

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

**Friday, April 18, 2014**

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The Arkansas Legislative Council met at 9:00 a.m., Friday, April 18, 2014 in Committee Room A of the Big Mac Building, Little Rock, Arkansas. Vice Co-Chair David Johnson called the meeting to order and recognized a quorum of members present.

**Minutes of the Last Meeting**

Vice Co-Chair Johnson referred the members to the minutes of the last Legislative Council meeting on January 17, 2014 (Exhibit C) and asked if there was a motion to approve the minutes. **Senator David Johnson moved the adoption of the minutes of the Legislative Council meeting on January 17, 2014. The motion was seconded by Representative Edwards and passed by voice vote.**

**Presentation of March 2014 Revenue Report**

Vice Co-Chair Johnson recognized Richard Wilson, Assistant Director for Research Services with the Bureau of Legislative Research, to present the March 2014 monthly revenue report (Exhibit D). Mr. Wilson reported that after nine months of fiscal year 2014, gross collections were \$123 million dollars ahead of collections for the same period last year for a growth rate of two point eight percent (2.8%). The net revenue is \$ 94.8 million dollars ahead of the same period last year for a growth rate of two point seven percent (2.7%). The graph shows that collections were about \$78 million dollars ahead of the official forecast after nine (9) months. Mr. Wilson reported that the spreadsheet reflects that both the gross receipts and income tax receipts are growing in the neighborhood of three percent (3%). There were no questions regarding the revenue report.

**Report of the Executive Subcommittee**

Vice Co-Chair Johnson recognized Co-Chair John Charles Edwards to present the report of the Executive Subcommittee. Co-Chair Edwards reported that the Executive Subcommittee met on April 17, 2014 and discussed an issue of concern to some members which is security for the Big Mac Building. The subcommittee passed a motion to ask Marty Garrity, Director of the Bureau of Legislative Research, to look into procuring a metal detector for the building and to look at ways to improve security and the policy for security in the Big Mac Building.

Co-Chair Edwards reported that the subcommittee also heard an update on the legal cases involving the General Assembly and it was reported that all the cases had been resolved with the exception of the Duit Construction case. The subcommittee also discussed how information can be submitted to the Legislative Council in a timely manner. The subcommittee passed a motion that agenda items must be submitted seven (7) days prior to a scheduled meeting date in order to be placed on the Legislative Council agenda.

Co-Chair Edwards reported that the final item of discussion was whether or not to cancel the Legislative Council meetings during the months of July and August this year. Co-Chair Edwards noted that the Southern Legislative Conference will be held in Little Rock, Arkansas, and many members and the staff

will be heavily engaged with this in July and that the Legislative Council traditionally did not meet during August. The subcommittee chose to consider this question again at the next meeting.

**Co-Chair John Charles Edwards moved that the report of the Executive Subcommittee be adopted. The motion was seconded by Vice Co-Chair Johnson and passed by voice vote.**

### **Standing Subcommittees**

Vice Co-Chair Johnson referred members to the reports of the standing subcommittees and stated that reports from the subcommittees meeting since the last meeting would be heard.

#### Administrative Rules and Regulations Subcommittee

Vice Co-Chair Johnson recognized Representative Kelley Linck to present the report of the Administrative Rules and Regulations Subcommittee (Exhibit F.1). Representative Linck reported that the report of Administrative Rules and Regulations Subcommittee is comprised of reports of the meeting on February 5, 2014 and the meeting on April 9, 2014.

During the meeting on February 5, 2014 the subcommittee referred a rule on the Boston Mountain Regional Solid Waste Management District (see item 2.a on page 3 of the report) for discussion at the next subcommittee meeting and reviewed all other items on the agenda.

