

MINUTES OF THE MEETING
OF THE
ARKANSAS LEGISLATIVE COUNCIL

Friday, November 18, 2011

The Arkansas Legislative Council met at 9:00 a.m., Friday, November 18, 2011 in Committee Room A of the Big Mac Building, Little Rock, Arkansas. Co-Chair Mary Anne Salmon called the meeting to order and dispensed with the calling of the roll. The members who attended are listed on the sign-in sheets.

Minutes of the Last Meeting

Co-Chair Salmon referred members to the minutes of the October 21, 2011 meeting of the Legislative Council and asked if there were any questions. There were no questions.

Representative Stewart moved that the minutes of the October 21, 2011 meeting of the Legislative Council be approved. The motion received a second from Senator Bledsoe and passed by voice vote.

Presentation of Updates to Sound System

Co-Chair Salmon recognized Jim Schratz, Chief Information Officer for the Bureau of Legislative Research, to explain recent changes to the sound system in Committee Room A. Mr. Schratz informed the members that when a member wishes to be recognized and presses the yellow button, the microphone will be switched on once the chair recognizes the member to speak. The microphone will stay on until the member turns the microphone off. Mr. Schratz informed members that another change is that when a member is recognized, the overhead monitors will briefly display the seating chart with an indicator of the open microphone. This is to give members a visual cue of where to look when a member is recognized to speak. Mr. Schratz responded to questions regarding the position of the seating chart when displayed on the monitor and whether the chair had the ability to close a member's microphone.

Announcements

Meeting with U.S. Postal Service

Co-Chair Salmon recognized Representative Lea for a question on the minutes. Representative Lea commented that, as noted on page 11 of the minutes, she had asked at the last meeting for information regarding the cost of a special Legislative Council meeting for the purpose of meeting with representatives of the United States Postal Service. Representative Lea informed members that she had received the information. Representative Lea stated the cost of the special meeting would

be the cost of mileage and per diem paid to members attending the meeting and that the average cost of the last three meetings was \$42,000.00.

Co-Chair Salmon stated that she had an announcement pertaining to that question. Co-Chair Salmon announced that Ms. Leisa Tolliver-Gay, the Customer Relations Coordinator with the Arkansas Consumer Affairs Office for the United States Postal Service, will be at next regular meeting of the Legislative Council to discuss concerns about the possible closing of post offices in Arkansas. The next meeting is scheduled for Friday, December 16, 2011.

Co-Chair Salmon asked that if a Legislative Council member has a specific question or concern they wish to be addressed during this meeting, please provide these to the Legislative Council staff as soon as possible to ensure that adequate time is allowed for a proper response to your questions.

Co-Chair Salmon also informed the Legislative Council members that an article in the paper today provides information on the times and places for public hearings in the communities where there is a possibility of a post office closing.

Introduction of Dr. Bruce Vandal

Co-Chair Salmon also introduced Bruce Vandal, Director of the Postsecondary and Workforce Development Institute with the Education Commission of the States. Dr. Vandal coordinates research and policy work and is the director of *Getting Past Go*, a three-year Lumina Foundation for Education project to more effectively leverage investments in remedial and developmental education to increase college attainment. He also is the co-director of the Tennessee Developmental Studies Redesign Initiative, which is a partnership with the Tennessee Board of Regents (TBR) to reform developmental education courses at TBR institutions funded by the U.S. Department of Education's Fund for the Improvement of Postsecondary Education. Dr. Vandal also has directed projects on aligning education and workforce development policy, teacher preparation and college access. He earned his Ph.D in Education Policy and Administration from the University of Minnesota. Co-Chair Salmon informed the members that Dr. Vandal has spent the last three days meeting with legislators and discussing how to improve post-secondary education in Arkansas.

Co-Chair Salmon recognized Dr. Vandal for comments and he thanked members for the opportunity to meet with legislators and to discuss how the Education Commission of the States (ECS) can be supportive of efforts of education change in the State of Arkansas. Dr. Vandal stated that Arkansas is a member of the Education Commission of the States and the commission's resources are available to the state.

Co-Chair Salmon commented that she wanted to recognize Representative Johnnie Roebuck for all her work in scheduling Dr. Vandal's visits and noted that a lot has been learned from these discussions.

