

MINUTES OF THE MEETING
OF THE
ARKANSAS LEGISLATIVE COUNCIL

Friday, October 20, 2017

The Arkansas Legislative Council met at 9:00 a.m., Friday, October 20, 2017 in Committee Room A of the Big Mac Building, Little Rock, Arkansas. Co-Chair David L. Branscum called the meeting to order and recognized a quorum of members present. The members present are listed on the sign-in sheets.

Co-Chair Branscum spoke of the passing of former Representative David Dunn and asked that the Legislative Council observe a few moments of silence on behalf of Representative Dunn.

Minutes of the Previous Meetings

Co-Chair Branscum referred the members to the minutes of the last Legislative Council meeting on September 15, 2017 (Exhibit C) and asked if there was a motion to approve the minutes.

Co-Chair Bill Sample moved that the minutes of the September 15, 2017 meeting of the Legislative Council be adopted. The motion was seconded and passed by voice vote.

Presentation of the Revenue Reports

Co-Chair Branscum recognized Richard Wilson, Assistant Director for Research Services with the Bureau of Legislative Research, to present the Annual Revenue Report (Exhibit D.1) and the September 2017 Monthly Revenue Report (Exhibit D.2) prepared by the Bureau of Legislative Research.

2016-2017 Annual Revenue Report

Mr. Wilson began with the 2016-2017 Annual Revenue Report (Exhibit D.1) and reported that shown on the first page of the report is a comparison of gross general revenue collections over the past ten (10) years, beginning with fiscal year 2008. This comparison reflects that last year the collections grew at a rate of one point fifty-five percent (1.55%). Also on the first page of the report is a list that reflects a number of years of combined income tax collections for both individual and corporate. These tax collections grew at four-tenths of one percent (0.4%) last year, while the general revenue portion of sales and use tax collections grew at two point two percent (2.2%). The last column reflects the amount that one cent (1¢) of sales tax is worth by each year. Currently, one cent of sales tax is worth \$529 million.

Mr. Wilson reported that on pages two through four of the annual report is a listing of the collections of general and special revenues and from where exactly this revenue was derived. Page five of the annual report lists the deductions from off the top and shows the net amount available for distribution to the state agencies. The adjusted net available for distribution is \$5.3 million for general revenue, and \$2.13 million for special revenue.

Mr. Wilson reported that on pages six through eight of the annual report is a listing of the distribution of the general and special tax revenues and the state agencies to which the revenue was distributed. The bottom line on page eight of the annual report matches the bottom line on page five of the annual report. Mr. Wilson reported that on page nine of the annual report is the list of deductions from gross revenue, which compares the 2017 deductions with the 2016 deductions. Mr. Wilson reported that the gross collections grew at one point five percent (1.5%), but the net available for distribution, after the growth in deductions, is negative thirty-five hundredths of one percent (-0.35%).

Mr. Wilson reported that on pages ten and eleven of the annual report is a comparison of fiscal year 2017 with fiscal year 2016 distributions of general revenue and the far right column reflects the effect of the budgetary decisions of the General Assembly for the year.

Mr. Wilson reported that on the last page of the annual report is the Educational Excellence Trust Fund distributions for fiscal year 2017 compared with fiscal year 2016, which also shows that each line item received four point nineteen percent (4.19%). This concluded the presentation of the 2016-2017 Annual Revenue Report and Mr. Wilson answered questions from the committee members.

September 2017 Monthly Revenue Report

Mr. Wilson reported that September 2017 Monthly Revenue Report (Exhibit D.2) reflects that after three (3) months of fiscal year 2018, gross revenue collections are \$58 million above the gross collections for the same period last year, which is a growth rate of three point eight percent (3.8%). Mr. Wilson reported that collections are \$2.2 million ahead of the official forecast after three months. Mr. Wilson reported that page one of the spreadsheet reflects that gross receipts grew one point six percent (1.6%) and income tax receipts grew at a little over six percent (6%). This concluded the September 2017 monthly revenue report and there were no questions.

Report of the Executive Subcommittee

Co-Chair Branscum 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 has met on September 18, 2017, September 28, 2017, and October 20, 2017. Co-Chair Sample reported that the Executive Subcommittee met September 18th and considered the Arkansas Game and Fish Commission rules and then passed a motion to recommend an amendment to the Legislative Council Rules. The Executive Subcommittee met on September 28th and expunged the vote that recommended the change in the Legislative Council Rules.

