

MINUTES OF THE MEETING
OF THE
ARKANSAS LEGISLATIVE COUNCIL

Friday, December 16, 2016

The Arkansas Legislative Council met at 9:00 a.m., Friday, December 16, 2016 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 Last Meeting

Co-Chair Sample referred the members to the minutes of the previous Legislative Council meeting on November 18, 2016 (Exhibit C) and asked if there was a motion to approve the minutes.

Co-Chair David L. Branscum moved that the minutes of the November 18, 2016 meeting of the Legislative Council be adopted. The motion was seconded and passed by voice vote.

Reports of Interim or Special Committees

Behavioral Health Treatment Access Legislative Task Force

Co-Chair Sample stated that consideration of the Report from the Behavioral Health Treatment Access Legislative Task Force (Exhibit G.1) would be moved up on the agenda and considered at this time. Co-Chair Sample recognized Representative Clarke Tucker to present the report.

Representative Tucker began his presentation by noting that he and Senator Scott Flippo have served as the Co-Chairmen of the task force and the task force has worked for about eighteen (18) months. Representative Tucker referred to the task force recommendations beginning on page eight (8) of the report that lists six (6) recommendations. Representative Tucker stated the first two recommendations would require action on the part of the legislature, but the other recommendations do not require legislative action and are in various stages of implementation. Representative Tucker explained the first two recommendations as follows:

- Provide crisis intervention training for law enforcement throughout Arkansas, which may allow an officer to diffuse a situation without having to take a person to jail. The total cost of the program is fifty thousand dollars (\$50,000) and the Arkansas Sheriff's Association and the Commission on Law Enforcement Training are in support of the program.
- Open Crisis Stabilization Units (CSUs) to divert some persons experiencing a mental health crisis to the CSUs for short-term treatment instead of incarcerating them or taking them to an emergency room. The recidivism rate for CSUs is twenty percent (20%) compared to a recidivism rate of eighty percent (80%) for incarcerated persons. The task force recommends spending not less than \$5 million in state funds. The Governor has proposed \$5 million in his budget for funding of CSUs, which would probably support three (3) CSUs in Arkansas.

Representative Tucker concluded his presentation by offering to answer any questions the members might have. There were no questions.

Presentation of Revenue Report

Co-Chair Sample recognized Richard Wilson, Assistant Director for Research Services with the Bureau of Legislative Research, to present the November 2016 revenue report (Exhibit D) prepared by the Bureau of Legislative Research. Mr. Wilson reported that the revenue report for November 2016 reflects that after five (5) months of this fiscal year, gross revenue collections are \$23.6 million ahead of last year's gross collections for a growth rate of one percent (1%), and that net general revenue available for distribution is at \$35 million for a growth rate of one point seven percent (1.7%). Mr. Wilson reported that the graph reflects net general revenues available for distribution are \$11 million below the official forecast after five (5) months and that the spreadsheet reflects that collections of gross receipts are flat and the weighted income taxes are one point eight percent (1.8%). This concluded the report and Mr. Wilson responded to a question.

Reports of the Standing Subcommittees

Co-Chair Sample noted that there is no report in the members packets for the Executive Subcommittee as the subcommittee did not meet since the last report.

Administrative Rules and Regulations Subcommittee

Co-Chair Sample recognized Representative Andy Davis to present the report of the Administrative Rules and Regulations Subcommittee. Representative Davis reported that the Administrative Rules and Regulations Subcommittee met on December 13, 2016, and reviewed and filed quarterly reports submitted by the Department of Community Correction. Representative Davis reported that the subcommittee adopted the Report from the Executive Subcommittee concerning its review of an emergency rule filed by the Department of Human Services. Representative Davis reported that the subcommittee also deferred one rule by the Capitol Zoning District Commission to the next subcommittee meeting and two (2) rules were withdrawn by the Department of Human Services, Division of Medical Services concerning Rehabilitative Services for Persons with Mental Illness rate reduction and Rehabilitative Services for Persons with Mental Illness update. Representative Davis reported that all other rules on the agenda were reviewed and approved. This concluded the report, and there were no questions.