Representative Linck noted that the report of the second subcommittee meeting on April 9, 2014 begins on page 4 of the report. Representative Linck reported that the subcommittee reviewed all agenda items at this meeting, including the acceptance of the report from the Interim Committees on Agriculture, Forestry and Economic Affairs recommending that the Arkansas Swine Regulations proposed by the Livestock and Poultry Commission be filed as reviewed. Representative Linck reported that also during this meeting, the subcommittee referred a rule from the Crime Victims Reparations Board (see item 3.a. on page 6 of the report) to the interim Committees on Judiciary with a request to consider the rule and report back to the subcommittee. At the conclusion of his report, Representative Linck offered to answer questions.

**Representative Linck moved that the Report of the April 9, 2014 Subcommittee on Administrative Rules and Regulations meeting be adopted. The motion was seconded and passed by voice vote.**

#### Litigation Reports Oversight Subcommittee

Vice Co-Chair Johnson recognized Representative Tommy Thompson to present the report to the Legislative Council of the emergency review of the settlement agreement in the matter of Susan Crosby v. Arkansas Teacher Retirement System, pursuant to Rule 17 of the Rules of the Arkansas Legislative Council (Exhibit I.1).

Representative Thompson explained that in February the co-chairmen of the Legislative Council and the co-chairmen of the Litigation Reports Oversight Subcommittee reviewed the settlement agreement in Susan Crosby v. Arkansas Teacher Retirement System at the request of the Office of the Attorney General and as allowed by Rule 17 of the Legislative Council Rules. Representative Thompson referred the members to Exhibit I.1 for copies of the report that includes a letter from the Department of Finance and Administration explaining the need for emergency review. There were no questions regarding this report

Performance Evaluation and Expenditure Review (PEER) Subcommittee

Vice Co-Chair Johnson 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 PEER Subcommittee met on April 3, 2014 and approved three items. Two of the items approved were requests to transfer set-aside funding from the Rainy Day Fund that included \$18.9 million for the Medicaid Program and another \$82,000 for the Arkansas Agriculture Department that will allow the Arkansas Forestry Commission to install tracking devices in their airplanes. The subcommittee also approved the budget forms for the Fall 2014 Budget Hearings with no major changes, which are Attachment 2 to the report. Senator Maloch reported that a pay plan appropriation request from the Chiropractic Examiners Board was released by the Department of Finance and Administration on an emergency basis and was reviewed by the subcommittee at this meeting. Senator Maloch concluded his report by reporting that all other items on the agenda were reviewed and none were held.

**Senator Bruce Maloch moved that the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee be adopted and the motion was seconded.**

Vice Co-Chair Johnson recognized Senator Bryan King for a question. Senator King asked if representatives of the Department of Human Services could be recognized to respond to questions. Vice Co-Chair Johnson recognized John Selig, Director of the Department of Human Services, who responded to questions regarding the transfer of \$18.9 million from the Rainy Day Fund to the Medicaid Program. Vice Co-Chair Johnson also recognized Brandon Sharp, Administrator for Fiscal and Budget with the Office of Budget within the Department of Finance and Administration. Mr. Sharp responded to several questions regarding this transfer of funds.

Mr. Selig also responded to questions from Senator King regarding a lack of response from the Department of Human Services to members' requests for information and the budget for the program. Vice Co-Chair Johnson stated there is a motion on the floor asked if there were any further questions regarding the PEER Subcommittee Report.

**Vice Co-Chair Johnson called for a vote on the motion to adopt the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee and the motion was passed by voice vote.**Review of Funds Transfer to the Department of Higher Education

Vice Co-Chair Johnson recognized Senator Bruce Maloch to present the request for a suspension-of-the-rules review of a transfer of set-aside Rainy Day Funds from the 89th Session Projects Account of the General Improvement Fund to the Department of Higher Education Grants Fund Account in the amount of \$2 million (Exhibit A.1 on the Supplemental Agenda). Senator Maloch explained that this request was received after the PEER Subcommittee meeting this month, and he referred members to the information from the Department of Higher Education that was passed out at the beginning of the meeting (Exhibit A.1 Handout). This information is a list of the applicants for the Governor's Distinguished Scholarship that is broken down by county and ACT score. Senator Maloch explained that there is not enough funding for all of the 531 applicants to receive a scholarship without the transfer of \$2 million.