Co-Chair Sample reported that the Executive Subcommittee met on October 20, 2017 for the purpose of discussing the October 16, 2017 Order in *Protect Fayetteville, f/k/a Repeal 119, et al. v. The City of Fayetteville*. The Executive Subcommittee passed a motion to recommend the filing of amicus curiae briefs on behalf of the Arkansas Legislative Council in support of the Attorney General's request to appeal the October 16 decision in the Protect Fayetteville case and, if the appeal is allowed, in support of the appeal of the order. The purpose of the briefs would be to state the legislature's interest in protecting the legislative privilege and confidentiality of legislative deliberative documents. This concluded the report and there were no questions.

Co-Chair Bill Sample moved that the report of the Executive Subcommittee be adopted. The motion was seconded and passed by voice vote.

Reports of the Standing Subcommittees

Co-Chair Branscum stated that without objection, the discussion of the standing subcommittee reports would be taken out of agenda order and would begin with the report from the Charitable, Penal & Correctional Institutions Subcommittee.

Charitable, Penal & Correctional Institutions Subcommittee

Co-Chair Branscum 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 October 11, 2017, and heard and discussed two presentations. The Subcommittee heard a presentation from Wendy Kelley, Director, Arkansas Department of Correction, regarding the recent security breaches at the Department of Correction. The Subcommittee also heard from Major Mark Hollingsworth, Criminal Investigation Division Commander with the Arkansas State Police, who discussed the role of state law enforcement when investigating security breaches at the Department of Correction and who presented a summary of investigations at the Department of Correction. This concluded the report and there were no questions.

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

Claims Review Subcommittee

Co-Chair Branscum recognized Representative John Payton to present the report of the Claims Review Subcommittee (Exhibit F.3). Representative Payton reported that the Claims Review Subcommittee met on October 16, 2017, and affirmed the ruling of the Claims Commission on one negotiated settlement agreement and affirmed the ruling of the Claims Commission on five (5) denied and dismissed claims that were appealed by the claimant. This concluded the report and there were no questions.

Representative John Payton moved that the report of the Claims Review Subcommittee be adopted. The motion was seconded and passed by voice vote.

Game and Fish/State Police Subcommittee

Co-Chair Branscum 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 September 28, 2017, at the Arkansas Game and Fish Commission Enforcement Training Center in Mayflower, Arkansas. Representative Miller reported that the Subcommittee heard testimony and discussed the following: the rules and regulations passed by the Arkansas Game and Fish Commission; an overview of the Arkansas Game and Fish Commission Enforcement Training Center; and updates on the Feral Hog Eradication program and the Turkey population in the State of Arkansas. This concluded the report and there were no questions.

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

Higher Education

Co-Chair Branscum 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 October 19, 2017, and heard a presentation from Ms. Ann Clemmer and Dr. Maria Markham, Director of the Arkansas Department of Higher Education, on the implementation of Act 563 of 2017. Act 563 of 2017 requires the Arkansas Higher Education Coordinating Board to develop an action plan to address the prevention of sexual assault. 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 seconded and passed by voice vote.

Performance Evaluation and Expenditure Review (PEER) Subcommittee

Co-Chair Branscum recognized Representative David Meeks to present the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee (Exhibit F.8), who reported that the Performance Evaluation and Expenditure Review (PEER) Subcommittee met on October 18, 2017. Representative Meeks reported that the Subcommittee heard from the Auditor of State that several members had unclaimed property and were encouraged to access the ClaimitAR.com link to make a claim for their unclaimed property.

Representative Meeks reported that the Subcommittee approved a Rainy Day Fund release for \$250,000.00 for the Department of Higher Education, and reviewed all other items on the agenda. 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 Branscum 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 September 21, 2017, and approved the procurement consultant services contract with Ikaso Consulting. Senator Chesterfield noted that pursuant to the action of the Legislative Council, this action of the Policy-Making Subcommittee is final.

Senator Chesterfield reported that the Policy-Making Subcommittee also met October 17, 2017, and heard a request from the Co-Chairs of the Arkansas Tax Reform and Relief Legislative Task Force for an additional allocation of committee funds in the amount of \$100,000.00. Senator Chesterfield reported that the Policy-Making Subcommittee approved the request. This concluded the report.

Senator Linda Chesterfield moved that the report of the Policy-Making Subcommittee be adopted and the motion was seconded.

Co-Chair Branscum recognized Representative Josh Miller for questions to which Senator Chesterfield responded. **Seeing no further questions, Co-Chair Branscum called for a voice vote on the motion**

by Senator Linda Chesterfield to adopt the report of the Policy-Making Subcommittee and the motion passed.

