

**MINUTES OF THE MEETING**  
**OF THE**  
**ARKANSAS LEGISLATIVE COUNCIL**

**Friday, November 16, 2012**

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The Arkansas Legislative Council met at 9:00 a.m., Friday, November 16, 2012 in Committee Room A of the Big Mac Building, Little Rock, Arkansas. Co-Chair Mary Ann 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 the members to the minutes of the October 19, 2012 meeting of the Legislative Council and asked if there were any questions. There were no questions.

**Senator Hendren moved that the minutes of the October 19, 2012 meeting of the Legislative Council be approved. The motion received a second and passed by voice vote.**

**Presentation of Revenue Report**

Co-Chair Salmon recognized Richard Wilson, Assistant Director for Research Services with the Bureau of Legislative Research, to present the monthly revenue report for October 2012. Mr. Wilson reported that the Monthly Revenue Report for October 2012 (Exhibit D), reflects that after four months of the current fiscal year, collections are \$ 41 million ahead of the same period last year for a growth rate of two point two percent (2.2%) on gross collections and the net revenue available is \$45 million ahead of the same period last year for a growth rate of two point nine percent (2.9%). Mr. Wilson noted that the graph page shows that the net general revenue available for distribution is \$21 million over the official revenue forecast. The spreadsheet reflects that gross receipts are still at zero growth while income tax collections are at a weighted average of three point six percent (3.6%).

Mr. Wilson noted that the official forecast for the current year was revised yesterday (November 15, 2012) to reflect an increase of \$135 million in gross receipts and an increase of approximately \$100 million in net revenue. Mr. Wilson commented that if the revised forecast is accurate, there will be a surplus of approximately \$100 million at the end of the fiscal year.

Co-Chair Salmon recognized Representative John Burris who asked what the overall trend is with income and sales tax collections. Mr. Wilson responded that the income tax collections are strong, but the sales tax collections have been disappointing for some time now. Mr. Wilson commented that it did not look good for the next six to nine months, but in calendar year 2014

and fiscal year 2014 should see an improvement in sales tax collections. There were no further questions.

### **Reports of Standing Subcommittees**

Co-Chair Salmon noted that the Executive Subcommittee did not meet during November 2012 and there was no report for this meeting.

#### Administrative Rules and Regulations Subcommittee

Co-Chair Salmon recognized Representative James Word to present the report of the Administrative Rules and Regulations Subcommittee. Representative Word referred members to the Administrative Rules and Regulations Subcommittee Report in their packets and reported that the subcommittee met on November 5, 2012 and a quorum was present. Representative Word offered to answer questions. There were no questions.

**Representative James Word moved that the report of the Administrative Rules and Regulations Subcommittee be adopted. The motion received a second and was passed by voice vote.**

#### Higher Education Subcommittee

Co-Chair Salmon recognized Senator Sue Madison to present the report of the Higher Education Subcommittee. Senator Madison reported that the Higher Education Subcommittee met on October 22, 2012 and heard a review of recent issues at the Southern Regional Education Board (SREB). The subcommittee also heard the following presentations: presentation on El Dorado's Bridge to College Algebra program from Alice Mahony; a presentation on loan default rates from Rex Nelson, President of Independent Colleges and Universities; and presentation of a chart reflecting cost containment efforts at all the institutions of higher education.

Co-Chair Salmon recognized Representative Debra Hobbs who asked whether a solution was discussed to loan default rate in the State of Arkansas. Senator Madison responded that the independent colleges and universities are those that are not public, which have an alarmingly high rate of loan defaults and some states have moved to limit the presence of for-profit educational institutions. Senator Madison stated the subcommittee has had ongoing discussions of the loan default rate in Arkansas to the point that some institutions are no longer making loans. There were no further questions.

