

MINUTES OF THE MEETING
OF THE
ARKANSAS LEGISLATIVE COUNCIL

July 21, 2023

The Arkansas Legislative Council met at 9:00 a.m., Friday, June 16, 2023, in Committee Room A of the Big Mac Building, Little Rock, Arkansas. Co-Chair Terry Rice called the meeting to order and recognized a quorum of members present. Senator Steve Crowell was recognized to give the morning prayer.

Point of Personal Privilege

Co-Chair Rice recognized Senator Linda Chesterfield for a point of personal privilege. Senator Chesterfield asked members, staff, and visitors to stand for a moment of silence for the wife of Mr. Frank Witherspoon (*a "Tan-Coat" of the Arkansas Senate*), who passed away and will be laid to rest today.

Minutes of the Previous Meeting

Co-Chair Rice referred members to the minutes of the last Legislative Council meeting held on May 19, 2023 (Exhibit C), and asked if there were any questions. There were no questions.

Senator Linda Chesterfield moved that the minutes of the May 19, 2023, meeting of the Legislative Council be adopted. The motion was seconded and passed by voice vote.

Act 413 Reports

Co-Chair Rice recognized Ms. Renee Mallory, Interim Secretary, Department of Health, to report agency updates, pursuant to Act 413 of the 2021 Regular Session. Upon conclusion of the report, Co-Chair Rice recognized members for questions.

Co-Chair Rice then recognized Ms. Allison Bragg, Secretary, Department of Inspector General, to report agency updates, pursuant to Act 413 of the 2021 Regular Session. Upon conclusion of the report, Co-Chair Rice recognized members for questions.

Co-Chair Rice also recognized Major General Kendall Penn, Secretary, Department of Veterans Affairs, to report agency updates, pursuant to Act 413 of the 2021 Regular Session. Upon conclusion of the report, Co-Chair Rice recognized members for questions.

Revenue Report

Co-Chair Rice recognized Mr. Kevin Anderson, Assistant Director, BLR Fiscal Division, to present the May 2023 General Revenue Report (Exhibit E). Mr. Anderson reported, the collections of Gross General Revenues year-to-date are approximately \$7,898.9 million, an increase of \$28.9 million, or 0.4% above the \$7,869.96 million collected last fiscal year-to-date. Mr. Anderson further reported, the Net General Revenue Available for Distribution this month of \$6,415.5

million, decreased \$282.9 million, or 4.2% from the \$6,698.4 million available for distribution in May 2022. This is due to an increase in income tax refunds compared to last fiscal year. He continued, stating the forecast was revised in May 2023, giving a projected surplus of \$1.35 billion from \$600 million. The state is still \$18.5 million over the revised surplus for May 2023. Sales tax and income tax collections were up, with one month remaining in the fiscal year. This concluded the May 2023 General Revenue report, there were no questions.

Report of the Executive Subcommittee

Co-Chair Rice recognized Co-Chair Jeff Wardlaw to present the report of the Executive Subcommittee (Exhibit F). Co-Chair Wardlaw reported that the Executive Subcommittee met on Thursday, June 15, 2023, and heard presentations from the Secretary of State's office regarding the Capitol's maintenance room project. The subcommittee also determined it would move forward with a study regarding property insurance coverage for school districts and authorize BLR to begin an RFP process for a consultant to assist in this study. Additionally, the subcommittee was notified of the procedure to allow public comment for emergency rules that may be submitted related to the LEARNS Act. The subcommittee also met on Friday, June 16, 2023, and authorized the Bureau of Legislative Research (BLR) to contract with outside legal counsel for representation related to a subpoena for documents from ALC consultant, The Segal Group, Inc. This concluded the report of the Executive Subcommittee, and there were no questions.

Co-Chair Jeff Wardlaw 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 Rice stated, without objection, the PEER report will be heard first, before any of the other standing subcommittee reports.

Performance Evaluation and Expenditure Review (PEER) Subcommittee

Co-Chair Rice recognized Senator Jonathan Dismang to present the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee (Exhibit G.12). Senator Dismang reported that the Performance Evaluation and Expenditure Review (PEER) Subcommittee met on Monday, June 12, 2023, for a presentation on hospital evaluation methodology for emergency relief using American Rescue Plan Act Funds by Alvarez and Marsal, Department of Human Services, and Department of Finance and Administration. The subcommittee met again on Tuesday, June 13, 2023, and received reports, reviewed requests, and approved the following: various temporary appropriations; American Rescue Plan Act appropriations; Infrastructure Investment and Jobs Act appropriations; appropriation transfer requests; and Restricted Reserve Fund transfers. Two (2) of the items on the report were held by the subcommittee - B.2(k) and K.1(a). Members of the subcommittee received the information requested, and therefore, the two items can be released. This concluded the report of the PEER Subcommittee.

