

MINUTES OF THE MEETING
OF THE
ARKANSAS LEGISLATIVE COUNCIL

Friday, May 18, 2018

The Arkansas Legislative Council met at 9:00 a.m., Friday, May 18, 2018, in Committee Room A of the Big Mac Building, Little Rock, Arkansas. Co-Chair Bill Sample 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 Sample referred the members to the minutes of the last Legislative Council meeting on April 20, 2018 (Exhibit C) and asked if there were any questions. There were no questions.

Co-Chair Jim Dotson moved that the minutes of the April 20, 2018 meeting of the Legislative Council be adopted. The motion was seconded and passed by voice vote.

Presentation of the Revenue Report

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

Mr. Wilson reported that the April 2018 Monthly Revenue Report reflects that after ten (10) months, gross general revenue collections are \$170 million above the same period last year for a growth rate of three point one percent (3.1%). Mr. Wilson reported that the net general revenue available for distribution is \$151.8 million above the same ten-month period last year for a growth rate of three point four percent (3.4%). Mr. Wilson reported that the graph reflects revenue collections are \$54 million above the official forecast after the revision, and that the spreadsheet reflects that the growth rate for gross receipts is three point one percent (3.1%), while the growth rate on income tax collections is three point five percent (3.5%). This concluded the April 2018 monthly revenue report, and there were no questions.

Report of the Executive Subcommittee

Co-Chair Sample recognized Co-Chair Jim Dotson to present the report of the Executive Subcommittee (Exhibit E). Co-Chair Dotson reported that the Executive Subcommittee met on May 17, 2018, and reviewed and approved an emergency rule for the Department of Human Services regarding the AR Choices 1-18 – Resource Utilization Groups (RUGS) Overview. The review and approval of the emergency rule will be effective upon adjournment of the Legislative Council meeting today, May 18, 2018.

Co-Chair Dotson reported that the subcommittee also recommended that the Legislative Council cancel the July 2018 meeting of the Legislative Council due to the summer conference schedule, and that the actions of the Legislative Council subcommittees that would normally be submitted for

adoption at the July 2018 meeting of the Legislative Council will be considered final and shall be reported to the Legislative Council at its meeting scheduled for August 17, 2018. This concluded the report.

Co-Chair Jim Dotson moved that the report of the Executive Subcommittee be adopted, and the motion was seconded.

Co-Chair Sample recognized Senator Bruce Maloch who made a substitute motion that the Executive Subcommittee reconsider the approval of the Department of Human Services emergency rule because the original rule was inconsistent with the notice requirements of legislation and the emergency rule is inconsistent with legislative intent.

Co-Chair Sample stated there were several others wishing to be recognized and that he would come back to Senator Maloch for his substitute motion.

Co-Chair Sample recognized Senator Jimmy Hickey, Jr. who made a substitute motion that if any two (2) of the Legislative Council chairs or vice chairs object within twenty-four (24) hours to the approval of an item by a Legislative Council subcommittee during July 2018, that the item would not be approved and would be referred to the full Legislative Council for consideration at the August 2018 meeting.

Co-Chair Sample stated there were several others wishing to be recognized and that he would come back to Senator Hickey for his substitute motion.

Co-Chair Sample recognized Representative Kim Hammer who asked that since the Department of Human Services emergency rule was reviewed on an emergency basis, would the rule have to go through the review process after 120 days. Co-Chair Sample responded that the emergency rule was a temporary rule effective for 120 days, and that will allow the department to continue to provide services to their clients while the department goes through the review process for a permanent rule to be adopted. Representative Hammer noted that people had attended the subcommittee meeting to speak before the subcommittee, and asked if an opportunity to speak will be available in the future. Co-Chair Sample stated that they would have that opportunity.

Co-Chair Sample recognized Senator Linda Chesterfield who asked that representatives of the Department of Human Services be recognized to respond to questions. Co-Chair Sample recognized Mr. Kelley Linck, Chief of Governmental and Legislative Affairs with the Department of Human Services, and Craig Cloud, Director, Division of Provider Services and Quality Assurance with the Department of Human Services. Mr. Linck and Mr. Cloud answered questions from the committee members regarding the court ruling on this rule, the impact of the ruling on services provided by the department, and the effect of the committee's action on the rule.