**Senator Bruce Maloch moved to suspend the Rules of the Legislative Council in order to consider the request for review of the transfer of set-aside Rainy Day Funds from the 89th Session Projects Account of the General Improvement Fund to the Department of Higher Education Grants Fund Account in the amount of \$2 million. The motion received a second and was passed by a voice vote.**

**Senator Maloch moved that the transfer of set-aside Rainy Day Funds from the 89th Session Projects Account of the General Improvement Fund to the Department of Higher Education Grants Fund Account in the amount of \$2 million be reviewed. The motion received a second.**

Vice Co-Chair Johnson recognized Senator Jonathan Dismang for a question who asked if there is a letter from the Governor regarding this request. Senator Maloch responded there is a letter from the Governor attached to the letter from the Department of Finance and Administration, which is Exhibit A.1 on the Supplemental Agenda.

Vice Co-Chair Johnson recognized Representative Andrea Lea who asked what balance would be left in the fund and asked if there were other requests. Vice Co-Chair Johnson recognized Brandon Sharp, Administrator for Fiscal and Budget with the Office of Budget within the Department of Finance and Administration, to respond. Mr. Sharp responded that he did not have the exact amount on hand, but he thought the balance would be about \$10 million to \$12 million. Senator Maloch responded that the staff has provided him some figures and that the balance is between \$11 million and \$12 million available and there has been \$4.6 million released including this transfer now before the committee.

Vice Co-Chair Johnson recognized Senator Dismang who asked if Mr. Sharp could provide a report that shows the requests that have been made to date and what is anticipated in the future and how these requests correlate with the actual fund balance. Mr. Sharp responded that he believes there are some known obligations for fiscal year 15, but that information would be dependent on the Governor's Office and that some of the fund is discretionary money.

Senator Dismang stated that he believes it would be good for this committee to know what the obligations are in the future to be able to plan for multiple requests that are anticipated in the future. Mr. Sharp agreed to provide this information. Senator Dismang asked that the committee staff follow-up on this information request and asked that they provide the report to the committee. Vice Co-Chair Johnson stated the report would be added to the agenda for the next Legislative Council meeting.

There followed several more questions regarding the Rainy Day Fund to which Mr. Sharp and Senator Maloch responded. Shane Broadway, Director of the Department of Higher Education, and Jake Eddington, the Program Administrator of the Governor's Distinguished Scholarship Program, were recognized and responded to questions.

**Vice Co-Chair Johnson stated that he saw no more questions and called for the vote on the motion to review the transfer of set-aside funds in the amount of \$2 million from the Rainy Day Fund of the 89th Session Projects Account of the General Improvement Fund to the Department of Higher Education Grants Fund Account. The motion was passed by voice vote.**

#### Policy-Making Subcommittee

Vice Co-Chair Johnson recognized Senator Linda Chesterfield to present the report of the Policy-Making Subcommittee (Exhibit F.9). Senator Chesterfield reported that the Policy-Making Subcommittee met twice since the last Legislative Council meeting; on January 17, 2014 and on April 2, 2014. Senator Chesterfield reported that the subcommittee passed a motion at the January 17, 2014 meeting to accept Interim Study Proposal 2013-176 that asks for a study of greater uniformity in awarding of GIF grants. Senator Chesterfield reported the subcommittee met again on April 2, 2014 and passed a motion to direct additional funds be transferred from the Bureau's unallocated interim committee funds to the Senate and

House Interim Committees on Education and to the Senate Interim Committee on Public Health, Welfare and Labor. There were no questions.

