

MINUTES OF THE MEETING
OF THE
ARKANSAS LEGISLATIVE COUNCIL

Friday, April 20, 2018

The Arkansas Legislative Council met at 9:00 a.m., Friday, April 20, 2018, in Committee Room A of the Big Mac Building, Little Rock, Arkansas. Co-Chair Jim Dotson called the meeting to order and recognized a quorum of members present. The members present are listed on the sign-in sheets.

Moment of Silence Observed

Co-Chair Jim Dotson noted the passing of First Lady Barbara Bush, and asked that the members observe a moment of silence in remembrance and in honor of Mrs. Bush.

Minutes of the Previous Meeting

Co-Chair Dotson referred the members to the minutes of the last Legislative Council meeting on January 19, 2018 (Exhibit C) and asked if there were any questions.

Co-Chair Sample moved that the minutes of the January 19, 2018 meeting of the Legislative Council be adopted. The motion was seconded and passed by voice vote.

Presentation of the March 2018 Revenue Report

Co-Chair Dotson recognized Richard Wilson, Assistant Director for the Research Services Division of the Bureau of Legislative Research, to present the March 2018 Monthly Revenue Report (Exhibit D) prepared by the Bureau of Legislative Research.

Mr. Wilson reported that the March 2018 Monthly Revenue Report reflects that gross general revenue collections are \$156.8 million ahead of the same period last year for a growth rate of three point four percent (3.4%). Mr. Wilson reported that the net general revenue available for distribution is \$155 million ahead of the same period last year for a growth rate of four point one percent (4.1%). Mr. Wilson reported that the graph reflects revenue collections are \$75 million ahead of the official forecast, and that the spreadsheet reflects that the growth rate for gross receipts is two point four percent (2.4%), while the growth rate on income tax collections is four point three percent (4.3%). This concluded the March 2018 monthly revenue report, and there were no questions.

Report of the Executive Subcommittee

Co-Chair Dotson recognized Co-Chair Bill Sample to present the report of the Executive Subcommittee (Exhibit E). Co-Chair Sample reported that since the last report, the Executive Subcommittee met on March 5, 2018, and again on April 19, 2018.

March 5, 2018 Meeting

Co-Chair Sample reported that on March 5, 2018, the subcommittee reviewed and approved emergency rules, all of which were reported to the members of the Legislative Council in accordance with Legislative Council Rules. These emergency rules were effective at 12:01 a.m., Wednesday, March 7, 2018.

April 19, 2018 Meeting

Co-Chair Sample reported that the Executive Subcommittee met again on April 19, 2018, and reviewed and approved a Department of Human Services emergency rule for the Arkansas Works Program. This report serves as notice to the Legislative Council members of that action, and the rule will be effective upon adjournment of the Legislative Council meeting today.

Co-Chair Sample reported that the subcommittee also discussed a proposed amendment to the Legislative Council Rules regarding the required vote amounts for fund transfers. The proposed amendment to the Legislative Council Rules is attached to the report, and will be considered for adoption at the May meeting of the Legislative Council.

Co-Chair Sample reported that the subcommittee approved the referral of emergency procurement reports to the Review Subcommittee going forward, and recommended that budget transfer requests by the Office of Arkansas Scholarship Lottery be referred to the Performance Evaluation and Expenditure Review (PEER) Subcommittee. This concluded the report.

Co-Chair Sample moved that the report of the Executive Subcommittee be adopted, and the motion was seconded by Senator Terry Rice.

There followed a discussion of the Department of Human Services emergency rule for the Arkansas Works Program, during which Kelley Linck, Chief of Governmental and Legislative Affairs with the Department of Human Services, responded to questions from the members.

Seeing no further questions, Co-Chair Dotson called for a vote on the motion by Co-Chair Sample to adopt the report of the Executive Subcommittee, and the motion passed by voice vote.

Recognition of John Bethel

Co-Chair Dotson recognized Co-Chair Sample for a moment of personal privilege. Co-Chair Sample stated that he wished to take a moment to recognize that John Bethel has been with the Arkansas Public Service Commission for twenty-nine (29) years, of which eighteen years were served as the Executive Director. Co-Chair Sample noted that Mr. Bethel will retire at the end of April 2018, and asked Mr. Bethel to come forward to receive both a House Citation and a Senate Citation in recognition of his service. Senator Alan Clark presented the Senate Citation, and Representative Kim Hammer presented the House Citation to Mr. Bethel. Following the presentation and remarks by Senator Clark and Representative Hammer, Mr. Bethel thanked the members for their support.

