

MINUTES OF THE MEETING
OF THE
ARKANSAS LEGISLATIVE COUNCIL

Friday, October 19, 2018

The Arkansas Legislative Council met at 9:00 a.m., Friday, October 19, 2018, in Committee Room A of the Big Mac Building, Little Rock, Arkansas. Vice Co-Chair Terry Rice 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

Vice Co-Chair Rice referred the members to the minutes of the last Legislative Council meeting on September 21, 2018 (Exhibit C) and asked if there were any questions. There were no questions.

Co-Chair Dotson moved that the minutes of the September 21, 2018 meeting of the Legislative Council be adopted. The motion was seconded and passed by voice vote.

Presentation of the Revenue Report

September 2018 Revenue Report

Mr. Wilson reported that the September 2018 monthly revenue report reflects that for the first three (3) months of Fiscal Year 2019, gross general revenue collections are \$77.5 million ahead of collections during the same period last year. Net general revenues are \$93.8 million ahead of the same period last year, for a growth rate of six point eight percent (6.8%). Mr. Wilson reported that the graph shows that after three (3) months, net general revenues available for distribution are currently about \$33 million ahead of the official forecast. Mr. Wilson reported that the spreadsheet shows a little over five percent (5%) has been collected for gross receipts, and almost six percent (6%) collected in income tax. This concluded the September 2018 monthly revenue report, and there were no questions.

Report of the Executive Subcommittee

Vice Co-Chair Rice 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, October 18, 2018, and reviewed and approved an emergency rule submitted by the Arkansas Department of Health regarding a list of controlled substances. Co-Chair Dotson reported that review and approval of the emergency rule is effective upon adjournment of the Legislative Council meeting today, October 19, 2018.

Co-Chair Dotson reported that the Executive Subcommittee also heard a report from Director Marty Garrity regarding an inquiry of whether the Legislative Council would accept for approval a policy from the Department of Labor allowing the agency to offer its employees the opportunity to purchase electronic equipment being discarded by the agency. The deadline under the law for these policies was in 2005, and the subcommittee determined that since the deadline had passed they would not accept new policies at this time.

Co-Chair Dotson reminded the committee members and agency personnel in attendance that Legislative Council subcommittees will not meet during the month of November 2018, and only agency items of imminent need will be allowed to be brought directly to the full Legislative Council at the meeting on November 16, 2018. Co-Chair Dotson stated that agency personnel who have an item they wish to appear on the November agenda should submit a request in writing to the co-chairs of the Legislative Council. This concluded the report, and there were no questions.

Co-Chair Jim Dotson moved that the report of the Executive Subcommittee be adopted, and the motion was seconded and passed without objection.

Reports of the Standing Subcommittees

Administrative Rules and Regulations Subcommittee

Vice Co-Chair Rice asked Co-Chair Dotson to preside over the meeting, and Co-Chair Dotson assumed the chair. 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 Tuesday, October 2, 2018, and considered subject-matter committee recommendations concerning agency rule reports submitted under Act 781 of 2017. Representative Hammer stated the action of the Administrative Rules and Regulations Subcommittee is outlined in the attached Act 781 of 2017 Meetings report.

Representative Hammer reported that the Administrative Rules and Regulations Subcommittee met again on Monday, October 15, 2018, and adopted the Report of the Executive Subcommittee concerning emergency rules. Representative Hammer reported that the subcommittee also reviewed and filed the quarterly report for the quarter ending September 30, 2018 submitted by the Arkansas Community Correction Department in accordance with Act 1258 of 2015. Representative Hammer reported that all 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 by Senator Bart Hester and passed by voice vote.

Charitable, Penal & Correctional Institutions Subcommittee

Co-Chair Dotson 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 on September 28, 2018, at the University of Arkansas at Pine Bluff, and the subcommittee heard the following:

- testimony on the Impact of Mass Incarceration in Arkansas from Zachary Crow, Executive Director of DecARcerate;
- testimony on Habilitation and Rehabilitation from Solomon Graves, Public Information Officer, Arkansas Department of Correction; and
- testimony and review on the Re-entry Process in Arkansas from Kevin Murphy, Interim Director, Arkansas Community 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 by Senator Bond, and passed by voice vote.

