

MINUTES OF THE MEETING
OF THE
ARKANSAS LEGISLATIVE COUNCIL

Friday, August 17, 2018

The Arkansas Legislative Council met at 9:00 a.m., Friday, August 17, 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 June 15, 2018 (Exhibit C) and asked if there were any questions. There were no questions.

Senator Joyce Elliott moved that the minutes of the June 15, 2018 meeting of the Legislative Council be adopted. The motion was seconded and passed by voice vote.

Presentation of the Revenue Reports

June 2018 Revenue Report

Co-Chair Sample recognized Richard Wilson, Assistant Director for the Research Services Division of the Bureau of Legislative Research, to present the June 2018 Monthly Revenue Report (Exhibit D.1) prepared by the Bureau of Legislative Research.

Mr. Wilson reported that the June 2018 Monthly Revenue Report reflects the final end-of-year figures for fiscal year 2018, and reflects that gross general revenue collections were \$168 million above the same twelve (12) months of last year. Mr. Wilson reported that the net general revenues available for distribution were \$141.1 million ahead of last year for a growth rate of two point seven percent (2.7%).

Mr. Wilson noted that questions arose after the media reported that there was a \$41.7 million surplus, which is not exactly correct. Mr. Wilson referred members to the first page of the report that lists a total for the RSA as \$5.946 billion, and the current Department of Finance and Administration (DFA) estimate is to fund all of Category A and two-thirds (2/3) of Category B. Mr. Wilson reported that Category B was about \$88 million, with a third of Category B being \$43 million. Mr. Wilson referred to the graph on page two of the report that shows net general revenues available for distribution were about \$42 million over the forecast, which meant that Category B was not fully funded.

Mr. Wilson explained that "fully funded" is language in the statute, and technically, the \$42 million is recouped money, and not a surplus. Mr. Wilson reported that \$4 million of the \$42 million was allocated to K - 12 education agencies, and the other agencies in Category B are not entitled to the money. This leaves \$37 million remaining, which went into "allotment reserve" and will be allocated by the Joint Budget Committee in January 2019. Mr. Wilson stated that this clarifies that there is no surplus of \$41 million, but there is \$37 million in allotment reserve at the end of fiscal year 2018. This concluded the June 2018 report, and Mr. Wilson responded to a question.

July 2018 Revenue Report

Mr. Wilson reported that July 2018 is the first month of fiscal year 2019, and at the end of the month, gross general revenue collections were \$7.4 million ahead of collections of the first month of last year while net general revenues were about \$15 million ahead. Mr. Wilson noted that the Department of Finance and Administration (DFA) estimate indicates that all of Category A and Category B will be funded, and that there will be a \$64 million surplus. Mr. Wilson reported that the graph shows that net general revenues available for distribution are currently \$9 million ahead of the official forecast at the end of the month. This concluded the July 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 Thursday, July 19, 2018, and reviewed and approved an emergency rule for the Medical Marijuana Commission, and an emergency rule for the Arkansas Department of Transportation. Co-Chair Dotson reported that the review and approval of these emergency rules was effective at 12:01 a.m., July 21, 2018. Co-Chair Dotson reported there was no other business to consider for the July 19, 2018 meeting, and the action of the subcommittee was final. The Executive Subcommittee did not meet during the month of August 2018.

Reports of the Standing SubcommitteesAdministrative 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 July 17, 2018, and all actions taken by the subcommittee were final pursuant to the motion passed at the June Legislative Council meeting. Representative Hammer reported that the subcommittee adopted the report of the Executive Subcommittee concerning emergency rules reviewed, and the subcommittee reviewed and approved all rules on the July agenda.

Representative Hammer reported that the Administrative Rules and Regulations Subcommittee met again on August 14, 2018, and adopted the report of the Executive Subcommittee concerning emergency rules reviewed, and also reviewed and filed the quarterly report submitted by the Arkansas Parole Board and the Arkansas Department of Correction in accordance with Act 1258 of 2015. Representative Hammer reported that an administrative directive was left off the quarterly report from the Department of Community Correction; therefore, that quarterly report was reviewed and filed with the exception of the missing administrative directive. The missing administrative directive will be placed on the agenda for the next subcommittee meeting. Representative Hammer reported that all rules on the August agenda were reviewed and approved, and the subcommittee asked the Veterinary Medical Examining Board to return for the September 2018 subcommittee meeting and give the subcommittee an update on the implementation dates and time table for the rule on Livestock Embryo Transfer or Transplant. This concluded the report, and there were no questions.