Reports of the Standing Subcommittees

Administrative Rules and Regulations Subcommittee

Co-Chair Dotson recognized Representative Kim Hammer to present the report of the Administrative Rules and Regulations Subcommittee (Exhibit F.1). Representative Hammer reported that the Administrative Rules and Regulations Subcommittee met on April 17, 2018, and adopted the report of the Executive Subcommittee concerning the approval of emergency rules. Representative Hammer reported that the subcommittee reviewed and filed the quarterly reports submitted by the Arkansas Parole Board, the Department of Community Correction, and the Department of Correction in accordance with Act 1258 of 2015.

Representative Hammer reported that the Medical Board rules and the Dental Board rules were deferred to the next subcommittee meeting due to the absence of agency personnel at the meeting. Representative Hammer reported that the Dental Board rule concerning Teledentistry was referred back to the Board of Dental Examiners with a request that the board reconsider the rule and advise the subcommittee of its findings after such consideration.

Representative Hammer reported that the Department of Education rule concerning training for school board members was deferred to the next subcommittee meeting. Representative Hammer reported that at the request of the Arkansas Department of Environmental Quality (ADEQ), ADEQ Regulation 30 was deferred to next subcommittee meeting, and all other rules were reviewed and approved. This concluded the report, and there were no questions.

Representative Kim Hammer moved that the report of the Administrative Rules and Regulations Subcommittee be adopted, and the motion was seconded.

Co-Chair Dotson recognized Senator Terry Rice, who stated that there was discussion on some issues after review of the first rule that led to some need for expanded discussion with the Arkansas Department of Environmental Quality (ADEQ). Senator Rice stated that because ADEQ Rule 30 is scheduled for further discussion at the May subcommittee meeting, he would also like further discussion of Arkansas Department of Environmental Quality (ADEQ) Regulation 12 concerning Storage Tanks (see page 2 of the report).

Senator Terry Rice made a substitute motion to adopt the report of the Administrative Rules and Regulations Subcommittee, and additionally, that the Arkansas Department of Environmental Quality (ADEQ) Regulation 12, concerning Storage Tanks, be deferred to the May 2018 meeting of the Administrative Rules and Regulations Subcommittee. The motion was seconded and passed by voice vote.

Litigation Reports Oversight Subcommittee

Co-Chair Dotson recognized Senator Will Bond to present the report of the Litigation Reports Oversight Subcommittee (Exhibit F.7). Senator Bond reported that the Litigation Reports Oversight Subcommittee met January 30, 2018, and heard testimony from several people concerning *Board of Trustees of the University of Arkansas v. Andrew Matthews*, which is the sovereign immunity issue, followed by discussion among the subcommittee members. This concluded the report and there were no questions.

Senator Will Bond moved that the report of the Litigation Reports Oversight Subcommittee be adopted. The motion was seconded and passed by voice vote.

Performance Evaluation and Expenditure Review (PEER) Subcommittee

Co-Chair Dotson recognized Representative David Meeks to present the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee (Exhibit F.8). Representative Meeks reported that the PEER Subcommittee met on April 18, 2018, and approved one (1) item, which was a fund transfer request for the Department of Transportation. Representative Meeks reported that the subcommittee reviewed several other items, including cash appropriation increase requests, appropriation transfer requests, budget classification transfer requests, miscellaneous federal grant appropriation requests, pay plan holding account transfer requests, and reviewed various reports assigned to the subcommittee. Representative Meeks noted that the subcommittee report includes notice of one item reviewed in March on an emergency basis (see attachment 1 to the report). This concluded the report, and there were no questions.

Representative David Meeks moved that the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee be adopted. The motion was seconded and passed by voice vote.

Policy-Making Subcommittee

Co-Chair Dotson 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 April 16, 2018, and approved the request from the Water Provider Legislative Task Force for an additional allocation of committee funds in the amount of \$25,000.00.

Senator Chesterfield reported that the subcommittee also heard from Representative Lane Jean, Co-Chair of the Tax Reform and Relief Task Force, regarding a proposed contract between Regional Economic Models, Inc. and the Bureau of Legislative Research for production of dynamic fiscal notes for the Task Force. Senator Chesterfield reported that the subcommittee recommends approval of this contract. This concluded the report and there were no questions.