Co-Chair Sample recognized Senator Bruce Maloch and asked that Senator Maloch re-state his substitute motion. Senator Bruce Maloch stated his substitute motion is that the Executive Subcommittee reconsider the approval of the Department of Human Services emergency rule because the original rule was inconsistent with the notice requirements of legislation and the emergency rule is inconsistent with legislative intent. The motion was seconded and failed to pass by voice vote.

Co-Chair Sample recognized Senator Jimmy Hickey, Jr. who stated his substitute motion is that if any two (2) of the Legislative Council chairs or vice chairs object within twenty-four (24) hours to the approval of an item by a Legislative Council subcommittee at a meeting in July, that the item would not be approved and would be referred to the full Legislative Council for consideration at the August 2018 meeting. The motion was seconded.

Co-Chair Sample opened the meeting to a discussion of Senator Hickey's substitute motion.

Co-Chair Sample recognized Senator Missy Irvin, who made a substitute motion to request that the Chairs of the Legislative Council Subcommittees meeting in July pass over and defer until the next meeting any controversial item, and that the deferred item to be brought before the full Legislative Council in August. The motion was seconded.

There followed further discussion of Senator Irvin's substitute motion.

Co-Chair Sample called for a vote on the substitute motion by Senator Irvin to request that the Chairs of the Legislative Council subcommittees meeting in July pass over and defer until the next meeting any controversial item, and that the deferred item be brought before the full Legislative Council in August. Senator Irvin withdrew her substitute motion.

Co-Chair Sample called for a vote on the substitute motion by Senator Jimmy Hickey, Jr. that if any two (2) of the Legislative Council chairs or vice chairs object within twenty-four (24) hours of the approval of an item by a Legislative Council subcommittee at a meeting in July, that the item would not be approved and would be referred to the full Legislative Council for consideration at the next meeting. The motion failed to pass by a voice vote.

Co-Chair Sample called for a vote on the original motion by Co-Chair Jim Dotson that the report of the Executive Subcommittee be adopted. The motion was passed by a voice vote.

Reports of the Standing Subcommittees

Administrative Rules and Regulations Subcommittee

Co-Chair Sample 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 May 15, 2018, and adopted the report of the Executive Subcommittee concerning the approval of emergency rules, and also filed the quarterly report submitted by the Arkansas Parole Board in accordance with Act 1258 of 2015. Representative Hammer reported that the subcommittee reviewed the Department of Community Correction quarterly report ending March 31, 2018, and that the department will email the quarterly report for the quarter ending December 31, 2017 to the subcommittee members.

Representative Hammer reported that the Arkansas Department of Environmental Quality (ADEQ) has pulled ADEQ Regulation 12 concerning storage tanks due to anticipated federal action that may affect that rule. Representative Hammer reported that two rules, one by the Dental Board and one by the Department of Human Services, Division of Medical Services, were deferred to the 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. The motion was seconded and passed by voice vote.

Higher Education Subcommittee

Co-Chair Sample recognized Representative Greg Leading to present the report of the Higher Education Subcommittee (Exhibit F.5). Representative Leding reported that the Higher Education Subcommittee met May 10, 2018, and heard testimony on campus security from the following: Arkansas Tech University; Arkansas State University; Southern Arkansas University; University of Arkansas at Pine Bluff; University of Central Arkansas; University of Arkansas at Little Rock, University of Arkansas at Fort Smith; University of Arkansas at Fayetteville; University of Arkansas at Monticello; and Henderson State University. Representative Leding reported that the subcommittee also heard an update from Dr. Cheryl May regarding the Governor's School Safety Commission. This concluded the report and there were no questions.