Representative Kim Hammer moved that the report of the August 14, 2018 meeting of the Administrative Rules and Regulations Subcommittee be adopted. The motion was seconded and passed by voice vote.

Charitable, Penal & Correctional Institutions Subcommittee

Co-Chair Sample recognized Senator Joyce Elliott to present the report of the Charitable, Penal and Correctional Institutions Subcommittee (Exhibit F.2). Senator Elliott reported that the Charitable, Penal and Correctional Institutions Subcommittee met jointly with the House and Senate Committees on State Agencies on July 19, 2018 at the Arkansas Department of Correction, Ouachita River Unit, in Malvern, Arkansas. Senator Elliott reported that the subcommittee heard testimony from the following:

- A presentation on the Department of Correction Food Establishment Inspection Reports, presented by Dr. Nathaniel Smith, Director of the Department of Health and State Health Officer, and Sherri Woodus, Retail Food Program Section Chief, Department of Health.
- A presentation on the 2013 Recidivism Report by Wendy Kelley, Director, Department of Correction, and Tiffanye Compton, Research and Planning Administrator, Department of Correction.
- An overview of the medical care within the Arkansas Department of Correction, presented by Rory Griffin, Deputy Director, Department of Correction, and Dona Gordon, Regional Vice President, Correct Care Solutions.
- A presentation of the Blue Courage Law Enforcement Training Program, by Mark Cashion, Assistant Director, Department of Correction; Kathleen Lowery, Instructor; Willis H. Sargent with the Training Academy; and Lieutenant Carl Lewis, Department of Correction.

This concluded the report, and there were no questions.

Senator Joyce Elliott moved that the report of the Charitable, Penal and Correctional Institutions Subcommittee be adopted. The motion was seconded and passed by voice.

Higher Education Subcommittee

Co-Chair Sample recognized Representative Greg Leding to present the report of the Higher Education Subcommittee (Exhibit F.5). Representative Leding reported that the Higher Education Subcommittee met on June 18, 2018, and heard testimony regarding campus food insecurity from the following individuals:

- Brian James, UCA Bear Essentials Food Pantry;
- Amber Wolf, UALR Trojan Food Pantry; and
- Dr. Sean Huss, Professor of Sociology, and Professor James Stobaugh, Arkansas Tech's Green and Gold Cupboard.

Representative Leding reported that these programs serve, students, faculty, and employees. Representative Leding reported that the food pantry at the University of Arkansas in Fayetteville serves about 350 people each week, of which approximately half are employees. This concluded the report, and there were no questions.

Representative Greg Leding moved that the report of the Higher Education Subcommittee be adopted. The motion was passed without objection.

Litigation Reports Oversight Subcommittee

Co-Chair Sample 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 on July 18, 2018, and received an update from the Office of Attorney General on the settlement for *William Downing vs. Department of Finance and Administration*. Senator Bond reported that the subcommittee passed a motion to file the case as reviewed.

Senator Bond reported that the subcommittee also heard updates on litigation for which the agency was not represented by the Arkansas Attorney General's Office. The following state agencies presented information:

- Arkansas Contractors Licensing Board presented by Michael Langley, Legal Counsel;
- Arkansas Department of Education presented by Lori Freno, General Counsel;
- Arkansas Department of Labor presented by Denise Oxley, General Counsel;
- Arkansas Department of Transportation presented by Rita Looney, Chief Legal Counsel;
- Arkansas Natural Resources Commission presented by Crystal Phelps, General Counsel;
- Arkansas Public Service Commission presented by Valerie Boyce, Chief Administrative Law Judge, and Rand Hightower, General Counsel;
- Arkansas State Board of Public Accountancy presented by Jimmy Corley, Executive Director and Mark Ohrenberger;
- Arkansas State Crime Lab presented by Doralee Chandler, General Counsel; and
- University of Arkansas System presented by David Curran, General Counsel.

This concluded the report and there were no questions.

Senator Will Bond moved that the report of the Higher Education Subcommittee be adopted. The motion was passed without objection.

