopted. The motion was seconded and passed by voice vote.**

#### **Review of Communications**

Co-Chair Wardlaw referred members to the communications listed on the agenda as Items H.2(a), H.4(a), and H.8(b), and noted that action by the Legislative Council is needed for those items.

Co-Chair Wardlaw referred members to the communication listed as Item H.2(a) –

#### **2. Arkansas Teacher Retirement System:**

- a. Request, submitted pursuant to A.C.A § 19-11-1302, for the Legislative Council's review of investments summary;
  - i. Kayne Anderson Real Estate Partners VI, L.P.;
  - ii. PGIM Real Estate Capital VII SCSp;
  - iii. Franklin Park Corporate Finance Access Fund, L.P.

**Co-Chair Bledsoe made a motion to file as reviewed Item H.2(a) for the Arkansas Teacher Retirement System. The motion was seconded and passed by voice vote.**

Co-Chair Wardlaw referred members to the communication listed as Item H.4(a).

#### **4. Department of Commerce:**

- a. **Arkansas Development Finance Authority**, Request for the Legislative Council's review of the following Program Fact Sheets, submitted pursuant to A.C.A. § 15-5-212(b).
  - i. State Agency Facilities Revenue Bonds, Series 2020 - (\$25,455,000);
  - ii. Industrial Development Revenue Bonds, Tax Exempt Series 2020 - (\$265,000,000);
  - iii. State Agency Facilities Revenue Refunding and Construction Bonds, Series 2020 – (\$14,620,000).

**Co-Chair Bledsoe made a motion to file as reviewed Item H.4(a) for the Arkansas Development Finance Authority. The motion was seconded and passed by voice vote.**

Co-Chair Wardlaw referred members to the communication listed as Item H.8(b).

**8. Department of Parks, Heritage, and Tourism:**

- b. Division of State Parks, Request for approval of a proposed property lease agreement with Queen Wilhelmina State Park, submitted pursuant to A.C.A. § 22-4-105.**

Co-Chair Wardlaw recognized Senator Terry Rice for questions and recognized Mr. Jim Andrews, General Counsel, Arkansas Department of Parks, Heritage, and Tourism (ADPHT), Mr. Jeff King, Special Projects Manager, Division of State Parks, to respond.

After questions, Co-Chair Wardlaw requested a motion.

**Co-Chair Bledsoe made a motion to approve Item H.8(b) for the Division of State Parks. The motion was seconded and passed by voice vote.**

**Business Carried Over**

Co-Chair Wardlaw recognized Dr. Charisse Childers, Director, Division of Workforce Services (DWS), to report on fraudulent unemployment claims.

Co-Chair Wardlaw expressed his concern with DWS staff and employees still being required to work long hours due to COVID-19 to assist the public on an unemployment hotline, although records show call volumes have decreased.

Dr. Childers stated there are individuals working the unemployment hotline on Saturdays, at the request of the Arkansas Legislative Council, to operate 6 days a week, 10 hours per day. The phone calls have reduced, but the increase in calls happens in cycles. In the event that Congress approves additional unemployment benefits support, an increase in calls will be expected. The call volume, however, is being monitored. Dr. Childers further reported the number of staff working on Saturdays has decreased due to the hiring of third party vendors and additional staff. Through ALC subcommittee agency requests, the department has requested to hire approximately 100 additional staff, not including those who were previously hired to work in the fraud division.

Co-Chair Wardlaw recognized Senator Kim Hammer for questions. Senator Hammer asked if the staff that is being required to work extended hours, shifts being split up to stay out of overtime, are they getting overtime, or being required to bank the extra hours. Dr. Childers responded, all the above. Senator Hammer then asked if employees would be able to take the time off from the overtime hours that are being banked. Dr. Childers stated that it is being monitored, as she is aware of employees having a substantial amount of leave accrued and the concern being that employees are not allowed to carry over more than a certain number of leave hours at the end of the year. Senator Hammer asked lastly, if any of the overtime costs can be reimbursed by the CARES Act funds. Dr. Childers responded, yes, reimbursement does come from federal funding.