**Senator Sue Madison moved the adoption of the report of the Higher Education Subcommittee. The motion received a second and was passed by a voice vote.**

#### Litigation Reports Oversight Subcommittee

Co-Chair Salmon recognized Senator David Johnson to present the report of the Litigation Reports Oversight Subcommittee. Senator Johnson reported that the Litigation Reports Oversight Subcommittee met on October 25, 2012 and heard from representatives of the Office

of the Attorney General, the Public Service Commission, the Department of Finance and Administration, the Arkansas Highway and Transportation Department, and the University of Arkansas System regarding ongoing and concluded litigation. There were no questions.

**Senator David Johnson moved the adoption of the report of the Litigation Reports Oversight Subcommittee. The motion received a second and was passed by voice vote.**

Performance Evaluation and Expenditure Review (PEER) Subcommittee

Co-Chair Salmon recognized Senator Johnny Key to present the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee. Senator Key stated that he would give the report of the subcommittee meeting and then ask to be recognized to present an additional item that was submitted after the subcommittee meeting that requires the action of the Legislative Council.

Senator Key reported that the Performance Evaluation and Expenditure Review (PEER) Subcommittee met on November 1, 2012 and approved a request from the Arkansas State Police to transfer \$60,500.00 in appropriation and funds for the purchase of body armor. The subcommittee also reviewed a cash appropriation increase for the Department of Veterans Affairs, but since the subcommittee meeting, this item was approved by the Chief Fiscal Officer on an emergency basis.

Senator Key reported that the Department of Finance and Administration had submitted two additional items after the subcommittee meeting. The first item requires review by the Legislative Council and is an amendment to an existing contract between the Arkansas Minority Health Commission and the University of Arkansas for Medical Sciences in the amount of \$24,500.00 for data analysis and epidemiology services. There were no questions on this report.

**Senator Johnny Key moved that the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee be adopted with the addition of the contract between the Arkansas Minority Health Commission and the UAMS College of Medicine. The motion received a second and passed by a voice vote.**

Co-Chair Salmon recognized Senator Key to present the second additional item submitted by the Department of Finance and Administration after the subcommittee meeting. Senator Key stated that this item requires approval of the Legislative Council and is a request from the Department of Workforce Services to transfer \$1 million in appropriation from the Workforce Investment Act payments appropriation to the Excess Unemployment Benefits appropriation for the purpose of remodeling the Hope Migrant Farm Labor Center into a new workforce center. Senator Key stated that there is special language in the appropriation bill that allows the transfer upon approval by the Legislative Council. Senator Key noted that Artee Williams, Director of the Department of Workforce Services, and his staff are available to respond to questions. There were no questions.

**Senator Johnny Key moved that the request from the Department of Workforce Services to transfer \$1 million in appropriation from the Workforce Investment Act payments**

**appropriation to the Excess Unemployment Benefits appropriation for the purpose of remodeling the Hope Migrant Farm Labor Center into a new workforce center be approved by the Legislative Council. The motion received a second and was passed by voice vote.**

Personnel Subcommittee

Co-Chair Salmon recognized Senator Mike Fletcher to present the report of the Uniform Personnel Classification and Compensation Plan Subcommittee. Senator Fletcher reported that the Personnel Subcommittee met on November 2, 2012 and reviewed an item on an emergency basis under Rule 17 of the Legislative Council Rules. The item reviewed on an emergency basis was a temporary position pool request by the Department of Arkansas Heritage for an administrative services manager, and which will exist for a maximum of 180 days. The Department of Finance and Administration requested the immediate review of this position due to the pending retirement of the incumbent employee and to allow the agency to hire a person who would be trained by the incumbent employee. Senator Fletcher referred members to the report in their packets for information on subcommittee action on other items considered by the subcommittee. There were no questions.

**Senator Mike Fletcher moved the adoption of the report of the Uniform Personnel Classification and Compensation Plan Subcommittee. The motion received a second and was passed by voice vote.**

Co-Chair Salmon recognized Senator Kim Hendren who asked whether the UAMS contract discussed at the last meeting and referred back to the Review Subcommittee would be discussed at this meeting. Co-Chair Salmon commented that the contract is included in the Review Subcommittee Report and will be discussed at that time.