Performance Evaluation and Expenditure Review (PEER) Subcommittee

Co-Chair Sample 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 August 15, 2018, and approved the following three (3) items:

- 1) Arkansas Department of Transportation - Transfer of \$21,900,000 from the Rainy Day Fund to the State Highway and Transportation Department Fund for Scheduled Transportation Projects;
- 2) Department of Veterans Affairs - Release of \$1,800,000 from the Rainy Day Fund for Operational Costs of the Veterans Homes; and
- 3) Department of Education - Request for Appropriation and/or Fund Transfer for FY 19, (See Attachment 1 to the report).

Representative Meeks reported that the subcommittee reviewed several other items, which included cash appropriation increase requests, lottery budget adjustments, budget classification transfer requests, and miscellaneous federal grant appropriation requests. This concluded the report.

Representative David Meeks moved adoption of the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee.

Co-Chair Sample recognized Senator Keith Ingram, who asked what the source was for the money that went to the Rainy Day Fund and that was ultimately transferred to the Arkansas Department of Transportation for match money for federal funding. Co-Chair Sample recognized Duncan Baird, Administrator of Office of Budget, Department of Finance and Administration, who responded that the biennial budget included some one-time funds totaling \$90 million for the Department of Human Services (DHS), which was put in a set-aside within the Rainy Day Fund. Mr. Baird stated that there was language in the Rainy Day fund that provided that if the money held in the set aside was not needed at that point, the money could be transferred with other funds into the Rainy Day Fund. Mr. Baird stated at the end of fiscal year 2018, it was determined that the set aside money would not be needed and a portion of that funding was used to meet the highway need.

Following this discussion, Co-Chair Sample stated that without objection the motion by Representative David Meeks to adopt the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee is passed.

Review Subcommittee

Co-Chair Sample recognized Senator Scott Flippo to present the report of the Review Subcommittee (Exhibit F.10). Senator Flippo reported that the Review Subcommittee met on Wednesday, August 17, 2018, and the subcommittee reviewed methods of finance, alternative-delivery construction projects, grants and contracts, and approved the renovation of an historic site.

Senator Flippo reported that the Review Subcommittee also met in July 2018 and the report includes the actions of the subcommittee during this July meeting, which were final. This concluded the report of the July and August meetings of the Review Subcommittee.

Senator Scott Flippo moved that the report of the August 17, 2018 meeting of the Review Subcommittee be adopted.

Co-Chair Sample recognized Senator Keith Ingram, who asked why all the University of Arkansas contracts listed on the July 2018 Review Subcommittee agenda had been held. Representative Jeff Wardlaw was recognized and responded that he asked that the contracts be held at the request of another member, and discussion followed.

Following this discussion, Co-Chair Sample stated that without objection the motion by Senator Scott Flippo to adopt the report of the August 17, 2018 meeting of the Review Subcommittee is passed.

Uniform Personnel Classification and Compensation Plan Subcommittee

Co-Chair Sample 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 August 14, 2018, and reviewed the following reports and requests: the quarterly employment reports 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 and Salary Administration Report from the Office of Personnel Management (OPM); a report from the Department of Community Correction regarding caseloads for parole officers; a request for a salary administration grid for financial examiner positions at the Arkansas Insurance Department; requests from the Arkansas Public Employees Retirement System (APERS), Arkansas Department of Heritage, Department of Information Services, the Arkansas State Crime Lab, the Arkansas Department of Career Education, the Northwest Community College, and the Southern Arkansas University at Magnolia for pool positions from the OPM Surrender of Pool; a request from the Department of Career Education for continuation of on-call duty differential; and a report from the Department of Finance and Administration detailing the utilization of the new performance evaluation structure by agencies. 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 passed without objection.

Lottery Oversight Subcommittee

Co-Chair Sample 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 August 16, 2018, and heard from Mr. Bishop Woosley, Director of the Office of the Arkansas Lottery, on the activities and operations of the Office of Arkansas Lottery. Representative Richey reported that the subcommittee also heard from Dr. Maria Markham, Director, and Mr. Nick Fuller, Deputy Director, of the Arkansas Department of Higher Education, regarding the status of Academic Challenge Students for FY2018, and the expenditures, deposits, and balances of higher education grants fund and the net proceeds of the trust fund. 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 passed without objection.

Highway Commission Review and Advisory Subcommittee

Co-Chair Sample 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 August 16, 2018, and heard from the Arkansas Department of Transportation regarding the following: (1) the public road construction projects of \$10 million or more; (2) the Statewide Transportation Improvement Program; and (3) the actions of the Arkansas State Highway Commission during the last commission meeting. This concluded the report, and there were no questions.