October 2011 Revenue Report

Co-Chair Salmon recognized Richard Wilson, Assistant Director of the Bureau of Legislative Research, to present the monthly revenue report for October 2011. Mr. Wilson reported that the October 2011 revenue report reflects that after four months of this fiscal year, gross collections are \$ 57.3 million ahead of the same period last year for a growth rate of three point two percent (3.2%). The adjusted net available for distribution is \$ 42 million ahead of the same period last year for a growth rate of two point seven percent (2.7%). The graph page indicates that revenue collections are approximately \$10 million above the official revenue forecast after four months. The spreadsheet reflects that the weighted average of income tax is very good, while the gross receipts are still slightly negative. At the conclusion of his report, Mr. Wilson offered to answer questions from the members. There were no questions.

Co-Chair Salmon asked for a motion to approve the report and the motion to approve the report was seconded and passed by voice vote.

Reports of Standing Subcommittees

Co-Chair Salmon stated that there is no report from the Executive Subcommittee as there was no meeting this month.

Administrative Rules and Regulations Subcommittee

Co-Chair Salmon stated the Administrative Rules and Regulations Subcommittee report would be postponed until the subcommittee chairs could be available to present the report.

Game and Fish/State Police Subcommittee

Co-Chair Salmon recognized Representative Garry Smith to present the report of the Game and Fish/State Police Subcommittee. Representative Smith reported that the Game and Fish/State Police Subcommittee met with representatives of the Arkansas Police on November 2, 2011 and heard a report from Paul Atkins, with the Bureau of Legislative Research, on the Arkansas State Police Uniformed Employee Health Plan including a ten-year financial summary. The subcommittee asked that information on the overall healthcare cost per person for a state employee compared to that of an Arkansas state trooper be provided at the next subcommittee meeting.

The subcommittee also heard a presentation from Major Kathy Sparks on the Physical Fitness and Wellness Policy that will be implemented by the Arkansas State Police in early 2012. Major Sparks explained this is a mandatory, but non-punitive policy that was established to improve and maintain the physical readiness and health of all commissioned personnel. The program includes a comprehensive health evaluation, wellness program, and an annual physical fitness assessment.

Co-Chair Salmon recognized Senator Kim Hendren who commented that he had read a newspaper article this morning that reported that the State Police Retirement System is short and will have to ask for more money in the next legislative session. Senator Hendren stated the subcommittee was informed that the cost of the state police health plan was significantly more for these employees

than the cost of the health plan for other state employees because the group is a smaller. He stated that the subcommittee asked for research on whether the health plan should be part of the larger group, and he asked whether research regarding the same thing with the state police retirement system was being conducted.

Co-Chair Salmon recognized Major Kathy Sparks to respond. Major Sparks identified herself as Major Kathy Sparks, the commander of the Administrative Services Division. Major Sparks stated that in addition to the study by the Bureau of Legislative Research, the Arkansas State Police will also conduct a cost study of the state police health plan, which will include a review of historical data and an analysis of future needs. Major Sparks stated the State Police health plan is unique and being a self-funded program allows some opportunities, such as the physical fitness and wellness program, that may not be possible if the state police were part of the state employee health plan. In reference to the article in the newspaper regarding the state police retirement system, Major Sparks stated she had not read the article and that she was not aware of a problem with the retirement system.

Senator Hendren suggested that the Legislative Council work with the Arkansas State Police to prepare a report on the state police health insurance and retirement benefits and that the report be submitted to the appropriate committee so that the members would know what needs to be done.

Co-Chair Salmon commented that the newspaper article reported that the State Police did have extra funding during the last session, but that the State Police may have to request more funding during the 2013 session. Co-Chair Salmon stated that the Bureau would be in touch with the State Police to discuss the criteria for the study and where it needs to go.

Co-Chair Salmon recognized Representative Catlett who informed the members that Major Kathy Sparks is retiring and that she is a pioneer in law enforcement. Representative Catlett stated that he would like to recognize her for her long and distinguished career and wishes to acknowledge her service.

Higher Education Subcommittee

Co-Chair Salmon recognized Representative Johnnie Roebuck to present the report of the Higher Education Subcommittee. Representative Roebuck reported that the Higher Education Subcommittee met on November 4 and November 5 at the Washington County Sheriff's Office in Fayetteville and heard from Shane Broadway, Interim Director of the Department of Higher Education, regarding higher education textbook pricing and availability and on compliance with Act 175 of 2007 regarding deadlines for the adoption of textbooks. The subcommittee also heard comments from students and faculty at these meetings.