Senator Linda 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 Dotson recognized Senator Scott Flippo to present the report of the Review Subcommittee (Exhibit F.10). Senator Flippo reported that the Review Subcommittee met Thursday, April 19, 2018 for the Review Subcommittee Procurement Study, and heard an overview of the report from Ikaso Consulting on their Findings and Recommendations. Senator Flippo noted that a copy of the report is available online as an attachment to the Review Subcommittee agenda for April 19, 2018, as well as a copy of the overview presented at the meeting. Senator Flippo reported that the next Review Subcommittee Procurement Study meeting is scheduled for Monday, May 14, 2018.

Senator Flippo reported that the Review Subcommittee also met on Wednesday, April 18, 2018, and reviewed methods of finance, discretionary grants, and contracts. Senator Flippo reported that a total of

ten (10) contracts were held, including: six (6) contracts from Arkansas Economic Development Commission held for more information; the contract for the Health Department with Cranford Johnson Robinson Woods (see item 8 on page 32); the Department of Human Services contract with Preferred Family Healthcare Inc. (see item 54 on page 49); the Department of Human Services contract with Cognosante LLC (see item 14 on page 16); the Department of Finance and Administration contract with Computer Aid Inc. (see item 64 on page 15). Senator Flippo reported that the hold has been released on the Department of Human Services contract with Cognosante LLC, and the six (6) contracts from Arkansas Economic Development Commission. This concluded the report, and there were no questions.

Senator Scott Flippo moved that the report of the Review Subcommittee be adopted, including the Department of Human Services contract with Cognosante LLC, and the six (6) contracts from Arkansas Economic Development Commission. The motion was seconded and passed by voice vote.

Uniform Personnel Classification and Compensation Plan Subcommittee

Co-Chair Dotson recognized Representative Les Eaves to present the report of the Uniform Personnel Classification and Compensation Plan Subcommittee (Exhibit F.11). Representative Eaves reported that the Uniform Personnel Classification and Compensation Plan Subcommittee met on April 17, 2018, and reviewed the following reports and requests: the Director's Discretion Report from OPM for state agencies including special entry rates and labor market rates approved by the Chief Fiscal Officer of the State; the report of special-entry rates and labor-market rates approved by the Department of Higher Education; the Provisional Position report from the Department of Higher Education detailing provisional positions for institutions of higher education; the report from the Department of Community Correction regarding parole-probation case ratios; a request for one (1) Swap-Pool position from the Department of Health that includes two (2) new classifications and two (2) Swap-Pool positions from the State Crime Lab; three (3) requests for positions from the Higher Education Growth Pool consisting of one position each for the College of the Ouachitas, National Park College and Southeast Arkansas College; and three (3) requests from the Department of Human Services for classifications on the Miscellaneous Federal Grant allocation. Representative Eaves reported that the subcommittee also filed as reviewed the new Performance Evaluation system, after it was presented by the Department of Finance and Administration. This concluded the report, and there were no questions.

Representative Les Eaves 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 Dotson recognized Representative Chris Richey to present the report of the Lottery Oversight Subcommittee (Exhibit F.12). Representative Richey reported that the Lottery Oversight Subcommittee met on April 19, 2018, and heard testimony on the operation and activities of the Office of Arkansas Scholarship Lottery from Bishop Woosley, Director of the Office of Arkansas Scholarship Lottery. Representative Richey reported that the subcommittee heard a request from the Office of Arkansas Scholarship Lottery to authorize an increase of \$800,000 to Line No. 2, Incentive Compensation, of the Camelot Global AASIS Purchase Order. Representative Richey reported that the subcommittee passed a motion to refer this request to the full Legislative Council for consideration. This concluded the report, and there were no questions.

Representative Chris Richey moved that the report of the Lottery Oversight Subcommittee be adopted, and the motion was seconded.

There followed a discussion of the request by the Office of Arkansas Scholarship Lottery to authorize an increase to Line No. 2 of the Camelot Global Purchase Order, during which Bishop Woosley, Director of the Office of Arkansas Scholarship Lottery, responded to questions from the members.

Seeing no further questions, Co-Chair Dotson called for a vote on the motion by Representative Chris Richey to adopt the report of the Lottery Oversight Subcommittee, and the motion passed by voice vote.

Co-Chair Dotson recognized Representative Richey for a motion. **Representative Chris Richey moved that the request from the Office of Arkansas Scholarship Lottery to authorize an increase of \$800,000 to Line No. 2, Incentive Compensation, of the Camelot Global AASIS Purchase Order be filed as reviewed by the Legislative Council, and additionally, that all similar requests in the future be submitted to the Legislative Council Subcommittee on Performance Evaluation and Expenditure Review (PEER). The motion was seconded and passed by voice vote.**

Co-Chair Dotson recognized Senator Linda Chesterfield, who asked for an explanation, and there followed a discussion of the request by the Office of Arkansas Scholarship Lottery, during which Representative Richey responded to questions regarding the motion, and Mr. Woosley responded to questions regarding the request and the fund for scholarships.