Representative Greg Leading 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 Sample recognized Senator Bruce Maloch to present the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee (Exhibit F.8). Senator Maloch reported that the PEER Subcommittee met on May 16, 2018, and approved the following four (4) items: (1) an appropriation transfer request for the Department of Transportation; (2) Rainy Day Fund transfers for the Administrative Office of the Courts and the Arkansas Economic Development Commission; (3) a reallocation of resources for the Department of Human Services; and (4) the 2018 Pre-Session Budget Hearing Parameter, Schedule, and Forms (see Attachment 3 to the report).

Senator Maloch reported that the subcommittee reviewed several other items, including cash appropriation increase requests, budget classification transfer requests, miscellaneous federal grant appropriation requests, pay plan holding account transfer requests, and reviewed various reports assigned to the subcommittee. Senator Maloch noted that the subcommittee report includes notice of one item reviewed on an emergency basis (see attachment 2 to the report). This concluded the report.

Senator Maloch moved that the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee be adopted. The motion was seconded.

Co-Chair Sample recognized Representative Kim Hammer who asked to be allowed to ask the agency a question concerning the contract with Pricewaterhouse Coopers, and Co-Chair Sample recognized Amy Fecher, with the Office of Transformation in the Arkansas Economic Development Commission. Ms. Fecher stated in response to questions that the contract was to provide assistance with reorganization for the Office of Transformation. She said Pricewaterhouse Coopers will perform for the Office of Transformation the same type of work they performed for the Department of Finance and Administration in 2015, but would take a further look at and conduct a type of audit of several of the agencies and review state agency processes across the board.

Ms. Fecher also commented that the Governor established the Office of Transformation in December 2016. The Transformation Advisory Board has recommended the hiring of a consultant, and that the Governor has met with legislators who have also discussed the hiring of a consultant. Ms. Fecher stated that the history of work done by PWC for other states was to identify savings that are larger than the cost of the contract.

Representative Hammer commented that a bill that was considered in the last legislative session that would have provided for a 360-evaluation that is recognized by top Fortune 500 companies at substantially lower cost, and he would like to know what the need is for a contract for substantially more when this option was available. Ms. Fecher agreed to relay the message to Governor Hutchinson. Senator Hickey asked if an RFP was issued for this contract. Ms. Fecher responded that there was an RFP in Boston that led to a state-cooperative agreement, and this contract is under a cooperative purchasing agreement.

Seeing no further questions, Senator Sample called for a vote on the motion by Senator Bruce Maloch that the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee be adopted. The motion was passed by voice vote.

Policy-Making Subcommittee

Co-Chair Sample 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 May 17, 2018, and referred members to the attachment to the report that lists the committee fund allocations for fiscal year 2019. Senator Chesterfield reported that the subcommittee heard from Director Marty Garrity regarding the review process required under Act 781 of 2017, and the impact that process will have on standing committee expenditures during fiscal year 2019. Senator Chesterfield reported that the subcommittee recommended approval of committee fund allocations, effective July 1, 2018, as set forth in the attachment to the report, which includes an increase to the beginning balance for the following standing committees: the Senate and House Committees on Public Health, Welfare and Labor with a beginning balance that is three (3) times that of fiscal year 2018; the Senate and House Committees on State Agencies and Governmental Affairs with a beginning balance that is two (2) times that of fiscal year 2018; and an additional \$25,000.00 to the remaining Senate and House Standing Committees. 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 Sample recognized Representative Jeff Wardlaw to present the report of the Review Subcommittee (Exhibit F.10). Representative Wardlaw reported that the Review Subcommittee met two times this month. The Review Subcommittee Procurement Study met on Monday, May 14, 2018, and that report is in the packet. The Review Subcommittee also met on Wednesday, May 16, 2018, and approved a vehicle lease for the Department of Disability Determination for Social Security Administration, and approved a disclosure of a lease agreement for the Department of Finance and Administration. Representative Wardlaw reported that all other items were approved and no items were held. This concluded the report, and there were no questions.