Co-Chair Salmon recognized Senator Percy Malone who asked Senator Key what was the purpose of the request for a cash fund appropriation increase by the Real Estate Commission that was included in the Performance Evaluation and Expenditure Review (PEER) Subcommittee report. Senator Malone indicated that he is asking this question because the Real Estate Commission has not included a fee increase in the agency's budget request and that the agency had appeared before the Rules and Regulations Subcommittee and has been unable to successfully explain the proposed rules that would increase the agency's fees. Before Senator Key responded, Senator Malone commented that the staff had answered his question and had shown him that the request was for renovations, which is what the agency indicated that was the purpose of the fee increase.

Co-Chair Salmon asked Senator Malone if he wanted this request to be held and Senator Malone indicated he would leave that decision to Senator Key.

**Co-Chair Salmon recognized Senator Johnny Key who moved that the Real Estate Commission request for a cash fund appropriation increase, listed as item A.1. on page 1 of the Performance Evaluation and Expenditure Review (PEER) Subcommittee report, be**

**removed from the subcommittee report for further consideration. The motion was seconded by Senator Malone and the motion 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 October 29, 2012 to review a contract between the University of Arkansas for Medical Sciences and Deloitte Consulting, LLP, which was referred back to the Review Subcommittee by the Legislative Council during the October 19, 2012 meeting. Senator Lavery stated that the contract received a favorable review by the Subcommittee and that action was final in accordance with the motion passed by the Legislative Council.

Senator Lavery reported that the Review Subcommittee met on November 2, 2012 to consider regular business agenda items and details on these items are in the report included in the members' packets. Senator Lavery reported that all agenda items were reviewed at the meeting, but an additional request by the University of Arkansas at Fayetteville for review of a method of finance (see last page of the report) had been submitted since the subcommittee meeting. The university is requesting review of the method of finance for the purchase of property located at 1220 and 1236 West Cleveland Street. The property is adjacent to the university and consists of a 60-unit apartment complex on approximately 1.6 acres of land and a rental house located on approximately 2.5 acres, which will be used for parking in the north part of the campus to meet the demand for student parking. Senator Lavery reported that the method of finance amount is approximately \$2.2 million and the university would use agency bank reserve funds. There were no questions.

**Senator Randy Lavery moved that the report of the Review Subcommittee be adopted and to include the additional method of finance submitted by the University of Arkansas at Fayetteville. The motion received a second and was passed by voice vote.**

### **Reports of Interim or Special Committees**

#### Joint Committee on Advanced Communications and Information Technology

Co-Chair Salmon referred the members to the report from the Joint Committee on Advanced Communications and Information Technology, which is item A.1 on the Supplemental Agenda. Co-Chair Salmon recognized Representative Mike Patterson to present the report. Representative Patterson reported that the Joint Committee on Advanced Communications and Information Technology met on November 8, 2012 and reviewed the request by the Department of Information Services to amend rate adjustments and approve proposed new rates for fiscal year 2013 as allowed by A.C.A. § 25-4-119(b)(3)(B)(i). Representative Patterson reported that the rate adjustments would be retroactive to July 1, 2012. There were no questions.

**Representative Mike Patterson moved that the report be adopted and that the rate adjustments be reviewed. The motion received a second and was passed by voice vote.**

Recognition of Pat Eller

Co-Chair Salmon stated that at this point, she would recognize Representative Tim Summers. Representative Summers thanked Co-Chair Salmon and commented that he wished to recognize Ms. Pat Eller who has for many years assisted the Legislative Council members and has provided members with cookies from the generosity of her own heart. Representative Summers asked the members to recognize Ms. Pat Eller for her contribution to the state legislature and the citizenry and as one wonderful lady. The Legislative Council members applauded. Co-Chair Salmon recognized Ms. Eller who commented that it has been her pleasure to bring the cookies and that she has grown to love each member as she has come to know them. Ms. Eller thanked the members for being an important part of her life and thanked them for being who they are.

**Review of Communications**

Co-Chair Salmon referred members to the communications listed on the agenda as items H.1 through H.22, in their packets and stated that action by the Legislative Council would be needed on three of these items. Co-Chair Salmon asked that the members review the communications and if there were questions on an item it would be discussed.