**Senator Chesterfield moved that the report of the Policy-Making Subcommittee be adopted. The motion was seconded and was passed by a voice vote.**

Review Subcommittee

Vice Co-Chair Johnson recognized Representative Jeff Wardlaw to present the report of the Review Subcommittee (Exhibit F.10). Representative Wardlaw reported that the Review Subcommittee met on April 2, 2014 and reviewed various methods of finance, discretionary grants, and professional consultant services contracts. The subcommittee held contracts listed as items 24 through 30 on pages 20 through 22 of the report, but all questions have been answered on these contracts and the hold has been released. There were no questions.

**Representative Wardlaw moved that the report of the Review Subcommittee be adopted including the contracts listed as items 24 through 30 on pages 20 through 22 of the report. The motion was seconded by Senator Chesterfield and was passed by voice vote.**

Vice Co-Chair Johnson recognized Representative Wardlaw to explain the Report to the Legislative Council of the emergency review of the Method of Finance for the University of Arkansas (Exhibit I.2). Representative Wardlaw explained that the Co-Chairs of the Legislative Council had received a request for emergency review of one of the items on the agenda of the April 2, 2014 Review Subcommittee meeting, which is a Method of Finance (MOF) by the University of Arkansas at Fayetteville for the purchase of property located at 2506 Treat Street in Fayetteville. Representative Wardlaw reported that this Method of Finance was reviewed in accordance with Rule 17 of the Legislative Council Rules and following favorable review by the Review Subcommittee. There were no questions.

Personnel Subcommittee

Vice Co-Chair Johnson recognized Representative Andrea Lea to present the report of the Uniform Personnel Classification and Compensation Plan Subcommittee. Representative Lea reported that the Uniform Personnel Classification and Compensation Plan Subcommittee met on April 16, 2014 and reviewed the following: reports of grid movements and usage by multiple agencies; the second quarter employment report; the provisional positions reports for the month of April 2014 from two and four-year institutions; a report from the Department of Finance and Administration detailing the approval of special entry rates for exceptionally well-qualified candidates; requests from the Department of Information Systems and the Arkansas Teacher Retirement System for three special entry rates; a request from the Department of Health for a nursing grid for nurse practitioners that was based on the historic difficulty with recruiting and retaining employees in these positions; requests for a growth pool position at the Arkansas Community College at Hope; a request from the Public Defender Commission to swap one public defender position for one public defender three position; and requests from the Department of Community Correction and the Division of Arkansas Rehabilitation Services for titles and grades through miscellaneous federal grants.

Representative Lea reported that the Uniform Personnel Classification and Compensation Plan Subcommittee will meet at 9:00 a.m. on May 14, 2014 to discuss regular business and will meet again at 1:00 p.m. on May 14, 2014 to discuss the interim study proposal related to trial court assistants and court reporters for circuit judges. There were no questions.

**Representative Andrea Lea moved that the report of the Uniform Personnel Classification and Compensation Plan Subcommittee be adopted. The motion was seconded and passed by voice vote.**

### **Review of Communications**

Vice Co-Chair Johnson referred members to the communications listed as items H.1 through H.20 and stated that Exhibit H.3, Exhibit H.4a-i, Exhibits H.8a and H.8b, and Exhibit H.15 require action by the Legislative Council. Vice Co-Chair Johnson asked that members let him know if they had questions concerning the remaining communications.

#### Annual Report for Fiscal Year 2013-2014 for the Arkansas Infant and Child Death Review Program

Vice Co-Chair Johnson referred members to the Annual Report for Fiscal Year 2013-2014 for the Arkansas Infant and Child Death Review Program (Exhibit H.3) and recognized the following officials to come forward and explain the report: Dr. Max Snowden, Executive Director of the state Commission on Child Abuse, Rape and Domestic Violence; Dr. Pamela Tabor, Director of the Arkansas Infant and Child Death Review Program; and Ms. Sherry Williamson, Child Abuse Project Coordinator with the Arkansas Commission on Child Abuse, Rape and Domestic Violence.