Co-Chair Dotson called for a vote on the motion by Representative Richey that the request from the Office of Arkansas Scholarship Lottery to authorize an increase of \$800,000 to Line No. 2, Incentive Compensation, of the Camelot Global AASIS Purchase Order be filed as reviewed by the Legislative Council, and additionally, that all similar requests in the future be submitted to the Legislative Council Subcommittee on Performance Evaluation and Expenditure Review (PEER), and the motion passed by voice vote.

Highway Commission Review and Advisory Subcommittee

Co-Chair Dotson recognized Representative Andy Davis to present the report of the Highway Commission Review and Advisory Subcommittee (Exhibit F.13). Representative Davis reported that the Highway Commission Review and Advisory Subcommittee met on February 8, 2018, and heard reports from Scott Bennett, Director of the Arkansas Department of Transportation, regarding the following items: (1) Public Road Construction Projects of \$10 million or more; (2) information in response to requests by members of the legislature; and (3) the actions by the Arkansas State Highway Commission. This concluded the report, and there were no questions.

Representative Davis reported that the subcommittee asked that the Department of Transportation provide the subcommittee with an outline of concerns regarding the White House infrastructure plan, which the subcommittee will use to draft a letter to the Arkansas Congressional Delegation in support of the Arkansas Department of Transportation's concerns.

Representative Andy Davis 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 Dotson recognized Senator Ronald Caldwell to present the report of the Arkansas Health Insurance Marketplace Oversight Subcommittee (Exhibit F.14). Senator Caldwell reported that the Arkansas Health Insurance Marketplace Oversight Subcommittee met on January 31, 2018, and discussed pharmacy reimbursement practices, which began January 1, 2018, and the resulting disparities by certain Pharmacy Benefit Managers (PBMs) under certain insurance plans, including plans offered by the Arkansas Health Insurance Marketplace and the Arkansas Works Program. Senator Caldwell reported that as a result of the subcommittee discussion, Senate Bill 2 and House Bill 1010 were introduced in the Second Extraordinary Session of 2018 and both were enacted into law. This concluded the report, and there were no questions.

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

Reports of Interim or Special Committees

Co-Chair Dotson noted that recommendations from the House and Senate Committees on Public Health, Welfare, and Labor regarding whether the State of Arkansas should participate in the Interstate Medical Licensure Compact (Exhibit G.1), which were submitted pursuant to Section 1(c) of Act 424 of 2017, are included in the members' meeting packet; however, no action by the Legislative Council is required.

Review of Communications

Co-Chair Dotson referred members to the communications listed as Exhibit H.1 through Exhibit H.20 on the agenda and noted that action by the Legislative Council is needed for Exhibit H.2a through Exhibit H.2c, Exhibit H.4, Exhibit H.7a, Exhibit H.7b, and Exhibit H.20. Co-Chair Dotson asked if there were any questions regarding the other communications, and there were none.

Arkansas Development Finance Authority

Co-Chair Dotson referred the members to the Arkansas Development Finance Authority request (Exhibit H.2) for the Legislative Council's review of the Program Fact Sheets, submitted pursuant to A.C.A. § 15-5-212(b), and asked if members had questions. Seeing no questions, Co-Chair Dotson asked if there was a motion.

Representative Kim Hammer moved that the following Program Fact Sheets submitted by the Arkansas Development Finance Authority be filed as reviewed by the Legislative Council: (1) Program Fact Sheet for Capital Improvement Revenue Bonds (Academics Plus, LLC Series 2018) in the amount of \$2,900,000; (2) Program Fact Sheet for Multi-Family Housing Revenue Bonds (Mountain View Heights RAD Project, Series 2017) in the amount of \$28,300,000; and (3) Program Fact Sheet for Multi-Family Housing Revenue Bonds (Pine Bluff RAD Conversion Project, Series 2017) in the amount of \$10,500,000. The motion was seconded and passed by voice vote.

Arkansas Public Employees Retirement System (APERS)

Co-Chair Dotson referred the members to the Arkansas Public Employees Retirement System request for the Legislative Council's review of the partial equity ownership investments submitted pursuant to A.C.A § 19-11-1302 (Exhibit H.4), and asked if there were questions. Seeing no questions, Co-Chair Dotson asked if there was a motion.