Review Subcommittee

Co-Chair Branscum recognized Senator Scott Flippo to present the report of the Review Subcommittee (Exhibit F.10). Senator Flippo reported that the Review Subcommittee met on October 18, 2017, and reviewed methods of finance, grants, and contracts submitted for October, and no items were held. Senator Flippo also reported that beginning at 10:00 a.m. on November 9, 2017, the subcommittee will meet with the consultants from Ikaso Consulting, and the next monthly meeting of the Review Subcommittee is November 15, 2017.

Senator Scott Flippo moved the adoption of the Review Subcommittee Report. The motion was seconded and passed by voice vote.

Uniform Personnel Classification and Compensation Plan

Co-Chair Branscum recognized 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 October 17, 2017, and reviewed the following reports and requests for review by the Legislative Council: special-entry rates and labor-market rates approved by the Department of Higher Education and the Department of Finance and Administration for institutions of higher education; provisional position reports from the Department of Higher Education detailing new provisional positions for institutions of higher education; a report from the Department of Finance and Administration Office of Personnel Management on the use of Director's discretion salary increases in state agencies; requests from the Department of Career Education Rehabilitation Services, the Department of Labor, and the Arkansas Department of Parks and Tourism for positions from the Department of Finance and Administration surrender pool, as well as, a request for the establishment of two (2) new classifications to be created for the Department of Career Education Rehabilitation Services and the Arkansas Department of Parks and Tourism for the positions from the surrender pool; a request from the Department of Career Education Rehabilitation Services and the University of Arkansas Division of Agriculture Cooperative Extension Service for second-language differentials; a request from University of Arkansas Division of Agriculture Cooperative Extension Service for three (3) growth pool positions from the Department of Higher Education central growth pool; a request from the Arkansas Bank Department for a re-establishment of a salary grid for bank examiners classifications for the purpose of attracting and retaining employees due to competition with state banks and federal agencies; a request from University of Arkansas Division of Agriculture Division to provide a three percent (3%) lump-sum COLA to classified employees within the division; and review of an archival assistant classification at the Arkansas Department of Heritage for a miscellaneous federal grant position. This concluded the report, and Senator Cooper answered questions from the committee members.

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 Branscum 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 October 19, 2017, and heard an update on the Arkansas Academic Scholarship Program and a request from the Office of Arkansas Lottery to reimburse the Arkansas Department of Higher Education for expenses. Representative Richey reported that the Subcommittee also heard testimony regarding activities and operations of the Office of the Arkansas Lottery. This concluded the report, and there were no questions.

Representative Chris Richey moved the report of the Lottery Oversight Subcommittee be adopted. The motion was seconded and passed by voice vote.

Arkansas Highway Review and Advisory Subcommittee

Co-Chair Branscum recognized Representative Andy Davis to present the report of the Arkansas Highway Review and Advisory Subcommittee (Exhibit F.13). Representative Davis reported that the Arkansas Highway Review and Advisory Subcommittee met on October 19, 2017, and heard testimony from Mr. Scott Bennett, Director, Arkansas Department of Transportation, regarding:

- A report on recent activities of the Arkansas Department of Transportation, including discussions by the Arkansas Highway Commission to pursue a ballot measure for a highway program for the November 2018 election;
- A report on Public Road Construction Projects of \$10 million or more as required by the Arkansas Highway Improvement Plan of 2016; and
- Rules on the criteria for distribution of funds, as well as spending priority, from the State Highway and Transportation Department Fund and the Road and Bridge Repair, Maintenance, and Grants Fund.

Representative Davis reported that the Subcommittee did not take action on the rules and, in order for members to have more time to evaluate the rules, a discussion of the rules is scheduled for the November 2017 subcommittee meeting. This concluded the report and there were no questions.

Representative Andy Davis moved that the report of the Arkansas Highway Review and Advisory Subcommittee be adopted. The motion was seconded and passed by voice vote.

Administrative Rules and Regulations Subcommittee

Co-Chair Branscum 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 October 17, 2017, and adopted a report from the Executive Subcommittee concerning approval of emergency rules. Representative Hammer reported that, at the request of the agency, rules by the Workers Compensation Commission regarding the workers compensation drug formulary were moved to the agenda for the November 2017 subcommittee meeting. Representative Hammer reported that 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.

Co-Chair Branscum recognized Co-Chair Bill Sample, who made a substitute motion that the report of the Administrative Rules and Regulations Subcommittee be adopted, with the exception of the Higher Education funding formula rule, listed as item 5a on page 5 of the report, which will be pulled from the report and voted on separately.