Dr. Tabor explained that this is a program established in Arkansas to fulfill the requirements of Act 1818 (codified at A.C.A. 20-27-1707) that a multi-disciplinary team review all deaths of children under the age of eighteen (18) who die unexpectedly. Dr. Tabor reported that this team is not a fault-finding group, but a group whose purpose is to analyze why these children die and look at ways of improving the response system and the response of the individual agencies involved with the discussion group. Dr. Tabor reported that the Arkansas Child Death Review Program currently has teams covering twenty-two counties and will expand this year to forty counties, which means that seventy-five percent of all reviewable cases are being reviewed. Dr. Snowden, Dr. Tabor, and Ms Williamson responded to questions from the committee members. In response to a question from Senator Linda Chesterfield, Dr. Snowden and Dr. Tabor agreed to send her the annual report which will include the reasons for the child deaths. In response to a request from Representative John Walker, Dr. Tabor agreed to provide him with an updated map of local teams such as the map found on page 14 of the report. Also in response to Representative Walker, Dr. Snowden offered to contact the agencies that appoint members of the statewide panel to see if there is a way to have a better representation of minority groups on the panel.

Vice Co-Chair Johnson recognized Senator Chesterfield. **Senator Linda Chesterfield moved that the Annual Report for Fiscal Year 2013-2014 for the Arkansas Infant and Child Death Review Program be referred to the Senate Interim Committee on Children and Youth and the House Interim Committee on Aging, Children and Youth, Legislative and Military Affairs. The motion was seconded by Representative John Walker.**

Vice Co-Chair Johnson recognized Representative Walker for questions. Vice Co-Chair Johnson then recognized Senator Bobby Pierce.

**Senator Bobby Pierce moved for the immediate consideration of the motion by Senator Chesterfield to refer the report. The motion was seconded and passed by voice vote.**

**Vice Co-Chair Johnson called for the vote on the motion to refer the Annual Report for Fiscal Year 2013-2014 for the Arkansas Infant and Child Death Review Program to the Senate Interim Committee on Children and Youth and the House Interim Committee on Aging, Children and Youth, Legislative and Military Affairs. The motion was passed by voice vote.**

Arkansas Development Finance Authority

Vice Co-Chair Johnson referred the members to the Program Fact Sheets submitted by the Arkansas Development Finance Authority (Exhibit H.4a through Exhibit H.4i) and noted this item requires action by the Legislative Council and asked if there were any questions regarding this item.

**Senator David Johnson moved that the Program Fact Sheets for CY 2013 submitted by the Arkansas Development Finance Authority be filed as reviewed. The motion was seconded and passed by voice vote.**

Vice Co-Chair Johnson recognized Senator Bryan King who asked if at the end of the agenda, the Department of Human Services could be invited to come back before the committee to respond to additional questions. Vice Co-Chair Johnson agreed to take up this discussion again as an item of new business and he asked that staff contact John Selig for this purpose.

Arkansas Teacher Retirement System

Vice Co-Chair Johnson referred the members to request from the Arkansas Teacher Retirement System for the Legislative Council's retrospective review of imminent need partial equity ownership investments submitted pursuant to A.C.A § 19-11-1303, (Exhibit H.8a) and for the Legislative Council's review of the partial equity ownership investment with Grantham, Mayo, Van Otterloo & Co., L.L.C., submitted pursuant to A.C.A § 19-11-1302 (Exhibit H.8b) and noted that action by the Legislative Council is needed for these requests.