Co-Chair Wardlaw recognized Senator Joyce Elliott for questions. Senator Elliott asked a question for clarification. She further asked, if the employees who have accumulated more than

the maximum number of paid leave hours to carry over into the next year are not taking off and are not being paid for those hours, how then are they compensated. Co-Chair Wardlaw recognized Ms. Ann Purvis, Chief of Staff, Department of Transformation and Shared Services (DTSS), who responded that some of the issue is with statutory restrictions, but the agency has been looking at other creative ways to address the issue for the current calendar year and on. A resolution is expected soon. Senator Elliott requested that if anything is necessary of state legislators to assure a resolution is reached, bring those suggestions forward.

Co-Chair Wardlaw recognized Senator Hammer for a statement. Senator Hammer stated that the issues surrounding having excess paid leave hours at the end of the year that cannot be carried over into the next year, will be presented in the upcoming ALC – Personnel Subcommittee meeting (*November 2020*), as he has filed an Interim Study Proposal (ISP) for a piece of legislation in order to address this very issue.

Co-Chair Wardlaw recognized Senator Linda Chesterfield for questions. Senator Chesterfield asked what is the rule that precludes the agency to move forward with the matter. Ms. Purvis responded that it's a state law that prohibits an employee to carry over more than 240 hours into the next year. Senator Chesterfield requested Ms. Purvis to come back before ALC in November to present a solution to this matter.

Co-Chair Wardlaw recognized Senator Will Bond and Representative Jim Wooten for questions. Dr. Childers responded.

Co-Chair Wardlaw then recognized Dr. Childers to move forward with presenting the fraud report.

Dr. Childers reported, in response to the influx of fraud with Pandemic Unemployment Assistance (PUA) and Unemployment Insurance (UI) benefits, the division has implemented several fraud prevention and detection measures. As required by federal law, the preexisting units and capabilities for detecting and collecting individual claimant fraud, are retained. The DWS is required by law to have units in place to detect fraud. In doing so, in the past our state has had a low fraud rate, which is attributed to having individuals go into the local office as part of the approval process, to show their identification. With COVID-19, we have eliminated that step to keep staff and others safe during the pandemic.

Dr. Childers further reported, as of October 14, 2020, in regular unemployment insurance, there were self-reported fraud claims of 21,916; in regular unemployment insurance, fraud claims reported by the employer were 5,337. The total regular UI claims reported as fraudulent is 27,253. The PUA claims in internal review status, which means placed in review to determine if fraudulent, is 54,495 out of 237,617 claims. As of this date, there has been approximately 400,000 total unemployment benefit claims. (*This data varies daily*).

Once fraud has been reported by the claimant/victim, the claim is stopped. In regular UI, the agency uses a “stop pay” message and in PUA, a “denial” is issued. The victim will then receive a follow-up notice in the mail instructing them to provide a copy of the police report and valid state issued identification. The Little Rock Police Department has put in place an email address and other information available to those in Little Rock who need to file a fraudulent claim with the police. Any self-reported fraudulent claim that is reported, the process is immediately stopped and no funds are disbursed or no longer would be disbursed. Employers may also receive notices from DWS stating an employee has filed for unemployment benefits. When the employer reports the

potentially fraudulent claim by the employee, notice is automatically generated to the claimant alerting them of the fraud. The claims are flagged and investigated by the Fraud Investigation Unit, and confirmation of not filing the claim is required of the “victim”. As the agency looks at fraudulent claims, it is also looking into overpayments.

Co-Chair Wardlaw recognized Senator Kim Hammer for questions. Senator Hammer asked when fraudulent claims are identified, is there any relief from federal government against unemployment insurance rates or funds that are being pulled out of the unemployment fund for those fraudulent claims. Dr. Childers responded, no, no relief nor guidance has been given as of yet, although it is a nation-wide problem. Senator Hammer asked is there a total dollar amount of funds being returned from fraud accounts. Dr. Childers referred the question to Mr. Bryan Hicks, Assistant Director, Financial Management, DWS. Mr. Hicks responded that the agency has received back fraud and non-fraud funds in one total, and are working to get the numbers separated for each category. The agency is also working with banks on the issue. Senator Hammer made a request of the agency to provide the total number of funds being returned by fraud accounts.

That concluded the report on fraudulent claims. There were no further questions.

**Adjournment**

At 10:22 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, Representatives

---

Marty Garrity  
Executive Secretary