

MINUTES OF THE MEETING
OF THE
ARKANSAS LEGISLATIVE COUNCIL

Friday, November 20, 2015

The Arkansas Legislative Council met at 9:00 a.m., Friday, November 20, 2015 in Committee Room A of the Big Mac Building, Little Rock, Arkansas. Co-Chair David L. Branscum called the meeting to order and recognized a quorum of members present. The members present are listed on the sign-in sheets.

Co-Chair Branscum recognized Co-Chair Bill Sample for an announcement. Co-Chair Sample informed the members that a special guest was in attendance today and introduced Evie Carswell, the granddaughter of Larry Walther, Director of the Department of Finance and Administration. The members welcomed Ms. Carswell with applause. Co-Chair Sample also informed the members that students from Lakeside High School are taking part in a CSPAN competition and they would like to interview members of the Legislative Council. Co-Chair Sample asked the members to give the students a few minutes of their time for a video interview.

Minutes of the Last Meeting

Co-Chair Branscum referred the members to the minutes of the November 2, 2015 special meeting (Exhibit C) of the Legislative Council and asked if there was a motion to approve the minutes. **Co-Chair Sample moved that the minutes of the November 2, 2015 Legislative Council special meeting be adopted. The motion was seconded and passed by voice vote.**

Presentation of Revenue Report

Co-Chair Branscum recognized Richard Wilson, Assistant Director for Research Services with the Bureau of Legislative Research, to present the October 2015 revenue report prepared by the Bureau of Legislative Research (Exhibit D). Mr. Wilson reported that after four (4) months of this fiscal year, gross revenue collections are \$12.9 million ahead of the same period last year for a growth rate of six-tenths of one percent (0.6%) while net general revenue available for distribution is \$17.5 million for a growth rate of one percent (1%). Mr. Wilson reported that the graph indicates revenues are about \$63.5 million above the official forecast. Mr. Wilson reported that the spreadsheet shows good numbers for sales tax collections with negative numbers for income tax collections. This concluded the presentation of the October 2015 revenue report and there were no questions.

Reports of the Standing Subcommittees

Administrative Rules and Regulations Subcommittee

Co-Chair Branscum referred members to the report of the Administrative Rules and Regulations Subcommittee (Exhibit F.1) and recognized Representative Lane Jean to present the report. Representative Jean reported that the Administrative Rules and Regulations Subcommittee met on November 17, 2015 and the subcommittee adopted a report from the Executive Subcommittee

concerning the Executive Subcommittee's approval of an emergency rule since the last subcommittee meeting. Representative Jean reported that the Rules and Regulations Subcommittee also reviewed and adopted a report from the Senate and House Committees on Agriculture, Forestry, and Economic Development concerning their review of a State Plant Board rule that had been referred to these committees at the last subcommittee meeting. Representative Jean reported that all other rules on the agenda were reviewed and approved including two (2) rules that had been deferred at the last meeting. This concluded the report and Representative Jean offered to answer questions.

Representative Lane Jean moved that the report of the Subcommittee on Administrative Rules and Regulations be adopted.

Co-Chair Branscum recognized Senator Linda Chesterfield who asked for an explanation of the rules that were reviewed. Co-Chair Branscum asked that staff come forward to provide information on each of the rules reviewed by the subcommittee. The following members of the Administrative Rules Review Section with the Bureau of Legislative Research came forward and provided information on each of the rules: Jessica Sutton, Administrator; Mary Cameron, Staff Attorney; and Michael Harry, Staff Attorney.

Co-Chair Branscum called for a voice vote on the motion by Representative Lane Jean to adopt the report of the Subcommittee on Administrative Rules and Regulations. The motion was seconded and passed by voice vote.

Charitable, Penal and Correctional Institutions Subcommittee

Co-Chair Branscum recognized Senator Ronald Caldwell to present the report of the Charitable, Penal and Correctional Institutions Subcommittee (Exhibit F.2). Senator Caldwell reported that the subcommittee met on November 16, 2015 and adopted a motion to authorize the subcommittee chair to approve the expenditure of subcommittee funds for special expenses. Senator Caldwell reported that the subcommittee also heard and discussed three program updates and continued discussion related to inmate population. This concluded the report and there were no questions.

Senator Ronald Caldwell moved that the report of the Charitable, Penal and Correctional Institutions Subcommittee be adopted. The motion was seconded and passed by voice vote.