Game and Fish/State Police Subcommittee

Vice Co-Chair Rice returned to preside over the meeting, and recognized Representative Josh Miller to present the report of the Game and Fish/State Police Subcommittee (Exhibit F.4). Representative Miller reported that the Game and Fish/State Police Subcommittee met on Monday, September 24, 2018, and reported that the subcommittee heard the following:

- testimony on the rules and regulations passed by the Arkansas Game and Fish Commission (AGFC);
- an update on Chronic Wasting Disease (CWD) from Dr. Jenn Ballard, State Wildlife Veterinarian, and Mr. Cory Gray, Division Manager, Research and Compliance; and
- an update on Feral Hog Eradication in Arkansas, from Mr. Chris Colclasure, Deputy Director of the Arkansas Game and Fish Commission.

This concluded the report, and there were no questions.

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

Performance Evaluation and Expenditure Review (PEER) Subcommittee

Vice Co-Chair Rice 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 October 15, 2018, and approved one item, which was a request from the Department of Human Services for a

reallocation of resources. Representative Meeks reported that the subcommittee reviewed the following: cash fund appropriation increase requests; budget classification transfer requests; miscellaneous federal grant appropriation requests; an item approved on an emergency basis; and various reports assigned to the subcommittee. 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.

Review Subcommittee

Vice Co-Chair Rice recognized Representative Jeff Wardlaw to present the report of the Review Subcommittee (Exhibit F.10). Representative Wardlaw reported that the Review Subcommittee met on Monday, October 15, 2018, and reviewed all contracts. Representative Wardlaw reported that the subcommittee ratified three (3) contracts, but one (1) contract was pulled from review at the request of the Department of Community Correction. 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

Vice Co-Chair Rice 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 Monday, October 15, 2018, and reviewed the following reports and requests shown as items one through five on the report: review of labor-market rates and special-entry rates approved by the Department of Higher Education; the Provisional Position report detailing new provisional positions for the Department of Higher Education; the Director's Discretion and Salary Administration Report from the Office of Personnel Management (OPM); requests for positions from the Department of Higher Education Central Pool, which were nine (9) nine-month faculty positions for ASU-Beebe, and one (1) new maintenance manager position for SAU Tech; and requests for classifications in the Miscellaneous Federal Grant Program from the Agriculture Department and the Department of Community Corrections.

Representative Eaves reported that the subcommittee considered a request from the Department of Workforce Services for a new position, but review of this item failed on a roll call vote. Representative Eaves reported that the request has since been pulled by the agency. This concluded the report, and Representative Eaves offered to answer questions.

Representative Les Eaves moved that the report of the Uniform Personnel Classification and Compensation Plan Subcommittee be adopted.

Vice Co-Chair Rice recognized Senator Jimmy Hickey who asked if the committee could hear from the University of Arkansas for Medical Sciences (UAMS) for the purpose of clarifying testimony heard by the subcommittee on Monday. Vice Co-Chair Rice recognized Maurice Rigsby, who identified himself as the Vice Chancellor for Institutional Relations for the University of Arkansas for Medical Sciences (UAMS).

The following information was provided by Mr. Rigsby in response to questions:

- The testimony in subcommittee concerning the provisional position was that it was funded one hundred percent (100%) with federal funds, but it is correct that the state portion was from clinical operation, grants, or other revenue received, and did not include any state general revenue funds.
- The money is not mingled because of the limitation in general revenue. The general revenue money was used on the front end to support the academic mission of the institution, and with the depletion of the general revenue the institution functions on clinical revenue.
- The Arkansas Economic Development Commission (AEDC) grant for \$222,000.00 supports the graduate and research assistants, and it is important to have external funds to support research and educational programs. The UAMS research assistants apply for the grants, which are awarded by the Arkansas Economic Development Commission (AEDC).
- The provisional position was submitted to the Department of Higher Education in November 2017, and the subcommittee reviewed a report on these positions.

Senator Hickey asked if state funds were appropriated for AEDC for the grant program, and then UAMS received the state money through the grant, then why the money would not be appropriated to UAMS instead of going through AEDC. Mr. Rigsby offered to provide Senator Hickey with a copy of the grant award letter, which may provide a reference to the federal funds related to science.

Senator Hickey stated that provisional positions are obtained after an agency fulfills the steps in the process, which one step is that a provisional position must be reported to the Legislative Council and the position must be approved by the Legislative Council before it is utilized. Senator Hickey stated that he felt that agencies may not be following this particular step, and he would like the committee to look into whether this is the case.