Senator Jonathan Dismang moved that the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee be adopted, including approval of Item B.2(k) and the review of Item K.1(a).

Co-Chair Rice recognized members for questions or discussion on the motion. Co-Chair Rice recognized Senator Bryan King who requested to make a substitute motion at the proper time. Mr. Andy Babbit, Deputy Director, Department of Finance & Administration (DF&A), was recognized to respond to questions. Co-Chair Wardlaw was also recognized to provide explanation on an item in the report. Senator Chesterfield made a request to receive a list of all consultant contracts with agencies from the past 2 years, including contract amounts and scope of work. After questions and discussion, Co-Chair Rice recognized Senator King for a substitute motion.

Senator Bryan King made a substitute motion to approve the PEER Report with the exception of B.1(b), an American Rescue Plan Act Appropriation Request and to hold that item until the July 2023 ALC meeting, in order to defer it to the Senate Public Health, Welfare, and Labor Committee for further discussion.

Co-Chair Rice made comments regarding the substitute motion, then recognized members for additional questions or discussion on the substitute motion. After questions, Co-Chair Rice referred members back to the substitute motion for a vote.

After voice votes, the substitute motion made by Senator Bryan King, failed.

Co-Chair Rice referred members back to the original motion made by Senator Dismang.

Senator Jonathan Dismang moved that the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee be adopted, including approval of Item B.2(k) and the review of Item K.1(a). The motion was seconded and passed by voice vote.

Administrative Rules Subcommittee

Co-Chair Rice recognized Senator Kim Hammer to present the report of the Administrative Rules Subcommittee (Exhibit G.1).

Before reporting, Senator Hammer made a request to receive information regarding the notification sent to hospitals making them aware of the reports and that they are welcomed to partake in the discussions with members and the consultants. Co-Chair Wardlaw responded, informing Senator Hammer, there were no notifications, but a motion was made in the PEER Subcommittee meeting, that the Department of Human Services (DHS) and the Department of Finance & Administration (DF&A) will give a quarterly report on the status of payments that have been made to each of the eighteen (18) hospitals mentioned in the PEER report.

Senator Hammer then reported the Administrative Rules Subcommittee met on Thursday, June 15, 2023. The subcommittee adopted a report from the Executive Subcommittee concerning its review and approval of an emergency rule at its meeting on May 18, 2023. Pursuant to Act 595 of 2021, the Subcommittee received agency updates on outstanding rulemaking and filed the June written updates concerning the Department of Corrections' rulemaking. All rules were reviewed and approved as noted in the report. This concluded the report of the Administrative Rules Subcommittee, and there were no questions.

**Co-Chair Rice stepped away from the chair's seat and Co-Chair Wardlaw momentarily presided.*

Senator Kim Hammer moved that the report of the Administrative Rules Subcommittee be adopted. The motion was seconded and passed by voice vote.

Claims Review & Litigation Reports Oversight Subcommittee

Co-Chair Wardlaw recognized Senator Jim Dotson to present the report of the Claims Review & Litigation Reports Oversight Subcommittee (Exhibit G.3). Senator Dotson reported that the Claims Review & Litigation Reports Oversight Subcommittee met on Wednesday, June 14, 2023. Following the adoption of the rules, the subcommittee reviewed thirteen (13) litigation cases. The subcommittee also reviewed one (1) proposed settlement submitted by the Department of Agriculture, and two (2) proposed settlements submitted by the Department of Finance & Administration. This concluded the report for the Claims Review & Litigation Reports Oversight Subcommittee, and there were no questions.

Senator Jim Dotson moved that the report of the Claims Review & Litigation Reports Oversight Subcommittee be adopted. The motion was seconded and passed by voice vote.