Senator Terry Rice moved that the Arkansas Public Employees Retirement System (APERS) partial equity ownership investments with Heitman Value Partners Fund IV, and The Realty Associates Fund XII UTP, L.P. be filed as reviewed by the Legislative Council. The motion was seconded and passed by voice vote.

Arkansas Teacher Retirement System (ATRS)

Co-Chair Dotson referred the members to the Arkansas Teacher Retirement System (ATRS) request for the Legislative Council's retrospective review of the partial equity ownership investments submitted pursuant to A.C.A § 19-11-1303 (Exhibit H.7a), and the Arkansas Teacher Retirement System (ATRS) request for the Legislative Council's review of partial equity ownership investments submitted pursuant to A.C.A § 19-11-1302 (Exhibit H.7b), and asked if there were questions. Seeing no questions, Co-Chair Dotson asked if there was a motion.

Co-Chair Bill Sample moved that the Legislative Council file as reviewed the following Arkansas Teacher Retirement System (ATRS) partial equity ownership investments with: (1) ATRS/FP Private Equity Fund, L.P.; and (2) CG Equity Opportunity Fund, L.P. that were submitted pursuant to A.C.A § 19-11-1303, and that the Legislative Council file as reviewed the Arkansas Teacher Retirement System (ATRS) partial equity ownership investments with: (1) Riverside Partners VI, L.P.; (2) CFM Institutional Systematic Diversified Fund LP Series 1.5; (3) Man Alternative Risk Premia SP-Class A; (4) Almanac Realty Securities VIII L.P.; Carlyle Realty Partners VIII, L.P.; (5) Kayne Anderson Real Estate Partners V, L.P.; (6) MetLife Commercial Mortgage Income Fund, L.P.; and (7) DIF Infrastructure V Cooperatief U.A. and DIF Infrastructure V SCS that were submitted pursuant to A.C.A § 19-11-1302. The motion was seconded and passed by voice vote.

Arkansas Economic Development Commission, Division of Rural Services

Co-Chair Dotson referred the members to the Arkansas Economic Development Commission, Division of Rural Services request and asked if there were any questions. Seeing no questions, Co-Chair Dotson asked if there was a motion on the request for the Legislative Council's review and approval of the Rural Community Development Grants for Cycle II of Fiscal Year 2018, submitted pursuant to Section 56 of Act 1048 of the 2017 Regular Session, and the County Fair Building Grants for Cycle II of Fiscal Year 2018, submitted pursuant to Section 55 of Act 1048 of the 2017 Regular Session (Exhibit H.20).

Co-Chair Bill Sample moved that the Rural Community Development Grants for Cycle II of Fiscal Year 2018, and the County Fair Building Grants for Cycle II of Fiscal Year 2018 be approved by the Legislative Council as presented. The motion was seconded and passed by voice vote.

New Interim Study Proposals and Interim Resolutions

Co-Chair Dotson asked if there were any questions or discussion on Interim Study Proposal 2017-110 (Exhibit J.1), sponsored by Representative Johnny Rye, or Interim Study Proposal 2017-112 (Exhibit J.2), sponsored by Representative Johnny Rye. There were no questions.

Co-Chair Sample moved that Interim Study Proposal 2017-110 and Interim Study Proposal 2017-112 be referred to the appropriate committee for study. The motion was seconded and passed by voice vote.

Upon passage of the motion, the Legislative Council referred Interim Study Proposal 2017-110 to the House Committee on Judiciary. Interim Study Proposal 2017-110, by Representative Johnny Rye, requests that the Legislative Council refer to the House Committee on Judiciary a study of the possibility of an expanded role for retired circuit court judges to be appointed special circuit court judges by the Supreme Court in certain judicial circuits with a backlog of cases or with a number of complex cases where a retired circuit court judge could help ease the burden on the circuit court.

Upon passage of the motion, the Legislative Council referred Interim Study Proposal 2017-112 to the House Committee on Revenue and Taxation. Interim Study Proposal 2017-112, by Representative Johnny Rye, is an act to designate the revenues derived from taxes collected on the sales of new and used motor vehicles as special revenues; and to clarify that the revenues derived from the taxes collected from remote sellers are general revenues.

Adjournment

At 9:35 a.m., the meeting was adjourned as there was no further business to come before the Legislative Council.

Respectfully submitted,

ATTEST:

Representative Jim Dotson
Co-Chair, House

Marty Garrity
Executive Secretary