Representative Andy Davis moved that the report of the Administrative Rules and Regulations Subcommittee be adopted. The motion passed without objection.

Game and Fish/State Police Subcommittee

Co-Chair Sample recognized Representative Josh Miller to present the report of the Game and Fish/State Police Subcommittee. Representative Miller reported that the Game and Fish/State Police Subcommittee met jointly with the Senate and House Committees on Agriculture, Forestry, and Economic Development on December 15, 2016, and heard the following: an overview of the feral hog eradication efforts; an update on chronic wasting disease in the Arkansas deer herd; a presentation on

the future funding needs for the University of Arkansas Division of Agriculture; and an overview of the dairy industry. 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 passed without objection.

Higher Education Subcommittee

Co-Chair Sample recognized Senator John Cooper to present the report of the Higher Education Subcommittee. Senator Cooper reported that the Higher Education Subcommittee met on December 14, 2016, and heard the following: an update on the higher education funding formula; a discussion of campus security and safety plans and programs in institutions of higher education; an update on Interim Study Proposal 2015-146 by Representative Greg Leding concerning sexual assault prevention and response on college and university campuses in Arkansas; and an update on Interim Study Proposal 2015-139 by Representative Greg Leding concerning a study of student debt from higher education. Senator Cooper reported that the subcommittee heard from subcommittee members who requested information on the following: (1) written procedures and policies for international travel by officials of the state's public institutions of higher education, including sources of payment and funding, and the differentiation between work-related and other types of travel; and (2) each institution's lottery scholarship recipients from 2010 through 2016 with a break down by gender and ethnicity. This concluded the report, and there were no questions.

Senator John Cooper moved that the report of the Higher Education Subcommittee be adopted. The motion passed without objection.

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 Performance Evaluation and Expenditure Review (PEER) Subcommittee met on December 13, 2016, and approved a set-aside release request from the Economic Development Commission in the amount of \$1.5 million, and an appropriation fund transfer request from the Arkansas State Police. Senator Maloch reported the balance remaining in the set-aside fund is \$45.9 million and that all other agenda items were reviewed. This concluded the report and Senator Maloch responded to a question from Senator Terry Rice concerning the appropriation transfer for the Arkansas State Police.

Senator Bruce Maloch moved that the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee be adopted. The motion passed without objection.

Uniform Personnel Classification and Compensation Plan Subcommittee

Co-Chair Sample recognized Representative Lanny Fite to present the report of the Uniform Personnel Classification and Compensation Plan Subcommittee (Exhibit F.11). Representative Fite reported that the Uniform Personnel Classification and Compensation Plan Subcommittee met on December 14, 2016, and reviewed the following: the fiscal year 2017 first quarter employment reports detailing the number of employees in each agency and institution; a report from the Department of Finance and Administration detailing the approval of special entry rates for exceptionally well-qualified candidates and labor markets rates approved by the Chief Financial Officer; a report on grid movements based on

the previously-approved grid plan; a report on provisional positions for the Department of Higher Education detailing new and continued positions for institutions of higher education; a request for a special entry rate for the Department of Environmental Quality for a classified position for ADEQ Director of Special Projects; a request for a second-language differential for the University of Arkansas Cooperative Extension Service; a request for a pool position for the University of Central Arkansas; and a request from Arkansas State University - Newport for thirty (30) part-time faculty positions; a request to obtain pool positions from the growth pool for the Arkansas Development Finance Authority and the Northwest Technical Institute; a request for a swap-pool position for the Department of Human Services; a request for classification titles for miscellaneous federal grants for the Arkansas Agriculture Department and the Arkansas Department of Health; a request for review of the disclosure by the Arkansas Minority Health Commission regarding the hire of Mrs. ShaRhonda Love who is a spouse of a member of the General Assembly; and a request for review of the salary adjustments for two (2) incumbent employees based on additional duties due to retirement of the director of the Department of Finance and Administration. This concluded the report, and there were no questions.