Co-Chair Branscum recognized Senator Jonathan Dismang who asked for a clarification of the procedure for voting on the motions. Co-Chair Branscum stated he did not hear a second to the substitute motion, and then accepted a second to the substitute motion.

Co-Chair Bill Sample, restated his substitute motion that the report of the Administrative Rules and Regulations Subcommittee be adopted, with the exception of the Higher Education funding formula rule, listed as item 5a on page 5 of the report, which will be pulled from the report and voted on separately. The motion failed by voice vote.

Co-Chair Branscum called for a voice vote on the motion by Representative Kim Hammer that the report of the Administrative Rules and Regulations Subcommittee be adopted, and the motion passed.

Review of Communications

Co-Chair Branscum referred members to the communications listed as Exhibit H.1 through Exhibit H.17 on the agenda and noted that action by the Legislative Council was needed for the following: the request from the Arkansas Development Finance Authority, for the Legislative Council's review of the Program Fact Sheets, submitted pursuant to A.C.A. § 15-5-212(b) (Exhibit H.2); the request from the Arkansas Teacher Retirement System for review of investments (Exhibit H.6b); and the request from the Arkansas Department of Community Correction for the Legislative Council's review of the sale of pastureland for less than the appraised amount, submitted pursuant to A.C.A. § 22-6-601(h)(2)(C) (Exhibit H.11b).

Arkansas Development Finance Authority

Co-Chair Branscum asked if there were any questions or discussion regarding the request by the Arkansas Development Finance Authority for review of the following Program Fact Sheets: (1) the Program Fact Sheet for State Agency Energy Conservation Bonds (Arkansas Department of Correction) Series 2017A in the amount of \$17,901,604 (Exhibit H.2a); and (2) the Program Fact Sheet for State Agency Energy Conservation Bonds (Arkansas Department of Community Correction) Series 2017B in the amount of \$9,802,203 (Exhibit H.2b). Seeing no questions, Co-Chair Branscum asked if there was a motion.

Co-Chair Bill Sample moved that the Legislative Council file as reviewed the following Program Fact Sheets: (1) Program Fact Sheet for State Agency Energy Conservation Bonds (Arkansas Department of Correction) Series 2017A in the amount of \$17,901,604; and (2) the Program Fact Sheet for State Agency Energy Conservation Bonds (Arkansas Department of Community Correction) Series 2017B in the amount of \$9,802,203. The motion was seconded and passed by voice vote.

Arkansas Teacher Retirement System

Co-Chair Branscum asked if there were any questions or discussion regarding the Arkansas Teacher Retirement System request for review of the investments with U. S. Real Estate Credit Fund, III, L.P.; and Clearlake Capital V, L.P., that were submitted by the Arkansas Teacher Retirement System pursuant to A.C.A § 19-11-1302. Seeing no questions, Co-Chair Branscum asked if there was a motion.

Senator Cecile Bledsoe moved that the Legislative Council file as reviewed the investments in U. S. Real Estate Credit Fund, III, L.P. and Clearlake Capital V, L.P. by the Arkansas Teacher Retirement System. The motion was seconded and passed by voice vote.

Arkansas Department of Community Correction

Co-Chair Branscum asked if there were any questions or discussion regarding the request by the Arkansas Department of Community Correction for the Legislative Council's review of the sale of pastureland for less than the appraised amount as required by A.C.A. § 22-6-601(h)(2)(C). Seeing no questions, Co-Chair Branscum asked if there was a motion.

Co-Chair Bill Sample moved that the Legislative Council file as reviewed the sale of pastureland for less than the appraised amount by the Arkansas Department of Community Correction. The motion was seconded and passed by a voice vote.

New Interim Study Proposals and Interim Resolutions

Co-Chair Branscum referred the members to Interim Study Proposal 2017-097 and asked if there were any questions. Interim Study Proposal 2017-097, by Representative Sarah Capp, is an act concerning equine massage and licensure or certification for equine massage.

Co-Chair Bill Sample moved that the Legislative Council refer Interim Study Proposal 2017-097 to the House Committee on Agriculture and Economic Development. The motion was seconded and passed by voice vote.

Adjournment

At 9:30 a.m., the meeting of the Legislative Council was adjourned as there was no further business to come before the committee.

Respectfully submitted,

ATTEST:

Representative David L. Branscum
Co-Chair, House

Marty Garrity
Executive Secretary