

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

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**Friday, August 21, 2009**

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The Arkansas Legislative Council met at 9:00 a.m., Friday, August 21, 2009 in Room 171 of the State Capitol, Little Rock, Arkansas. Co-Chair Wilkins called the meeting to order and dispensed with the calling of the roll. The members who attended are listed on the sign-in sheets.

**Adoption of Minutes of the Last Meeting**

**Senator Faris made a motion to approve the minutes of the June 19, 2009 Legislative Council meeting and the motion passed without objection.**

**Monthly Revenue Reports**

June 2009 Report

Co-Chair Wilkins recognized Richard Wilson, Assistant Director of the Bureau of Legislative Research, to present the monthly revenue report for June 2009. Mr. Wilson reported that the June 2009 revenue report reflects that for the past twelve months of this fiscal year, which are the figures for the end of fiscal year 2008, gross collections were twenty-four point nine million dollars (\$ 24.9 million) less than last year, which is a growth rate of negative four-tenths of one percent (-.4%). The net available for distribution is a negative ninety-four point five million dollars (-\$ 94.5 million) below last year, which is a negative two point one percent (-2.1%) growth. These numbers are due mostly to an extra seventy-one million dollars (\$71 million) in tax refunds paid this year.

The graph page reflects that collections are \$24 million ahead of the official forecast. The spreadsheet reflects that gross receipts are down 2 percent (2%); one percent down in the overall income tax collection, but collections on tobacco, alcohol, and racing were up for the year. Collections for severance tax is down due to the declining oil prices this year. Mr. Wilson answered questions regarding this report.

July 2009 Report

Co-Chair Wilkins recognized Richard Wilson, Assistant Director of the Bureau of Legislative Research, to present the monthly revenue report for July 2009. Mr. Wilson reported that for the first month of fiscal year 2010, gross collections were eighteen point five million dollars (\$18.5 million) less than the first month of fiscal year 2009 for a negative growth rate of -4.4 %. The adjusted net available for distribution of the first month of fiscal year 2010 is \$40.8 million dollars ahead of the same month in 2009, for a growth rate of 11%, due to a transfer from allotment

reserve. The figures at the bottom of page show total funds for Allotment A, B-1, and B is \$4.59 billion dollars and the Department of Finance and Administration estimates that general revenues will fund allotment A and eighteen percent (18%) of Allotment B-1. The graph on page 2 reflects that net general revenues are \$13.7 million below the official forecast, with the decrease in gross receipts being the cause. The U.S. economy GDP has bottomed out and is now projected to be positive growth from here on out; however, our numbers will remain sluggish due to the employment situation. Mr. Wilson answered questions regarding this report.

### **Discussion of the ATRS Notice of Imminent Need**

At this time, Co-Chair Wilkins recognized Mr. George Hopkins, Executive Director of the Arkansas Teacher Retirement System, to explain the Notification of Imminent Need Under Act 1211 of 2009 (Exhibit H.16). Mr. Hopkins explained that this issue concerns an investment opportunity for the Arkansas Teacher Retirement System in a private equity fund called KPS III that was available for a short period of time. Mr. Hopkins stated this issue has been reviewed by the Review Subcommittee and he is here to answer any questions that Legislative Council members may have about this investment. Mr. Hopkins answered questions from Legislative Council members.

**A motion by Senator Faris that the Notification of Imminent Need to enter into a partial equity ownership agreement by the Arkansas Teacher Retirement System with KPS III (Exhibit H.16) is reviewed by the Legislative Council passed by voice vote.**

### **Report of the Executive Subcommittee**

Co-Chair Wilkins recognized Representative George to present the report of the Executive Subcommittee. Representative George reported that the Executive Subcommittee met on August 13, 2009 and heard an update on legislative space needs. The subcommittee also heard a report concerning that the Bureau of Legislative Research had provided 2,500 personnel hours in assistance to the Arkansas Lottery Commission pursuant to Section 26 of Act 1405 of 2009.