Representative Lanny Fite moved adoption of the report of the Uniform Personnel Classification and Compensation Plan Subcommittee. The motion passed without objection.

Lottery Oversight Subcommittee

Co-Chair Sample recognized Senator Jimmy Hickey, Jr. to present the report of the Lottery Oversight Subcommittee (Exhibit F.12). Senator Hickey reported that the subcommittee met on December 15, 2016 and heard testimony on the following: the activities and operations of the Office of the Arkansas Lottery from Bishop Woosley, Director of the Office of Arkansas Lottery; and an update on the business plan and consulting services from Bishop Woosley, Director of the Office of Arkansas Lottery and John Skrimshire, Vice President with Camelot Global.

Senator Hickey reported that the subcommittee also reviewed and submits to the Legislative Council the recommendation for an evaluation and analysis of the eligibility requirements and student success outcomes to determine if there has been an improvement in the attainment of higher education goals and college affordability through the Arkansas Academic Challenge Scholarship Program. Senator Hickey reported that the subcommittee also recommends to the Legislative Council that the Lottery Oversight Subcommittee continue to provide the following: monitoring of the business plan designed by Camelot Global; oversight of the Office of the Lottery's implementation of business plan from Camelot Global; and monitoring of the funds available to guarantee the Arkansas Academic Challenge Scholarship remains solvent within its parameters. This concluded the report and there were no questions.

Senator Jimmy Hickey, Jr. moved adoption of the report of the Lottery Oversight Subcommittee. The motion passed without objection.

Highway Commission Review and Advisory Subcommittee

Co-Chair Sample recognized Senator Bruce Maloch to present the report of the Highway Commission Review and Advisory Subcommittee (Exhibit F.13). Senator Maloch reported that the Highway Commission Review and Advisory Subcommittee met December 12, 2016 and heard a report from Scott Bennett, Director of the Arkansas State Highway and Transportation Department, concerning public road construction projects of \$10 million or more, as required by the Arkansas Highway

Improvement Plan of 2016. Senator Maloch reported that Mr. Bennett presented the largest construction project in each Congressional district and the project that is closest to \$10 million. Senator Maloch reported that the subcommittee heard a projection of funds provided by the Arkansas Highway Improvement Plan of 2016 and concerns regarding the department's ability to fully match federal funds based on the projection. This concluded the report and there were no questions.

Senator Bruce Maloch moved that the report of the Highway Commission Review and Advisory Subcommittee be adopted. The motion passed without objection.

Reports of Interim or Special Committees (Continued)

Report of the Legislative Criminal Justice Oversight Task Force

Co-Chair Sample recognized Senator Jeremy Hutchinson to present the Report of the Legislative Criminal Justice Oversight Task Force (Exhibit G.2). Senator Hutchinson reported that the Legislative Criminal Justice Oversight Task Force, which includes members representing legislators, judges, prosecutors, chiefs of police, and sheriffs, has worked over the last two (2) years. Senator Hutchinson reported that this report has been submitted to the Legislative Council, the Chief Justice, and the Governor's Office. Senator Hutchinson noted that among the key findings in the report (see pages 4 through 6) are the following: (1) the State of Arkansas spends about a half a billion dollars on corrections and this amount will go up to about \$ 700 million by 2023; and (2) this plan proposed in the report will, conservatively, save over \$200 million by 2023 and increase safety, lower recidivism, and lower the crime rate. Senator Hutchinson concluded his presentation by asking the members to read the report and then he responded to questions.

Review of Communications

Co-Chair Sample referred members to the communications listed as Exhibit H.1 through Exhibit H.10 on the agenda and noted that only the request from Arkansas Teacher Retirement System requires action by the Legislative Council.

Arkansas Teacher Retirement System

Co-Chair Sample recognized Rod Graves, with the Arkansas Teacher Retirement System to explain the request for the Legislative Council's review of the following partial equity ownership investments, submitted pursuant to A.C.A § 19-11-1302: Franklin Park Venture Fund Series 2017, L.P.; Franklin Park International Fund 2017, L.P.; ATRS/FP Private Equity Fund, L.P.; GCG Investors IV, L.P.; and EnCap Energy Capital Fund XI, L.P. (Exhibit H.4). Mr. Graves explained that these five (5) private equity investments were recently approved by the board and are now presented for the review of the Legislative Council.