Vice Co-Chair Rice recognized Kyle Deen, Fiscal Division Director with Arkansas Economic Development Commission, who informed the committee that the source of the grant funds were from the EPSCoR federal grant from the National Science Foundation. Mr. Deen stated this is a \$20 million grant for five (5) years, which goes through AEDC and then goes to approximately ten (10) institutions including UAMS, UA Fayetteville, etc. Mr. Deen stated it is a competitive award for research, and there are no state funds in this grant.

Senator Hickey stated that the committee needs to look at this a little closer to determine if there is some misinterpretation of the statute. Vice Co-Chair Rice stated that he agreed with Senator Hickey and the committee will consult with the Bureau of Legislative Research on this.

Seeing no further questions, Vice Co-Chair Rice called for a voice vote on the motion by Representative Les Eaves that the report of the Uniform Personnel Classification and Compensation Plan Subcommittee be adopted. The motion was seconded by Senator Hickey and passed by voice vote.

Lottery Oversight Subcommittee

Vice Co-Chair Rice recognized Senator Jimmy Hickey, Jr. to present the report of the Lottery Oversight Subcommittee (Exhibit F.12). Senator Hickey reported that the Lottery Oversight Subcommittee met on October 18, 2018, and that the subcommittee heard the following:

- 1) testimony from Mr. Bishop Woosley, Director, Office of the Arkansas Lottery concerning the activities and operations of the Office of the Arkansas Lottery;
- 2) testimony from Mr. Bishop Woosley, Director, Office of the Arkansas Lottery and Mr. John Skrimshire, Vice President, Commercial Operations, Camelot Global North America providing a review of business plan and consulting services by Camelot Global; and
- 3) testimony from Dr. Maria Markham, Director, Arkansas Department of Higher Education providing an update on the Arkansas Academic Challenge Scholarship program.

Senator Hickey reported that the subcommittee also reviewed and submitted to the Legislative Council a request for reimbursement of administrative expenses from Office of the Arkansas Lottery for FY2018, after hearing testimony from Dr. Maria Markham, Director, Arkansas Department of Higher Education. This concluded the report and there were no questions.

Senator Jimmy Hickey, Jr. 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

Vice Co-Chair Rice 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 October 18, 2018, and heard a presentation on the duties and reports required of the Subcommittee from Jessica Beel, Attorney with the Bureau of Legislative Research. The duties and reports required of the subcommittee included the following:

- 1) a report to be submitted to the Legislative Council regarding recommendations for assessments of user fees due on December 1, 2018;

- 2) a report to be submitted to the Legislative Council regarding any analysis or findings resulting from subcommittee meetings during the year that is due December 15, 2018; and
- 3) a report with no specific due date that is to be submitted to the General Assembly, and with a copy sent to the Governor, regarding findings of the subcommittee relating to the following:
 - a. the review of operations, programs, and finances of the Arkansas Health Insurance Marketplace;
 - b. a study of approaches by other states regarding health insurance marketplace structure, design, and operations;
 - c. recommendations concerning the Arkansas Health Insurance Marketplace for the continued availability of health insurance to Arkansans; and
 - d. recommendations on options for the future efficiency and sustainability of the Arkansas Health Insurance Marketplace.

Representative Ferguson reported that the subcommittee heard from Brett Kirkman, Chair, Arkansas Health Insurance Marketplace Board, Mark Meadors, Vice Chair, Arkansas Health Insurance Marketplace Board, and Angela Lowther, Director, Arkansas Health Insurance Marketplace regarding the following:

- 1) the Federal Technology Fee will remain at three percent (3%) for Plan Year 2020;
- 2) the AHIM Board recommended that the AHIM User Fee be one point twenty-five percent (1.25%) above the technology fee, for a total of four point twenty-five percent (4.25%) to be applied against all Qualified Health Plans (QHPs) sold in the Marketplace in 2020, subject to approval of the Centers for Medicare and Medicaid Services (CMS).

Representative Ferguson reported that the subcommittee heard from Brett Kirkman, Chair, Arkansas Health Insurance Marketplace Board, Mark Meadors, Vice Chair, Arkansas Health Insurance Marketplace Board, and Angela Lowther, Director, Arkansas Health Insurance Marketplace, that the Arkansas Insurance Department (AID) had mistakenly estimated \$3,000,000 in savings by moving AHIM to the Arkansas Insurance Department, when the Insurance Department made its presentation to the subcommittee at the September meeting.