Representative Roebuck reported that the Higher Education Subcommittee also met on November 17, 2011 in Little Rock and heard a report from Dr. J. Barry Ballard, President of the College of the Ouachitas, on cost containment efforts at this institution. This was the last cost containment hearing for the four-year and two-year schools. Also at this meeting, the subcommittee heard a presentation from Dr. Bruce Vandal, Director of the Postsecondary and Workforce Development Institute with the Education Commission of the States, on the impact of college

completion on the Arkansas economy and workforce. Representative Roebuck stated Dr. Vandal's presentation is available on the Bureau of Legislative Research Higher Education website. There were no questions.

Representative Roebuck moved the adoption of the Higher Education Subcommittee report for the meetings on November 4, November 5, and November 17, 2011. The motion was seconded by Representative Garry Smith and passed by voice vote.

At this point, Co-Chair Salmon asked if there was a motion to adopt the report of the Game and Fish/State Police Subcommittee. **Representative Garry Smith moved the adoption of the Game and Fish/State Police Subcommittee report for the meeting on November 2, 2011. The motion was seconded by Senator Jimmy Jeffress and passed by voice vote.**

Performance Evaluation and Expenditure Review (PEER) Subcommittee

Co-Chair Salmon recognized Representative James McLean to present the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee. Representative McLean reported that the Performance Evaluation and Expenditure Review (PEER) Subcommittee met on November 1, 2011 and reviewed and approved a request from the University of Central Arkansas for reallocation of resources of \$15 million in cash funds from operating expenses to capital improvement for capital projects. Representative McLean reported that all other items on the agenda were reviewed and no items were held. Representative McLean informed the members that the official general revenue forecast from the Department of Finance and Administration will be presented at the PEER Subcommittee meeting on December 1, 2011. There were no questions.

Representative McLean moved that the Performance Evaluation and Expenditure Review (PEER) Subcommittee report for the meeting on November 1, 2011 be adopted. The motion was seconded and passed by voice vote.

Policy-Making Subcommittee

Co-Chair Salmon recognized Representative Kelley Linck to present the report of the Policy-Making Subcommittee. Representative Linck reported that the Policy-Making Subcommittee met November 17, 2011 and discussed a proposed amendment for Rule 12(a)(1) of the Rules of the Arkansas Legislative Council (see attachment B to Exhibit F.9), which concerns identical interim study proposals filed in or referred to interim committees. The subcommittee passed a motion to recommend that the Legislative Council adopt the amendment to Rule 12(a)(1) with the exception that it not apply to two interim study proposals created from the same house bill that are currently in two committees. Representative Linck informed the Legislative Council members that the amended rule was before them now for their review and will be considered for adoption during the December 16, 2011 Legislative Council meeting.

The subcommittee also discussed the need for additional funds to be transferred to the House Education Committee in the amount of \$56,000.00 and the need for additional funds to be transferred to the Senate Education Committee in the amount of \$14,000.00. The subcommittee

passed a motion to transfer the funds from the Bureau's unallocated interim committee funds. There were no questions.

Representative Linck moved for a favorable review of the report of the Policy-Making Subcommittee. The motion received a second and was passed by voice vote.

Review Subcommittee

Co-Chair Salmon recognized Senator Randy Lavery to present the report of the Review Subcommittee. Senator Lavery reported that the Review Subcommittee met on November 2, 2011 and reviewed methods of finance, discretionary grants, and professional-consultant services contracts, and technical services contracts. Senator Lavery reported that all items on the agenda were reviewed and none were held. There were no questions.

Senator Lavery moved that the report of the Review Subcommittee be adopted. The motion received a second and was passed by voice vote.

Uniform Personnel Classification and Compensation Plan Subcommittee

Co-Chair Salmon recognized Senator Jim Luker to present the report of the Uniform Personnel Classification and Compensation Plan Subcommittee. Senator Luker reported that he presided over the meeting of the Uniform Personnel Classification and Compensation Plan Subcommittee in the absence the subcommittee co-chairs. Senator Luker reported that the subcommittee met on November 1, 2011 and discussed the issue of the Administration of Justice Fund and its affect on pay for the trial court administrative assistants, but took no action on the issue. Senator Luker reported that Chief Justice Hannah appointed a group to study this issue and that group is meeting this afternoon.