**Co-Chair Rice returned to continue presiding over the meeting.*

Employee Benefits Division Oversight Subcommittee

Co-Chair Rice recognized Senator Jimmy Hickey, Jr. to present the report of the Employee Benefits Division Oversight Subcommittee (Exhibit G.4). Senator Hickey reported that the Employee Benefits Division Oversight Subcommittee met on Wednesday, June 14, 2023. The subcommittee reviewed and approved the State Board of Finance - changes to the EBD Drug Formulary; EBD/EBRx contract for consulting services; and an EBD contract with Mainstream Technologies through June 30, 2024. The subcommittee also heard discussion on the Connect Your Care Services Contract Report, Regenerative Therapies Act of 2017, prior authorization for Position Emission Tomography (PET) Scans, and the Bariatric Surgery Coverage Criteria Benefit Plan. The Subcommittee also requested EBD to bring monthly updates regarding network issues affecting retirees. This concluded the report of the Employee Benefits Division Oversight Subcommittee, and there were no questions.

Senator Jimmy Hickey, Jr. moved that the report of the Employee Benefits Division Oversight Subcommittee be adopted. The motion was seconded and passed by voice vote.

Higher Education Subcommittee

Co-Chair Rice recognized Senator Dan Sullivan to present the report of the Higher Education Subcommittee (Exhibit G.6). Senator Sullivan reported that the Higher Education Subcommittee met on Thursday, June 15, 2023, and heard testimony from the Division of Higher Education on agency priorities and updates in teacher preparation from the Division of Higher Education and the Division of Elementary and Secondary Education. This concluded the report of the Higher Education Subcommittee, and there were no questions.

Senator Dan Sullivan moved that the report of the Employee Benefits Division Oversight Subcommittee be adopted. The motion was seconded and passed by voice vote.

Point of Personal Privilege

Co-Chair Rice recognized Representative Matthew Shepherd, Speaker, Arkansas House of Representatives, for a point of personal privilege. Speaker Shepherd congratulated Mr. Finos "Buddy" Johnson, House Parliamentarian, for 38 years of service to the State of Arkansas. Mr. Johnson will retire on June 30, 2023. Speaker Shepherd, on behalf of all members and staff, expressed much appreciation to Mr. Johnson for his long tenure and good council, and wished him well in future endeavors.

Highway Commission Review and Advisory Subcommittee

Co-Chair Rice recognized Representative Ron McNair to present the report of the Highway Commission Review and Advisory Subcommittee (Exhibit G.7). Representative McNair reported that the Highway Commission Review and Advisory Subcommittee met on Wednesday, June 14, 2023, and heard testimony and reviewed the following items: the Quarterly Land Conveyances report; the 2nd and 3rd Quarter 2023 Reports on the Progress of Each Highway Construction Project of \$10 million or more; and the January to May 2023 monthly updates of the ALC Efficiency Study Recommendations Rules for Implementation. This concluded the report of the Highway Commission Review and Advisory Subcommittee, and there were no questions.

Representative Ron McNair moved that the report of the Highway Commission Review and Advisory Subcommittee be adopted. The motion was seconded and passed by voice vote.

Lottery Oversight Subcommittee

Co-Chair Rice recognized Senator Ronald Caldwell to present the report of the Lottery Oversight Subcommittee (Exhibit G.9). Senator Caldwell reported that the Lottery Oversight Subcommittee met on Thursday, June 15, 2023. The subcommittee heard testimony and reviewed the following items: Office of Arkansas Lottery Director's report; the proposed Fiscal Year 2024 Annual Budget; and the A-L Tier II LLC and Cranford Johnson Robinson Woods contracts. This concluded the report of the Lottery Oversight Subcommittee, and there were no questions.

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

Occupational Licensing Review Subcommittee

Co-Chair Rice recognized Senator Jane English to present the report of the Occupational Licensing Review Subcommittee (Exhibit G.11). Senator English reported that the Occupational Licensing Review Subcommittee met on Thursday, June 15, 2023, and approved the following: the Rules of the Occupational Licensing Review Subcommittee; the proposed occupational authorization entities for review; and the timeline to review occupational entities and authorizations. This concluded the report of the Occupational Licensing Review Subcommittee, and there were no questions.

Senator Jane English moved that the report of the Occupational Licensing Review Subcommittee be adopted. The motion was seconded and passed by voice vote.

Review Subcommittee

Co-Chair Rice recognized Senator Scott Flippo to present the report of the Review Subcommittee (Exhibit G.14). Senator Flippo reported that the Review Subcommittee met on Tuesday, June 13, 2023, and reviewed methods of finance, a construction contract, discretionary grants, and service contracts. Two (2) items were held for additional information. The holds have since been released on both items. This concluded the report of the Review Subcommittee, and there were no questions.