Claims Review Subcommittee

Co-Chair Branscum recognized Representative Bob Ballinger to present the report of the Claims Review Subcommittee (Exhibit F.3). Representative Ballinger reported that the subcommittee met on November 16, 2015 and approved the reissuance of three (3) warrants for a total of \$64,628.00. Representative Ballinger reported that the subcommittee also overturned and amended the Claims Commission ruling to award an additional \$25,000 to Matilda Bradford for a total of \$75,000 in death benefits for the death of her husband, the Turrell Police Chief Keith Bradford. Representative Ballinger reported the subcommittee also reversed the Claims Commission ruling and awarded \$28,872.00 to Merita Combs for her claim against the University of Arkansas for Medical Sciences (UAMS). Representative Ballinger reported that the subcommittee also affirmed the ruling of the Claims Commission for the remaining eighteen (18) claims against the Arkansas Department of Correction.

Representative Ballinger informed the members that he would make a motion to refer back to the subcommittee, the claim by Merita Combs against UAMS (claim #15-0911-CC) because the parties had agreed to settle this claim.

Representative Bob Ballinger moved to adopt the report of the Claims Review Subcommittee with the exception of the claim by Merita Combs against the University of Arkansas for Medical Sciences (UAMS), which would be referred back to the Claims Review Subcommittee.

Co-Chair Branscum recognized Senator Linda Chesterfield who made a substitute motion to increase the amount awarded to the wife of the police officer (claim #15-0479-CC) by another \$25,000. The motion was seconded by Senator Joyce Elliott.

Co-Chair Branscum recognized Senator Chesterfield to speak for her motion. Senator Chesterfield explained that she feels the wife of a police officer deserves more than \$75,000 in death benefits and she feels the widow should receive the full extra amount. She asked for a good vote and offered to answer questions.

Co-Chair Branscum recognized Representative Bob Ballinger who made a substitute motion to the substitute motion that the Legislative Council affirm the original ruling of the Claims Commission to award Matilda Bradford \$50,000 as provided by the Arkansas Code. The motion was seconded by Co-Chair Bill Sample.

Co-Chair Branscum recognized Representative Ballinger to explain his substitute motion. Representative Ballinger stated that the original ruling of the Claims Commission was to award Matilda Bradford the amount of \$50,000 as provided by the Arkansas Code. Representative Ballinger stated that if the members wished to change this and offer more in death benefits to the families of police officers, this should be debated and discussed. Representative Ballinger stated that the issue had been discussed and vetted, but the Arkansas Code provides for only \$50,000. Representative Ballinger stated he understood Senator Chesterfield's compassion, however, he feels that awarding additional money in death benefits should be discussed before granting the additional money. Representative Ballinger concluded his remarks by stating his recommendation is to award the amount provided by law and to not award an additional amount. Co-Chair Branscum opened the meeting to discussion of the substitute motion by Representative Ballinger and there followed a discussion and comments from several members.

Co-Chair Branscum noted that the question has been called and he asked Representative Ballinger to re-state his substitute motion to the substitute motion by Senator Chesterfield. Representative Ballinger stated that his motion is to reduce the amount awarded to Matilda Bradford to the \$50,000 amount originally awarded by the Claims Commission. Co-Chair Branscum called for a voice vote and the motion failed to pass.

Co-Chair Branscum asked Senator Linda Chesterfield to re-state her substitute motion. Senator Chesterfield stated that her motion is to increase the amount of death benefits awarded by the Claims Commission to Matilda Bradford by an additional \$25,000 for a total of \$100,000.

Co-Chair Branscum opened the meeting to discussion of the substitute motion by Representative Chesterfield and there followed a discussion and comments from several members. During the discussion, Co-Chair Branscum asked staff to come forward to explain the source of funds that are

awarded by the Claims Commission. Kevin Anderson, Assistant Director for the Bureau of Legislative Research Division for Fiscal Services, was recognized, and he explained that Arkansas Code section 21-5-705 states that claims shall be paid by the appropriate state department agency fund account, and that funds are transferred from the agency funds to the State Claims Commission. Mr. Anderson answered additional questions from the members.

Co-Chair Branscum called for a voice vote on the substitute motion by Senator Linda Chesterfield to increase the amount of death benefits awarded by the Claims Commission to Matilda Bradford by an additional \$25,000 for a total of \$100,000. The motion failed to pass. Upon seeing three hands to call for a roll call vote, Co-Chair Branscum asked that the roll be called. The motion failed to pass with fourteen (14) "yes" votes and twenty-one (21) "no" votes.

Co-Chair Sample moved to refer the claim by Matilda Bradford against UAMS back to the Claims Review Subcommittee, but withdrew his motion as the Legislative Council Rules do not allow a third substitute motion.