Mr. Graves stated the first three investments with ATRS/FP Private Equity Fund, L.P., Franklin Park Venture Fund Series 2017, L.P., and Franklin Park International Fund 2017, L.P. are investments of up to \$25 million in each fund by the Arkansas Teacher Retirement System. Mr. Graves explained that the fourth investment with GCG Investors IV, L.P. is an investment of up to \$30 million by the Arkansas Teacher Retirement System, and that the last investment with EnCap Energy Capital Fund XI, L.P. is a \$35 million investment by the Arkansas Teacher Retirement System. This concluded the explanation, and there were no questions.

Co-Chair David L. Branscum moved that the Arkansas Teacher Retirement System investments with Franklin Park Venture Fund Series 2017, L.P.; Franklin Park International Fund 2017, L.P.; ATRS/FP Private Equity Fund, L.P.; GCG Investors IV, L.P.; and EnCap Energy Capital Fund XI, L.P. be filed as reviewed by the Legislative Council. The motion passed without objection.

Reports of the Standing Subcommittees (Continued)

Review Subcommittee

Co-Chair Sample recognized Senator Bart Hester to present the report of the Review Subcommittee (Exhibit F.10). Senator Hester reported that the Review Subcommittee met on December 13, 2016 and reviewed all agenda items with the exception of the contract between Youth Opportunity Investments LLC and the Department of Human Services Division of Youth Services, which is listed as item 33 on page 42 of the report. Senator Hester reported that the Review Subcommittee passed a motion that this contract not be reviewed.

Senator Bart Hester moved that the report of the Review Subcommittee be adopted with the exception of the following contracts and that the Legislative Council vote separately on each of the excluded contracts: the contract between Youth Opportunity Investments L.L.C. and the Department of Human Services Division of Youth Services; and the contract between JWPS L.L.C. dba Williams & Dean Architecture-Interior Design and the Department of Finance and Administration Division of Building Authority.

Senator Hester asked that the agency officials be recognized and come forward to explain the contract between JWPS L.L.C. dba Williams & Dean Architecture-Interior Design and the Department of Finance and Administration, Division of Building Authority. Co-Chair Sample recognized Anne Laidlaw, Director of the Division of Building Authority, who stated that it is correct that funding for this building was not approved during the budget hearing. Ms. Laidlaw explained that at the time of the budget hearing, the agency was nearing the end of the selection process for the design professional, and that the agency has now completed the process and tentatively awarded the contract to JWPS L.L.C. subject to the approval of the Legislative Council. Ms. Laidlaw stated that at this point, the design professionals are working with the agency outside of contract and through a purchase order to compile information to address questions from the committee. Ms. Laidlaw responded to questions from the committee members.

Senator Jimmy Hickey, Jr. moved that the Legislative Council file as reviewed the contract between JWPS L.L.C. dba Williams & Dean Architecture-Interior Design and the Department of Finance and Administration Division of Building Authority. Co-Chair Sample did not accept the motion at this point and recognized Ms. Laidlaw to respond to additional questions.

Co-Chair Sample, seeing no further questions, recognized Senator Jimmy Hickey, Jr. for a motion. **Senator Jimmy Hickey, Jr. moved that the report of the Review Subcommittee be adopted including the contract between JWPS L.L.C. dba Williams & Dean Architecture-Interior Design and the Department of Finance and Administration Division of Building Authority, but excluding the contract between Youth Opportunity Investments L.L.C. and the Department of Human Services Division of Youth Services. The motion was seconded and Co-Chair Sample**

called for a voice vote. Co-Chair Sample stated that he could not determine by the voice vote if the motion passed and directed the staff to call the roll on the motion. The motion passed with twenty-five (25) "yes" votes and fourteen (14) "no" votes, and two (2) members voting present.