The subcommittee also discussed the need to enforce the policy concerning unauthorized persons congregating in areas reserved for legislative members and staff during committee meetings. The subcommittee asks that co-chairs of legislative committees be mindful of the policy regarding recording of meetings and areas reserved only for members and staff. Senator Wilkins indicated that a letter would be sent to the co-chairs of the standing committees reminding them of the policy.

**Representative George moved that the report of the Executive Subcommittee be adopted and the motion passed by voice vote.**

### **Reports of Standing Committees**

#### Administrative Rules and Regulations Subcommittee

Co-Chair Wilkins recognized Representative Mike Burris to present the report of the Administrative Rules and Regulations Subcommittee. Representative Burris reported that the subcommittee met on July 7, 2009 and on August 11, 2009 and referred members to the reports in their packets.

**Representative Mike Burris moved the adoption of the July 7, 2009 and August 11, 2009 reports of the Administrative Rules and Regulations Subcommittee and the motion passed by voice vote.**

Charitable, Penal & Correctional Institutions Subcommittee

Co-Chair Wilkins recognized Senator Glover to present the report of the Charitable, Penal & Correctional Institutions Subcommittee. Senator Glover reported that the subcommittee met on June 30 and July 30, 2009. At the June meeting, the subcommittee heard from the Department of Correction concerning ongoing investigations and asked the department keep the General Assembly informed. At the July 30 meeting, the subcommittee heard from Attorney General Dustin McDaniel regarding the "Smart Choices, Better Changes Law Education and Crime Prevention Program" that is being presented in schools. It was reported that the inmate population continues to grow and there will be at least 20,000 people in the penal system and another 50,000 people who are under suspended sentences or on parole. There were no questions concerning this report.

**Senator Glover moved the adoption of the June 30, 2009 and July 30, 2009 reports of the Charitable, Penal & Correctional Institutions Subcommittee and the motion passed by voice vote.**

Higher Education Subcommittee

Co-Chair Wilkins recognized Senator Baker to present the report of the Higher Education Subcommittee. Senator Baker reported that the subcommittee met on June 23, 2009 and August 20, 2009. At the June meeting, the subcommittee met at Henderson State College and heard a presentation concerning the Arkadelphia College Preparatory Academy that moves high-risk kids toward success in college. At the August meeting, the subcommittee heard a presentation on the ARRA stimulus funds that have come to Arkansas institutions. The subcommittee also heard from Department of Higher Education regarding how the Arkansas Lottery will change the Academic Challenge Scholarship Program and a presentation on remediation rates. There were no questions regarding these reports.

**Senator Baker moved the adoption of the June 23, 2009 and August 20, 2009 reports of the Higher Education Subcommittee and the motion passed by voice vote.**

Performance Evaluation and Expenditure Review (PEER) Subcommittee

Co-Chair Wilkins recognized Senator Bryles to present the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee. Senator Bryles reported that the PEER Subcommittee met on July 2, 2009 and on August 6, 2009 and reviewed and approved all items on the agenda. There were no questions regarding these reports.

**Senator Bryles moved the adoption of the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee and the motion passed by voice vote.**

Consideration of Request from the Disability Determination for Social Security Administration

**Senator Bryles moved that the rules be suspended to allow the consideration of a request from Disability Determination for Social Security Administration to transfer \$9,000,700.00 of salary and match from miscellaneous federal grant appropriation (Exhibit F.8a). The motion passed by voice vote.**

Senator Bryles explained this transfer would allow the Arkansas Disability Determination for Social Security Administration to hire 156 employees for the purpose of processing claims from other states and that the request has been reviewed by the Personnel Subcommittee. Senator Bryles asked that Arthur Boutiette, Director of the Arkansas Disability Determination for Social Security Administration, be recognized to explain the request.