Representative Jeff Wardlaw 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 Sample recognized Senator John Cooper to present the report of the Uniform Personnel Classification and Compensation Plan Subcommittee (Exhibit F.11). Senator Cooper reported that the Uniform Personnel Classification and Compensation Plan Subcommittee met on May 17, 2018, and reviewed the following reports and requests: the monthly employment report for state agencies and institutions of higher education; 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 Director's Discretion Report from OPM for state agencies for April 2018; the request for six (6) new positions for the University of Arkansas at Little Rock; the request for two (2) positions at SAU Tech, from the Department of Higher Education central growth pool; a request for a Swap-Pool position from the Arkansas Public Employees Retirement System, the Arkansas Insurance Department, and the Arkansas Department of Education, and the Department of Information Systems; and a request from the Department of Correction to authorize an increase in the hazardous duty differentials that are currently provided to employees. This concluded the report, and there were no questions.

Senator John Cooper 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 Sample recognized Senator Keith Ingram to present the report of the Lottery Oversight Subcommittee (Exhibit F.12). Senator Ingram reported that the Lottery Oversight Subcommittee met on May 17, 2018, and heard testimony from Bishop Woosley, Director of the Office of Arkansas Scholarship Lottery, on the operation and activities of the Office of Arkansas Scholarship Lottery and the proposed 2019 annual budget for the Office of the Arkansas Scholarship Lottery. Senator Ingram reported that the subcommittee heard from Dr. Maria Markham, Director, and Mr. Nick Fuller, Deputy Director, of the Arkansas Department of Higher Education regarding the Proposed FY 2019 Academic Challenge Scholarship administrative expense budget. The subcommittee reviewed and submitted the fiscal year 2019 budgets for the Office of the Lottery and for the Arkansas Department of Higher Education Academic Challenge Scholarship Administration. This concluded the report, and there were no questions.

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

Arkansas Health Insurance Marketplace Oversight Subcommittee

Co-Chair Sample recognized Representative Deborah Ferguson to present the report of the Arkansas Health Insurance Marketplace Oversight Subcommittee (Exhibit F.14). Representative Ferguson reported that the Arkansas Health Insurance Marketplace Oversight Subcommittee met on May 17, 2018, and that she reminded the subcommittee members of their responsibility as a subcommittee to

recommend to the Legislative Council by the end of the year, whether to continue the operations of the AHIM as a separate entity, or to move those duties to the Arkansas Insurance Department. Representative Ferguson reported that the subcommittee recommended that the subcommittee continue as a subcommittee, and the subcommittee continue to monitor the operations of the AHIM.

Representative Ferguson reported that the subcommittee heard from Angela Lowther, Director, Arkansas Health Insurance Marketplace (AHIM), who reported that 68,100 people enrolled into the 2018 insurance plans in the marketplace, but only 55,000 of them made it through to pay their first monthly premium payment. Ms. Lowther stated that AHIM closed out the federal grant they had received to pay for start-up costs, and that AHIM was able in 2017 to absorb the technology fee so that the cost was not increased from 2017 to 2018. Ms. Lowther stated that AHIM had approximately 1,000 agents and brokers assisting people to get enrolled in the marketplace plans, and through marketing outreach they have added about seventy (70) new agents and brokers in 2018. This concluded the report, and there were no questions.

Representative Deborah Ferguson 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 Sample noted that included in the members' meeting packets is the Report of the Joint Advanced Communications and Information Technology Committee (Exhibit G.1), and that no action by the Legislative Council is necessary for this report. The report includes the Committee's recommendation to approve the new rates of service for fiscal year 2019 as proposed by the Department of Information Systems.

Review of Communications

Co-Chair Sample referred members to the communications listed as Exhibit H.1 through Exhibit H.15 on the agenda, and noted that action by the Legislative Council is needed for Exhibit H.11a and Exhibit H.12. Co-Chair Sample asked if there were any questions regarding the other communications, and there were none.

Department of Information Systems

Co-Chair Sample referred the members to the Arkansas Department of Information Systems request (Exhibit H.11a) for the Legislative Council's review of the proposed new rates of service for fiscal year 2019, which was submitted pursuant to A.C.A. § 25-4-119(b)(3)(B), and asked if members had questions. Seeing no questions, Co-Chair Sample asked if there was a motion

Co-Chair Dotson moved that the Arkansas Department of Information Systems proposed new rates of service for fiscal year 2019 be filed as reviewed by the Legislative Council. The motion was seconded and passed by voice vote.