Co-Chair Deborah Ferguson reported that the subcommittee still has several unanswered questions about adopting the user fees, and the subcommittee requests that the Arkansas Legislative Council allow the Arkansas Health Insurance Marketplace Oversight Subcommittee to meet in November 2018 for the purpose of meeting the December 1, 2018 deadline for the submission of the required report to the Legislative Council. This concluded the report.

Representative Deborah Ferguson moved that the report of the Arkansas Health Insurance Marketplace Oversight Subcommittee be adopted and the motion was seconded.

Vice Co-Chair Rice recognized Senator Stephanie Flowers, and Representative Ferguson responded to her questions. Representative Ferguson agreed to provide Senator Flowers with the reports from the August and September meetings of the subcommittee.

Seeing no further questions, Vice Co-Chair Rice called for a voice vote on the motion by Representative Deborah Ferguson that the report of the Arkansas Health Insurance Marketplace Oversight Subcommittee be adopted. The motion was passed by voice vote.

Review of Communications

Vice Co-Chair Rice 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 only needed for: (1) Arkansas Development Finance Authority, Request for the Legislative Council's review of the Program Fact Sheet for the Department of Community Corrections Project - Series 2018 in the amount of \$17,795,000, submitted pursuant to A.C.A. § 15-5-212(b); and the Arkansas Teacher Retirement System request for the Legislative Council's review of the partial equity ownership investment with LaSalle Growth & Income Fund VIII, L.P. Vice Co-Chair Rice asked if there were any questions regarding the other communications, and there were none.

Arkansas Development Finance Authority

Vice Co-Chair Rice asked if there were questions concerning the Program Fact Sheet for the Department of Community Corrections Project - Series 2018 in the amount of \$17,795,000, submitted by the Arkansas Development Finance Authority (Exhibit H.2), and there were none.

Co-Chair Jim Dotson moved that the Program Fact Sheet for the Department of Community Corrections Project - Series 2018 be filed as reviewed. The motion was seconded and passed by voice vote.

Arkansas Teacher Retirement System (ATRS)

Vice Co-Chair Rice asked if there were any questions regarding the Arkansas Teacher Retirement System (ATRS) request for the Legislative Council's review of the partial equity ownership investment with LaSalle Growth & Income Fund VIII, L.P., (Exhibit H.7), and there were none.

Co-Chair Jim Dotson moved that the Legislative Council file as reviewed the Arkansas Teacher Retirement System (ATRS) investment with LaSalle Growth & Income Fund VIII, L.P., and the motion was seconded and passed by voice vote.

Discussion of Study

Vice Co-Chair Rice recognized Senator Joyce Elliott who stated she has been in touch with the executive branch of government regarding the issues at the Arkansas Department of Correction, and she has not been able to see any movement regarding her inquiry. Senator Elliott asked for

guidance on whether funds are available in the Legislative Council for a top-to-bottom audit of the Arkansas Department of Correction on operations, practices, and procedures.

Vice Co-Chair Rice asked Director Marty Garrity to respond. Director Garrity stated that funds are available from the Bureau of Legislative Research for various studies, and the hiring of consultants, and depending on the amount, a proposal would go through the Executive Subcommittee with final approval by the Legislative Council.

Senator Elliott stated that she wished to be respectful of the separation of powers, and asked if it would be proper for there to be work between the Legislative Council and the executive branch of government for this type of study. Director Garrity responded that it might be similar to the procurement study that the Review Subcommittee is currently undertaking.

Senator Elliott asked that in the event that the executive branch of government does not wish to participate in this study, is it proper for the Legislative Council to carry on with the study. Director Garrity stated that would be a determination for the Legislative Council.

Senator Elliott stated that she would assume that the Legislative Council would want answers to the issues at the Department of Correction, and that conditions there need to be looked at as there is no good explanation for the deaths occurring at the Department of Correction. Senator Elliott stated she would talk with the Legislative Council chairs and the staff of the Bureau of Legislative Research regarding the study.

Adjournment

Vice Co-Chair Rice reminded those in attendance that Legislative Council subcommittees will not meet during the month of November 2018, and only agency items of imminent need will be allowed to be brought directly to the full Legislative Council at the meeting on November 16, 2018.

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

Respectfully submitted,

ATTEST:

Senator Terry Rice
Vice Co-Chair, Senate

Marty Garrity
Executive Secretary