Co-Chair Sample recognized Senator Bart Hester to continue with the report. **Senator Bart Hester moved that Legislative Council overturn the ruling of the Review Subcommittee and that the contract between Youth Opportunity Investments L.L.C. and the Department of Human Services Division of Youth Services be filed as reviewed. The motion was seconded.**

Co-Chair Sample asked if there was any discussion on the motion and recognized Representative Jeff Wardlaw. Representative Wardlaw asked that Edward Armstrong and Kelley Linck be recognized to come forward and respond to questions. Co-Chair Sample recognized Mr. Armstrong and Mr. Linck and asked that they state their names for the record.

Mr. Linck identified himself as Kelley Linck, Chief Legislative and Governmental Affairs Officer with the Department of Human Services. Mr. Armstrong identified himself as Edward Armstrong, Director of the Office of State Procurement. Mr. Linck and Mr. Armstrong responded to several questions regarding the contract and whether or not the contract was fairly procured in accordance with the law.

Co-Chair Sample stated in response to a question regarding the committee's options if this contract is not reviewed, that emergency action can be taken by the Co-Chairs of the Executive Subcommittee and the Co-Chairs of the Review Subcommittee upon a request from the agency for review of the contract. Co-Chair Sample also noted that the full Legislative Council could consider the contract depending on whether the motion currently on the floor passes or fails. Senator Teague asked that the staff follow-up on the question of whether or not contracts are pre-signed and to be sure that there is language in the contracts that provides that a contract is not valid until it has been reviewed. Mr. Armstrong and Mr. Linck responded to further questions concerning whether the contract had been pre-signed, the procedures for submitting a contract for review, and whether the contract was extended.

Co-Chair Sample recognized Senator Keith Ingram who made a motion for immediate consideration and the motion was seconded. Co-Chair Sample recognized Senator Bruce Maloch who asked to make a motion on division of the vote. Co-Chair Sample stated that he would consider that motion after the vote on the motion for immediate consideration. Co-Chair Sample called for a voice vote on the motion for immediate consideration and the motion passed.

Co-Chair Sample recognized Senator Maloch who requested a roll call vote by division of the houses on the motion by Senator Bart Hester that the Legislative Council overturn the ruling of the Review Subcommittee and that the contract between Youth Opportunity Investments L.L.C. and the Department of Human Services, Division of Youth Services be filed as reviewed by the Legislative Council.

Co-Chair Sample clarified that the motion presently before the committee is the motion by Senator Bart Hester that the that Legislative Council overturn the ruling of the Review Subcommittee and that the contract between Youth Opportunity Investments L.L.C. and the Department of Human Services Division of Youth Services, which is listed as item 33 on page 42 of the Review Subcommittee Report, be filed as reviewed by the Legislative Council. Co-Chair Sample asked if there was any discussion and then he answered questions on the motion and the impact if the motion fails.

Co-Chair Sample directed staff to call the roll on the motion by Senator Bart Hester that Legislative Council overturn the ruling of the Review Subcommittee and that the contract between Youth Opportunity Investments L.L.C. and the Department of Human Services, Division of Youth Services be filed as reviewed by the Legislative Council. The motion failed with 17 “yes” votes and 6 “no” votes in the House and with 5 “yes” votes and 14 “no” votes in the Senate.

Co-Chair Sample stated that if the agency requests review of a contract, he is now serving notice under Rule 7 of the Legislative Council Rules that a special meeting of the full Legislative Council is tentatively scheduled for Friday, December 30, 2016 to consider a possible emergency procurement issue. Co-Chair Sample stated this also serves as notice to Mr. Linck and Mr. Armstrong and he then excused them to return to their seats in the audience. Co-Chair Sample responded to questions from the committee and recognized Representative Nate Bell. Representative Bell stated he has copies of the page in the contract that states the contract is not effective until reviewed by this committee and that he believes the committee was provided with some incorrect information during the discussion. Representative Bell asked that the staff be instructed to provide these copies to the committee members and Co-Chair Sample responded with thank you. Co-Chair Sample asked if there was any further discussion and there was none.

Adjournment

At 10:20 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