Representative Andy Davis moved that the report of the Highway Commission Review and Advisory Subcommittee be adopted, and the motion passed without objection.

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 informed the Legislative Council members that the date of the September meeting of the Arkansas Health Insurance Marketplace Oversight Subcommittee has changed, and the next meeting is now scheduled for 10:30 a.m. on Tuesday, September 18, 2018. Representative Ferguson encouraged all of the subcommittee members to be in attendance because this will be the last subcommittee meeting, and the subcommittee will vote on whether or not to recommend that the Arkansas Health Insurance Marketplace be placed under the jurisdiction of the Arkansas Insurance Department.

Representative Ferguson reported that the Arkansas Health Insurance Marketplace Oversight Subcommittee met on August 16, 2018, and heard from Greg Hatcher, Chair of the Board of Directors of the Arkansas Health Insurance Marketplace, and from Angela Lowther, Director of the Arkansas Health Insurance Marketplace, regarding the Marketplace's recent activities, yearly financials, and staffing. It was noted that the Arkansas Health Insurance Marketplace has ten (10) staff members and they are performing multiple job functions. Representative Ferguson reported that the subcommittee discussed the possibility of transferring functions required by federal regulations and Arkansas law from the Arkansas Health Insurance Marketplace to the Arkansas Insurance Department.

Representative Ferguson reported that the subcommittee also heard a report from Insurance Commissioner Allen Kerr regarding the federal risk adjustment payments and the impact on the insurance plan rates in Arkansas. Commissioner Kerr informed the subcommittee that health insurance rates in Arkansas have been very stable when compared to other states in the nation.

Representative Ferguson reported that the subcommittee also heard from J. Craig Wilson, Director of Health Policy for the Arkansas Center for Health Improvement (ACHI), regarding the activities over the last few years of the individual health insurance markets in the United States, and what the other states are doing to stabilize their markets. 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, and the motion was passed without objection.

Announcement

Co-Chair Sample recognized Representative Les Eaves, who announced that the Governor's Cup Golf Tournament, House versus Senate has been scheduled and that the dinner and match-play picks will be on Wednesday, September 19, 2018 with the golf tournament the next day.

Review of Communications

Co-Chair Sample referred members to the communications listed as Exhibit H.1 through Exhibit H.19 on the agenda, and noted that action by the Legislative Council is needed for Arkansas Teacher Retirement System request for the Legislative Council's review of the partial equity ownership investment with Thoma Bravo XIII, L.P. (Exhibit H.8b). Co-Chair Sample asked if there were any questions regarding the other

communications, and there were none.

Arkansas Teacher Retirement System (ATRS)

Co-Chair Sample recognized Greg Hatcher, Deputy Director of the Arkansas Teacher Retirement System, to explain the request for the Legislative Council's review of the partial equity ownership investment with Thoma Bravo XIII, L.P. (Exhibit H.8b). Mr. Hatcher stated the Arkansas Teacher Retirement System (ATRS) is making an investment of up to \$30 million in Thoma Bravo XIII, L.P., and that this is Fund 8 with a basic fee structure and carry structure. This concluded the explanation, and Mr. Hatcher offered to answer any questions.

Co-Chair Sample asked if there were any questions. **Seeing no questions, Co-Chair Sample stated that without objection the Arkansas Teacher Retirement System (ATRS) partial equity ownership investment with Thoma Bravo XIII, L.P. is filed as reviewed by the Legislative Council.**

New Interim Study Proposals and Interim Resolutions

Co-Chair Sample asked if any member had a question or wished to discuss the new interim study proposal, Interim Study Proposal 2017-128 (Exhibit J.1). Interim Study Proposal 2017-128, by Representative Sarah Capp, Representative Mary Bentley, Representative Aaron Pilkington, Representative John Maddox, and Representative DeAnn Vaught, requests that the Legislative Council refer to the House Committee on Public Transportation a study of the potential creation, development, and implementation of a statewide all-terrain vehicle trails system, to include a determination of: (1) the feasibility of creating a statewide all-terrain vehicle trails system; (2) the criteria for acceptance of an existing state road into the statewide all-terrain vehicle trails system; and (3) the administration of the statewide system of all-terrain vehicle trails. There were no questions or discussion.

Co-Chair Jim Dotson moved that Interim Study Proposal 2017-128 be referred to the House Committee on Public Transportation. The motion was seconded and passed by voice vote.

Adjournment

At 9:30 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