Arkansas Teacher Retirement System

Co-Chair Salmon referred the members to the request from the Arkansas Teacher Retirement System (Exhibit H.7) for the Legislative Council's retrospective review of the imminent need investments with Pershing Square Holdings, LTD and Pershing Square International, LTD, submitted pursuant to A.C.A § 19-11-1303.

Co-Chair Salmon recognized Leslie Ward and Jerry Meyer with the Arkansas Teacher Retirement System, who responded to questions. Mr. Meyer stated that the Arkansas Teacher Retirement System has used Pershing Square a manager for approximately four years. Pershing Square has a benchmark of approximately four percent and has experienced a return of twelve percent during this time period. Mr. Meyer stated this would allow this manager to issue stock on the London stock exchange and the Teacher Retirement System would receive shares of stock that would increase the liquidity of the retirement system and should enhance returns for Pershing Square. There were no further questions.

**Senator Jason Rapert moved that the Arkansas Teacher Retirement System investments with Pershing Square Holdings, LTD and Pershing Square International, LTD be filed as reviewed. The motion received a second and was passed by voice vote.**

State Procurement Semiannual Minority Report

Co-Chair Salmon recognized Patricia Nunn Brown and Morris Jenkins, with the Arkansas Economic Development Commission, to comment on the State Procurement Semiannual Minority Report for fiscal year 2012, submitted pursuant to A.C.A. § 25-36-104(b), and the State of Arkansas Minority Business Report for Fiscal Year 2012 (Exhibit H.25b). Ms. Brown stated that the Arkansas Economic Development Commission is charged with monitoring, tracking, and

reporting of spending by state agencies and this information is contained in the Annual Report of the State of Arkansas Minority Business Report for fiscal year 2012. There were no questions.

Request for Review of the Arkansas Real Estate Commission contract with Hydco, Inc.

Co-Chair Salmon referred members to request by the Department of Finance and Administration for the Legislative Council's review of the Arkansas Real Estate Commission contract with Hydco, Inc. (Exhibit H.15c), submitted pursuant to A.C.A. § 19-11-264 and explained this item requires action because the contract is with a current member of the General Assembly. Co-Chair Salmon recognized Richard Weiss, Director of the Department of Finance and Administration, who stated this contract was submitted for disclosure purposes because a state agency is contracting with a member of the General Assembly and the law requires that it be submitted to the Legislative Council. There were no questions

**Representative Andrea Lea moved that the Arkansas Real Estate Commission contract with Hydco, Inc. be filed as reviewed. The motion received a second and was passed by voice vote.**

Department of Higher Education

Co-Chair Salmon referred members to the request by the Department of Higher Education for the Legislative Council's review of the distribution of \$1,000,000.00 from the Research Development Fund to the University of Arkansas at Fayetteville, submitted pursuant to A.C.A. § 6-61-808 and noted this item requires action from the Legislative Council. Co-Chair Salmon recognized Harold Criswell and Tara Smith with the Department of Higher Education. Mr. Criswell explained this is a request for the Legislative Council's review of the distribution of \$1 million from the Research Development Fund to the University of Arkansas at Fayetteville, and noted that the university is the pass through because the funds would go to the ARE-ON (Arkansas Research and Educational Optical Network) Project for broadband internet. Mr. Criswell stated that this request has been reviewed by the Department of Higher Education board. There were no questions.

**Representative Tiffany Rogers moved that the Legislative Council give favorable advice to the distribution of \$1,000,000.00 from the Research Development Fund to the University of Arkansas at Fayetteville. The motion received a second and was passed by voice vote.**

Office of the Attorney General Cash Fund Report

Co-Chair Salmon asked if there were questions on any of the other communications. Co-Chair Salmon recognized Representative Andrea Lea who asked if a representative from the Attorney General's Office could be recognized to respond to a question about the Office of the Attorney General Cash Fund Report (Exhibit H.9).