Department of Parks and Tourism, Division of State Parks

Co-Chair Sample referred the members to the Department of Parks and Tourism, Division of State Parks request (Exhibit H.12) for the Legislative Council's approval of fiscal year 2019 expenditures for the Special Maintenance Program, submitted pursuant to Section 23 of Act 235 of the 2018 Fiscal Session, and asked if members had questions. Seeing no questions, Co-Chair Sample asked if there was a motion.

Senator Cecile Bledsoe moved that the Legislative Council approve fiscal year 2019 expenditures for the Special Maintenance Program for the Division of State Parks. The motion was seconded and passed by voice vote.

Business Carried Over from Previous Council Meetings

Co-Chair Sample referred members to the proposed Amendment to ALC Rule 5.(a)(3), concerning the votes required for approval of transfers from the Long Term Reserve Fund, pursuant to Arkansas Code § 19-6-486, and transfers from the Restricted Reserve Fund, pursuant to Arkansas Code § 19-5-1263 (Exhibit I.1). Co-Chair Sample stated that a motion, with a separate vote of the House and Senate, is needed to adopt the amendment.

Co-Chair Sample recognized Representative Kim Hammer who asked for an explanation of why this rule amendment is necessary. Co-Chair Sample recognized Director Marty Garrity who explained this amendment language would bring the Legislative Council Rules in line with the act passed in the 2018 Fiscal Session regarding the number of votes needed for the transfer of moneys, and would require a greater number of affirmative votes than is normally required for transfers.

Co-Chair Dotson moved that the Legislative Council adopt the amendment to the Legislative Council Rules, and the motion was seconded. Co-Chair Sample called for a vote by the House members on the motion, and the motion passed by voice vote. Co-Chair Sample called for a vote by the Senate members on the motion, and the motion passed by voice vote.

New Interim Study Proposals and Interim Resolutions:

Co-Chair Sample stated that Interim Resolution 2017-001, by Senator Cecile Bledsoe, would be considered in conjunction with interim study proposals listed on the Supplemental Agenda. Interim Resolution 2017-001 requests that the Arkansas Legislative Council designate the Month of May 2018 as "Cystic Fibrosis Awareness Month".

Supplemental Agenda

Co-Chair Sample referred members to the Supplemental Agenda and asked for a motion to suspend the rules. **Representative Greg Leding moved that the rules be suspended to allow consideration of the items on the Supplemental Agenda. The motion was seconded and passed by voice vote.**

Co-Chair Sample asked if there were any questions or discussion on Interim Resolution 2017-001 (Exhibit K.1), Interim Study Proposal 2017-114 (Exhibit A.1) or Interim Study Proposal 2017-115 (Exhibit A.2). Seeing no questions, Co-Chair Sample asked for a motion.

Co-Chair Dotson moved that Interim Resolution 2017-001 be adopted, and that Interim Study Proposal 2017-114 and Interim Study Proposal 2017-115 be referred to the appropriate committee for study. The motion passed without objection.

Upon passage of the motion, the Legislative Council referred both Interim Study Proposal 2017-114 and Interim Study Proposal 2017-115 to the Senate Committee on State Agencies and Governmental Affairs.

Interim Study Proposal 2017-114, by Senator Bill Sample, is an act to amend Amendment 98 to the Arkansas Constitution, also known as the "Arkansas Medical Marijuana Amendment of 2016", and to audit applicants to ensure compliance with the residency requirements for ownership interest in a dispensary or cultivation facility.

Interim Study Proposal 2017-115, by Senator Linda Chesterfield, requests that the Senate Committee on State Agencies and Governmental Affairs study whether dual service as a mayor and a member of a school district board of directors is appropriate, including without limitation whether service in the two (2) roles is incompatible or otherwise presents conflicts of interest that are inappropriate or could negatively affect the public trust.

Adjournment

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

Respectfully submitted,

ATTEST:

Senator Bill Sample
Co-Chair, Senate

Marty Garrity
Executive Secretary