Co-Chair Wilkins recognized Mr. Boutiette who explained that he received notice as of 7:30 a.m. today that Arkansas had been selected by the federal government to process claims for other states and this will represent new, permanent jobs for Arkansas. Mr. Boutiette answered questions from the Legislative Council members.

**Senator Bryles moved that the request from the Disability Determination for Social Security Administration to transfer \$9,000,700.00 of salary and match from miscellaneous federal grant appropriation has been reviewed by the Legislative Council and the motion passed by voice vote.**

Policy-Making Subcommittee

Co-Chair Wilkins recognized Representative George to present an oral report from the Policy-Making Subcommittee. Representative George reported that the Policy-Making Subcommittee met at 8:30 a.m. on August 21, 2009 and reviewed interim study proposals filed directly with the standing committees for germaneness and chose to re-refer the three interim study proposals as follows:

- Interim Study Proposal 2009-004 referred to the House Public Health, Welfare, and Labor Committee;
- Interim Study Proposal 2009-062 referred to the Academic Facilities Oversight Committee; and
- Interim Study Proposal 2009-180 referred to the Higher Education Subcommittee of the Legislative Council.

The Policy-Making Subcommittee also approved a request to transfer \$24,000 to the Arkansas Lottery Commission Legislative Oversight Committee from unallocated funds.

**Representative George moved that the report of the Policy-Making Subcommittee be adopted and the motion passed by voice vote.**

Review Subcommittee

Co-Chair Wilkins recognized Representative Dunn to present the Review Subcommittee report. Representative Dunn reported that the Review Subcommittee met on July 1, 2009 and August 5, 2009. At the July 1 meeting, all items on the agenda were reviewed and approved. At the August 5 meeting, two contracts from the Military Department were held because agency representatives were not present to answer questions. There were no questions regarding these reports.

**Representative Dunn moved the adoption of the July 1, 2009 and August 5, 2009 reports of the Review Subcommittee and the motion passed by voice vote.**

Representative Dunn also explained that, additionally, there is a contract (see Exhibit F.10a) in member's packets for review by the Legislative Council today. The four-month contract is from the University of Central Arkansas in the amount of \$78,636.34 from state funds for services from the Registry for College and University Presidents.

**Representative Dunn moved that the rules be suspended in order to consider the contract from the University of Central Arkansas and the motion passed by voice vote.**

Co-Chair Wilkins recognized Tom Courtway, General Counsel of the University of Central Arkansas, who explained this is a sole-source, four-month contract with the Registry for College and University Presidents to provide an Interim Vice President of Financial Services for the University of Central Arkansas. This firm provides interim placements for colleges and universities of presidents, deans, and financial officers through its registry. The cost is approximately \$18,000.00 a month, which is for the interim salary plus a fee. The University of Arkansas is conducting a search for a permanent vice president of financial services through advertisements placed on the university's web site and in the Chronicle of Higher Education. Mr. Courtway stated that approximately thirty applications had been received and a committee would begin interviews within two weeks. There were no questions for Mr. Courtway from the members.

**Representative Dunn moved that the contract between the University of Central Arkansas and the Registry for College and University Presidents has been reviewed by the Legislative Council and the motion passed by voice vote.**

Uniform Personnel Classification and Compensation Plan Subcommittee

Co-Chair Wilkins recognized Senator Faris to present the report of the Uniform Personnel Classification and Compensation Plan Subcommittee. Senator Faris reported that the subcommittee met on July 9, 2009 and heard several routine reports, five pool position requests from agencies, and requests for federal miscellaneous grants. The subcommittee met again on August 4, 2009 to hear an update on the pay plan implementation and a presentation on uses of stimulus funds in different agencies. The subcommittee met on August 13, 2009 and heard several routine reports, a request from the Arkansas Rehabilitation Services for a special entry rate for an exceptionally well-qualified applicant, five pay-plan correction pool positions, a pool request for compensation differentials, one request for circuit court staff salary approval, and an emergency action for a

central growth pool position for the Arkansas Game and Fish Commission. Senator Faris answered questions from members.