Senator Luker reported that the subcommittee also met on November 18, 2011 and considered a number of routine matters that are included in the report in the members' packets. Senator Luker reported the most significant item on the agenda was several requests for creation of pool positions for several higher education institutions. The subcommittee reviewed quite a number of the requests where an institution requested one or two positions, but the subcommittee voted to not review a request from the University of Arkansas at Little Rock (UALR) for a substantial number of positions. Two motions were made to review this request, but both motions failed due to the lack of a sufficient number of subcommittee members present for approval. This item will be carried over to the next subcommittee meeting.

Senator Luker moved the report of the Uniform Personnel Classification and Compensation Plan Subcommittee be adopted.

Co-Chair Salmon recognized Senator Bledsoe who noted that the report of the Uniform Personnel Classification and Compensation Plan Subcommittee was not in the members packets. Co-Chair Salmon stated the vote on the motion to adopt the report will be delayed until the report is made available to the members. After the report was provided to the members, Co-Chair Salmon asked if

there were any questions on the report and there were none. Co-Chair Salmon called for the vote on the motion to adopt the report.

The motion to adopt the report of the Uniform Personnel Classification and Compensation Plan Subcommittee received a second and was passed by voice vote.

Administrative Rules and Regulations Subcommittee

Co-Chair Salmon recognized Representative Barnett to present the report of the Administrative Rules and Regulations Subcommittee. Representative Barnett stated he would give the report in the absence of the subcommittee co-chairs. Representative Barnett reported that the Administrative Rules and Regulations Subcommittee met on November 14, 2011 and reviewed all items on the agenda listed under item 1 on pages 1 through 3 of the report.

Representative Barnett reported that, at the agency's request, the subcommittee deferred until the December 2011 meeting review of the rule changes from Residential Building Contractors Committee (see page 3 of the report). The subcommittee also requested that Michael Langley of the Alcoholic Beverage Control Division work with Matthew Miller with the Bureau of Legislative Research to establish a date to meet and resolve issues concerning revisions to their rules and regulations (see page 3 of the report). The subcommittee also recommends to not review the rule that concerns the Department of Human Services Social Services Block Grant pre-expenditure report amendment #2 (see page 3 of the report).

The subcommittee also deferred until the December 2011 meeting review of the Department of Health's Cancer Registry rule (see page 4 of the report). The subcommittee reviewed the rule implementing the Arkansas Parole Board's Policy Manual, but asked that the staff work with the Arkansas Attorney General's Office and the Arkansas Parole Board to clarify three areas on which there is disagreement on the interpretation of the Board's authority. The staff will report at the December 2011 subcommittee meeting on which issues may need to be resolved with the subcommittee's request to the Attorney General.

Co-Chair Salmon recognized Senator Hendren who commented that he made the motion to not review the Department of Human Services rule because he felt the federal government had asked the State of Arkansas to file a fraudulent report by asking for revisions to the pre-expenditure report after the actual expenditures were made. Senator Hendren stated he felt it was wrong to create a fraudulent report. Senator Hendren also wanted the members to be aware that the rule by the Alcoholic Beverage Control Board would overrule any local ordinances regarding the distance a liquor store must be separated from schools and churches. Senator Hendren also wanted the members to be aware that the subcommittee was informed of problems with the rule by the Residential Building Contractors Committee that requires contractors to be licensed and to pay a \$100.00 fee if the contractor does \$2,000.00 worth of work, and that the rule would be implemented and not be enforced, but payment of the licensing fee would still be required. He stated that he feels that this needs to be fixed.

Co-Chair Salmon recognized Representative Barnett who commented that the Administrative Rules and Regulations Subcommittee has accomplished important business and does an important job by

questioning an agency's reasoning in the implementation of rules that increase fees, or the agency's enforcement of a rule, or for emergency implementation of a rule.

Co-Chair Salmon recognized Rex Jones from the Department of Human Services to respond to comments from Senator Hendren. Mr. Jones stated he is Rex Jones with the Contracts Support Section of the Department of Human Services and that the department did agree during the subcommittee meeting that government is confusing. Mr. Jones stated that the issue with the rule concerning the pre-expenditure report is a good example of that. Mr. Jones stated that the guidance the department is receiving from the federal government about the report for the social service block grant has changed and the department has asked why. Mr. Jones stated that this is a very broad grant that provides benefits in the department and also in the Arkansas Spinal Cord Commission and rehabilitation services. The department did not spend the grant money exactly as expected in the report issued in July 2010 and over the course of the year there were not as many eligible people in the category of supported living services and there was a greater need in the substitute care for children. The department was about three point four percent (3.4%) off of the estimate.