Vice Co-Chair Johnson recognized George Hopkins, Executive Director of the Arkansas Teacher Retirement System, to explain these requests. Mr. Hopkins briefly explained that the Arkansas Teacher Retirement System (ATRS) made the following investments during the 2014 Fiscal Session that are now submitted for retrospective review by the Legislative Council:

- (1) Castlelake III, L.P.;
- (2) Sycamore Partners II, L.P. –
- (3) Court Square Capital Partners III, L.P.
- (4) Black Rock U.S. Core Plus Bond Fund;
- (5) Reams Core Plus Bond Fund, L.L.C.
- (6) Wellington Management Company, L.L.C. and Global Total Return II Fund;
- (7) First Reserve Energy Infrastructure Fund II, L.P.;
- (8) Antin Infrastructure Partners II, L.P.; and
- (9) Blue Oak Arkansas, L.L.C.;

**Senator David Johnson moved that the Arkansas Teacher Retirement System investments submitted for retrospective review be filed as reviewed. The motion was seconded and passed by voice vote.**

Mr. Hopkins explained that the investment with Grantham, Mayo, Van Otterloo & Co., L.L.C. is a global all country equity fund, that the ATRS will invest up to \$350 million. This investment company is a global market active manager with a 55 point basis fee, there is no carry, and the performance was 9.5 which is 250 basis points over the benchmark. The fund is a value fund which is headquartered in Boston. Mr. Hopkins answered questions concerning the imminent need investments.

Mr. Hopkins also responded to a question for an update on the Big River Steel investment by stating that there is a meeting on approximately April 25th or April 26th of the Pollution Control and Ecology Board to decide whether or not to issue a final permit. If the permit is issued, there will be a massive amount of work to be done by the Arkansas Development Finance Authority, the Arkansas Economic Development Commission, the German banks, and the equity owners that has to be done by the closing on June 30th.

**Senator David Johnson moved that the Arkansas Teacher Retirement System investment with Grantham, Mayo, Van Otterloo & Co., L.L.C. be filed as reviewed. The motion was seconded and passed by voice vote.**

#### Department of Rural Services

Vice Co-Chair Johnson referred the members to the request from the Department of Rural Services for the Legislative Council's approval of funding for rural community development grants for Cycle 2 and Cycle 3 of Fiscal Year 2014 (Exhibit H.15). Vice Co-Chair Johnson recognized John Andrews, Director of the Arkansas Department of Rural Services, to explain the request. Mr. Andrews explained that the request before the committee now is for approval of the department's recommendations for disbursement of grants for Cycle 2 and Cycle 3 of Fiscal Year 2014, which total \$332,000.00. There were no questions.

**Senator Linda Chesterfield moved that the Legislative Council approve the disbursement of grant funds for Cycle 2 and Cycle 3 for fiscal year 2014 as recommended by the Department of Rural Services. The motion was seconded and passed by a voice vote.**

#### New Business

The reports listed as Exhibit I.1 and Exhibit I.2 were discussed earlier in the meeting when the subcommittee reports were presented.

#### New Proposals and Resolutions

Vice Co-Chair Johnson referred the members to the new interim study proposals by Senator Jason Rapert and stated these will require a motion to refer to an interim committee. Vice Co-Chair Johnson recognized Senator Eddie Joe Williams.

**Senator Eddie Joe Williams moved that the interim study proposals be referred to the appropriate committee for interim study, which is to refer Interim Study Proposal 2013-186 to the Senate Committee on Revenue and Taxation and to refer Interim Study Proposal 2013-187 to the Senate Committee on Public Health, Welfare and Labor. The motion was seconded by Senator Chesterfield and passed by a voice vote.**

#### Additional Discussion of the Medicaid Program

At this time, Vice Co-Chair Johnson noted that the agenda items and the item on the supplemental agenda have been considered and he will now open the meeting to the additional item of new business and further discussion of the Medicaid Program. Vice Co-Chair Johnson asked John Selig, Director of the Department of Human Services, to come forward and recognized him to respond to questions. Mr. Selig and Brandon Sharp, with the Department of Finance and Administration responded to several questions from the committee members.

**Adjournment**

At 9:40 a.m., Vice Co-Chair Johnson stated there is no further business before the Legislative Council and the meeting was adjourned.

Respectfully submitted,

ATTEST:

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Senator David Johnson  
Vice Co-Chair, Senate

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Marty Garrity  
Executive Secretary