Senator Scott Flippo moved that the report of the Review Subcommittee be adopted. The motion was seconded and passed by voice vote.

Uniform Personnel Classification and Compensation Plan Subcommittee

Co-Chair Rice recognized Senator Breanne Davis to present the report of the Uniform Personnel Classification and Compensation Plan Subcommittee (Exhibit G.15). Senator Davis reported the Uniform Personnel Classification and Compensation Plan Subcommittee met on Wednesday, June 14, 2023. The subcommittee reviewed reports and requests listed as Items 1-32 on the report. The subcommittee also suspended the rules and approved a request from the Office of Personnel Management (OPM), listed as Item 33, to provide merit increases to the base salaries of employees at or above the maximum salaries of their current pay grades based on their highly effective or role-model designation through their performance evaluation. As requested during the Personnel Subcommittee meeting, OPM has provided an updated list of employees for ALC review. This concluded the report of the Uniform Personnel Classification and Compensation Plan Subcommittee, and there were no questions.

Senator Breanne Davis moved that the report of the Uniform Personnel Classification and Compensation Plan Subcommittee be adopted, including merit increases for qualified employees over the max. The motion was seconded and passed by voice vote.

Review of Communications

Co-Chair Rice referred members to the communications listed on the agenda as Items I.01- I.08 and noted that action by Legislative Council was needed for Items I.01, I.07(b), and I.08, and a verbal report will be given for Item I.04. There were no questions from members.

I.01 - Arkansas Teacher Retirement System: Request for Legislative Council's review of the partial equity ownership investments, submitted pursuant to A.C.A. §19-11-1302.

- i. KPS Special Situations Mid-Cap Fund II, L.P.; and
- ii. Blackstone Real Estate Partners Europe VII, SCSp

Senator Missy Irvin moved to file the request I.01 from the Arkansas Teachers Retirement System, as reviewed. The motion was seconded and passed by voice vote.

Co-Chair Rice referred members to Item I.04 for a verbal report.

I.04 - Department of Human Services (DHS): Co-Chair Rice recognized Ms. Kristi Putnam, Secretary, Mr. Mark White, Chief of Staff, and Mr. Jay Hill, Director of the Division of Aging, Adult, and Behavioral Health Service, DHS, to present the report. Upon conclusion of the report, Co-Chair Rice recognized members for questions.

Co-Chair Rice referred members to Item I.07(b) and requested a motion.

I.07 - Department of Transformation and Shared Services:

- b. Division of Information Systems, Request to review the proposed new rates of services for FY2024, submitted pursuant to A.C.A. §25-4-119(b)(3)(B).

Representative Kenneth Ferguson moved to file the request from the Division of Information Systems, as reviewed. The motion was seconded and passed by voice vote.

Co-Chair Rice referred members to Item I.08 and requested a motion.

I.08 - Secretary of State, Request for review of the engineering reports for Arkansas'

Contribution to the National Statuary Hall Collection, submitted pursuant to A.C.A. §1-4-134(e)(4)(A).

Representative Jeff Wardlaw moved to file the request from the Secretary of State, as reviewed. The motion was seconded and passed by voice vote.

Interim Study Proposals and Interim Resolutions

Co-Chair Rice moved, without objection, to batch all Interim Study Proposals (ISP's) on the June agenda and send them to the respective committees. Senator Jimmy Hickey, Jr. made an objection to that motion and requested to review Item K.04 separately from the other ISP's.

Co-Chair Wardlaw moved to batch Items K.01 - K.03 and send them to the respective committees and to hear Item K.04 separately. The motion was seconded and passed by voice vote.

Senator Hickey expressed he did not think it was appropriate for ALC to vote on an ISP that dealt with rules of the House of Representatives and recommended the ISP be held until the July 2023 ALC meeting, in order to receive further guidance. Additional members agreed.

Co-Chair Rice recognized Representative Crawford for comments and a motion.

Representative Cindy Crawford moved to delay the referral of ISP 2023-084 for a month, to receive further guidance and information. The motion was seconded and passed by voice vote.

Adjournment

At 10:45 a.m., the meeting was adjourned as there was no further business to come before the Legislative Council.

Respectfully submitted,

ATTEST:

Senator Terry Rice
Co-Chair, Senate

Jill Thayer
BLR Chief Legal Counsel