According to Mr. Jones, the rationale that the department received from the federal government for revising the pre-expenditure report was that the pre-expenditure report is promulgated and is available to the public and that changes should be made visible to the public. The department recommended to the federal government that, in the future, both the pre-expenditure report and the post-expenditure report be published to the department's website so that the public will be informed. Mr. Jones stated that he did not agree that revision of the report was fraudulent, but he does agree that it is frustrating.

Co-Chair Salmon asked if the federal government recommendation was for the purpose of transparency so that the public could see what the money was actually expended for. Mr. Jones responded that was right and that the federal government wanted a formal amendment to the department's "best guess from a year and a half ago" for expenditures that have already been made. There were no further questions for Mr. Jones.

Representative Barnett moved that the report of the Administrative Rules and Regulations Subcommittee be adopted. The motion was seconded by Representative Rice and passed by voice vote.

Review of Communications

Co-Chair Salmon referred members to the communications in their packets and asked if there were any questions concerning the communications.

AHTD Quarterly Expenditure Status Report

Co-Chair Salmon recognized Representative Tracy Pennartz for a question on the Arkansas Highway and Transportation Department quarterly report of expenditures (Exhibit H.4b). Co-Chair Salmon recognized Mike Boyd, Assistant Chief Fiscal Officer with the Arkansas Highway and Transportation Department, to respond to questions. Representative Pennartz referred to the overtime statistics for construction engineering and asked how overtime is classified, and do work

periods vary from the traditional 8:00 to 5:00. Mr. Boyd responded that during the summer months most employees work four ten-hour days and are off on Fridays during the winter months. He also stated that some overtime may be beyond the department's control because night work is needed with some projects and department engineers are required to be on-site to ensure contractors are complying with contract requirements. Mr. Boyd stated the department is aware of the amount of overtime that is paid. Representative Pennartz asked that the department review the amount paid for construction engineering because she feels this is an area where some efficiencies can be gained.

Co-Chair Salmon recognized Representative Barnett who asked if the same reasoning applies to the amount of overtime paid to State Highway Police. Mr. Boyd responded that the overtime for the Highway Police may be for officers being on a construction site and could be for the night time work required to enforce safety rules and inspections of professional truck drivers. There were no further questions for Mr. Boyd.

ATRS Partial Equity Ownership Agreement

Co-Chair Salmon referred members to the request from the Arkansas Teacher Retirement System for the Legislative Council's review of the private partnership real estate investment in Blackstone Real Estate Partners VII.TE.3 LP. Co-Chair Salmon recognized Gail Bolden, Deputy Director with the Arkansas Teacher Retirement System, and Jerry Myer, the Real Estate Investment Manager with the Arkansas Teacher Retirement System, and asked that they explain the agency's request. Ms. Bolden explained they are requesting the Legislative Council's review of an investment with Blackstone Real Estate Partners VII.TE.3 LP in the amount of \$50 million for the greater diversification of the ATRS portfolio. Ms. Bolden and Mr. Myer answered several questions from the members.

Representative Barnett moved that the private partnership real estate investment by the Arkansas Teacher Retirement System in Blackstone Real Estate Partners VII.TE.3 LP be filed as reviewed. The motion was seconded by Representative Benedict and passed by voice vote.

New Proposals and Resolutions

Interim Study Proposal 2011-187

Co-Chair Salmon referred the members to Interim Study Proposal 2011-187, by Representative David Meeks, that requests the Arkansas Legislative Council of the Eighty-Eighth Arkansas General Assembly to refer to the appropriate interim committee a study of the costs to consumers and insurance companies of presently mandated health insurance coverage and the potential costs of retaining state mandated coverage under the Patient Protection and Affordable Care Act.

Representative John Burriss moved that Interim Study Proposal 2011-187 be referred to the House Committee on Public Health, Welfare and Labor. The motion was seconded by Representative Terry Rice and passed by voice vote.

Adjournment

Co-Chair Salmon reminded members to send to the Bureau staff any questions they may have regarding the closure of post offices in Arkansas. At 10:10 a.m., the meeting was adjourned until December 16, 2011 as there was no further business to come before the committee.

Respectfully submitted,

ATTEST:

Senator Mary Anne Salmon
Co-Chair, Senate

David Ferguson
Executive Secretary