Co-Chair Salmon recognized Blake Rutherford, the Chief of Staff for Attorney General Dustin McDaniel, and Brad Phelps, the Chief Deputy with Office of Attorney General. Co-Chair Salmon recognized Representative Lea who asked if all the unappropriated cash funds (see list

on page 3 of the report) are now in the State Treasury. Mr. Phelps stated these are accounts that are maintained in the Office of the Attorney General that have not yet been distributed by the State Treasury. Mr. Phelps explained further that the Office of Attorney General receives funds as the result of settlements pursued on behalf of the state and the funds come to the Attorney General's Office pursuant to court order, which is not uncommon when they serve as the attorney for the state. The Attorney General's Office enacted a policy that permitted the office to maintain a balance of about \$1 million for funding of statutory obligations such as consumer education, litigation expenses, and experts. Then the Attorney General's Office disburses funds to state agencies, which are reported to the Legislative Council. Mr. Phelps stated that from time-to-time, when the Office of Attorney General collects attorneys' fees, those funds go directly to the State Treasury. Mr. Phelps stated that the goal of the Attorney General's Office is to not keep more than a \$1 million in the office for longer than 120 days.

Co-Chair Salmon recognized Senator Jason Rapert who asked what does the Office of Attorney General do with the expenditures for the Got Your Back Initiative and he also asked what is National Resort Mart. Mr. Rutherford responded that the office is required by Arkansas Code Annotated § 4-88-105 to educate consumers about a variety of issues and the Office of Attorney General chose to launch, about 18 months ago, a consumer focus campaign that educates consumers about what the Attorney General's Office does for consumers and creates a platform to invite consumers to learn about ways they can help themselves and ways that the office can help them. The office used these funds to build a comprehensive campaign that launched the Got Your Back Arkansas.org and with a multi-media component to enhance the operations of the office. Mr. Phelps stated that National Resort Mart was a stipulated consent judgment involving telemarketing for time share cases where violations of the "do not call" statute were alleged. Mr. Rutherford also responded that the Office of Attorney General has spent approximately \$600,000.00 on the entire campaign over a eighteen month period.

Co-Chair Salmon recognized Representative Kim Hammer who asked what criteria the Office of Attorney General uses to determine if expenditures on programs such as "Got Your Back" achieve measurable results and how that is monitored. Mr. Rutherford responded that a comprehensive measurement dashboard is in place for this campaign, which tracks visits to the web site, calls to the office, and emails received by the office as well as the turn-around time for a response by the office to these inquiries. The office also tracks the number of consumer complaints that are actually filed, the number of calls received, and how the calls are handled. Representative Hammer asked if a summary report could be provided to the members and Mr. Rutherford responded that report could be provided.

Co-Chair Salmon recognized Representative Debra Hobbs who stated that she had heard that the Attorney General's Office had donated \$50,000.00 to the Boys and Girls Club and asked if this donation would have been included in this report. Mr. Rutherford responded that he was not aware of that contribution, but offered to look into it if he could be provided the details. There were no further questions on this report.

There were no questions in regard to the other communications listed on the agenda and these communications were filed without objection.



Co-Chair Salmon recognized Senator Percy Malone who stated that he had spoken with the Real Estate Commission concerning the cash fund increase that was removed from the PEER Subcommittee Report and that they had provided him with a satisfactory explanation.

**Senator Percy Malone moved that Real Estate Commission request for a cash fund appropriation increase, listed as item A.1. on page 1 of the Performance Evaluation and Expenditure Review (PEER) Subcommittee report, be filed as reviewed by the Legislative Council. The motion received a second and the motion passed by voice vote.**

### **New Business**

Co-Chair Salmon asked if any member had new business to bring before the Legislative Council and there was none.

### **Adjournment**

Co-Chair Salmon asked if there were any other items for the consideration of the Legislative Council and there were none. The meeting adjourned at 10:00 a.m. upon the passage of the motion to adjourn.

Respectfully submitted,

ATTEST:

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Senator Mary Ann Salmon  
Co-Chair, Senate

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Marty Garrity  
Executive Secretary