**Senator Faris moved the adoption of the July 9, 2009, August 4, 2009, and August 13, 2009 reports of the Uniform Personnel Classification and Compensation Plan Subcommittee and the motion passed without objection.**

### **Reports of Interim or Special Committee**

#### Joint Advanced Communication and Information Technology Committee

Co-Chair Wilkins recognized Senator Capps to present the report of the Joint Advanced Communication and Information Technology Committee. Senator Capps reported that the committee met on August 6, 2009 and reviewed and approved the request by the Department of Information Systems for allocation revisions and rebates of approximately \$9.1 million.

**Senator Capps moved the adoption of the report of the Joint Advanced Communication and Information Technology Committee and the motion passed by voice vote.**

#### Arkansas Lottery Commission Legislative Oversight Committee

Co-Chair Wilkins recognized Representative Hyde to present the report of the Arkansas Lottery Commission Legislative Oversight Committee. Representative Hyde reported the committee had met various times for the consideration for items required to be submitted for the committee's review or approval. Some of the items include: the approval of the special salary allowance; the review of budget classification transfers; review of a request for sixty-five pool positions; review of three major procurement contracts, that included the online lottery game services contract and the lottery gaming systems and services contract, the instant ticket lottery game services contract; and the advertising, marketing, and media services. The committee will next meet on August 25th and plans to review the major procurement rules, Lottery Commission practices and procedures rules, claims and contracts, and torts rules. Contracts still to be reviewed include the retailer surety bond contract and the quality assurance testing services contract. The banking services contract will not be reviewed because it is below amount that requires review. Representative Hyde answered questions from the members.

### **Review of Communications**

Co-Chair Wilkins stated that the communications before the Legislative Council are communications filed for review and require no action by the Legislative Council. There were no questions and all communications were filed without objection.

### **New Business**

Co-Chair Wilkins recognized David Ferguson, Director of the Bureau of Legislative Research to present a report on travel authorized for members of the General Assembly who attended conferences other than conferences by the Southern Legislative Council, the Council of State

Governments, the National Conference of State Legislatures, the American Legislative Exchange Council, and the Energy Council. There were no questions regarding the report.

### **New Proposals and Resolutions**

Co-Chair Wilkins referred the members to Interim Study Proposal 2009-182 by Senator Madison, which provides for the repeal of the authorization for state lotteries. Following discussion, Interim Study Proposal 2009-182 was referred to the State Agencies and Governmental Affairs Committees without objection.

### **Discussion of Procedures for Review of Rules and Regulations**

Co-Chair Wilkins recognized Senator Malone who commented that the legislature has given boards, commissions, and agencies a tremendous amount of power to implement rules on an emergency basis and he asked that the chairmen consider setting aside time in either March or April after this upcoming legislative session for the full Legislative Council to review and to understand what emergency powers have been given to agencies, boards, and commissions and let this entire body make that determination if this is satisfactory, or whether changes should be made before the next legislative session. Senator Malone asked if our staff could look into what authority has been given to agencies, boards, and commissions in this regard.

Co-Chair Wilkins commented that we can get together and make sure that we put that on the agenda for some future time.

### **Request for Procedures for the Fiscal Legislative Session.**

Co-Chair Wilkins recognized Senator Jimmy Jeffress who requested that all 135 members of the General Assembly be provided the procedures for the upcoming fiscal legislative session. Co-Chair Wilkins stated that those procedures would be provided to the members of the General Assembly.

### **Adjournment**

There being no further business to come before the committee the meeting was adjourned at 10:10 a.m.

Respectfully submitted,

ATTEST:

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Senator Henry "Hank" Wilkins, IV  
Co-Chair, Senate

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David Ferguson  
Executive Secretary