Co-Chair Branscum asked that Representative Ballinger re-state his original motion. Representative Bob Ballinger moved that the report of the Claims Review Subcommittee be adopted with the exception of the claim by Merita Combs against the University of Arkansas for Medical Sciences (#15-0911-CC), which would be referred back to the Claims Review Subcommittee because the parties had agreed to settle this claim. The motion was seconded and passed by voice vote.

Higher Education Subcommittee

Co-Chair Branscum recognized Senator Jason Rapert to present the report of the Higher Education Subcommittee (Exhibit F.5). Senator Rapert reported that the subcommittee met on November 17, 2015 and heard and adopted Interim Study Proposal 2015-152, by Representative Kim Hendren, which requests a study of the housing shortage on the campuses of institutions of higher education as well as a study of the structure, operation, and revenue stream of parking systems on campuses of higher education. Senator Rapert reported that the subcommittee also heard updates on Interim Study Proposal 2015-139 concerning the impact of student debt, and Interim Study Proposal 2015-146, concerning a study of sexual assault awareness and prevention, both of which were sponsored by Representative Greg Leding. This concluded the report and there were no questions.

Senator Jason Rapert moved that the report of the Higher Education Subcommittee be adopted. The motion was seconded and passed by voice vote.

At this point, Co-Chair Branscum recognized Representative John T. Vines for a point of personal privilege. Representative Vines informed the members that students from the Lakeside High School broadcasting class, introduced earlier by Senator Sample, are in the lobby and ready to interview the members for a CSPAN competition. Representative Vines asked the members to stop by and answer a few questions from the students.

Performance Evaluation and Expenditure Review (PEER) Subcommittee

Co-Chair Branscum 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 November 17, 2015 and approved a request from the Arkansas State Police for an appropriation and funds transfer to the Operations fund from each of the Confiscated Funds and Court Awards Funds. Senator Maloch reported that all other items on the agenda were reviewed. This concluded the report and there were no questions.

Senator Bruce Maloch moved that the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee be adopted. The motion was seconded and passed by voice vote.

Review Subcommittee

Co-Chair Branscum referred members to the report of the Review Subcommittee (Exhibit F.10) and recognized Senator Bart Hester to present the report. Senator Hester reported that the Review Subcommittee met on November 17, 2015 and reviewed the methods of finance, discretionary grants, and contracts as noted in the report and that all items were reviewed.

Senator Bart Hester moved that the report of the Review Subcommittee be adopted.

Co-Chair Branscum recognized Representative Nate Bell who made a substitute motion that the Review Subcommittee report be adopted with the exception of item 20 (contract between the Department of Human Services and Quapaw House Inc. listed on page 10 of the subcommittee report), which would be referred back to the subcommittee for review at the next subcommittee meeting. The motion was seconded.

Representative Bell explained that he made his motion because there is a lot of discussion on this contract and that he has discussed the contract with the Governor's Office and the Department of Human Services Division of Children and Family Services. Representative Bell stated that delaying review of this item would not cause a gap in services and there are negotiations ongoing with the company to follow through with commitments made by the company.

Co-Chair Branscum recognized Senator Maloch who asked for clarification of the item that would be referred back to subcommittee. Representative Bell stated that the item to refer back to the subcommittee is item 20, which is the contract between Quapaw House, Inc. in Hot Springs with the Department of Human Services Division of Children and Family Services. There were no other questions.

Co-Chair Branscum called for a voice vote on the substitute motion by Representative Nate Bell that the Review Subcommittee report be adopted with the exception of item 20 (contract between the Department of Human Services and Quapaw House Inc. listed on page 10 of the subcommittee report), which would be referred back to the subcommittee for review at the next subcommittee meeting and the motion passed.

Supplemental Agenda

Co-Chair Branscum recognized Senator Bart Hester who explained that a request was just received from the Department of Human Services for the emergency review of a professional and consultant services contract with Deloitte Consulting (Exhibit B.1 on the Supplemental Agenda).

Senator Bart Hester moved that the rules be suspended for the purpose of considering the request from the Department of Human Services for the emergency review of a professional and consultant services contract with Deloitte Consulting. The motion was seconded and passed by a voice vote.

Co-Chair Branscum recognized Senator Hester to explain the request from the Department of Human Services and then asked that the representatives of the Department of Human Services come forward to respond to questions.

Victor Sterling came forward and introduced himself as the Assistant Director for the Department of Human Services Division of Medical Services. Mr. Sterling informed the members that the department has been working over the last couple of months to negotiate a contract with Deloitte Consulting to address the new requirement in the Affordable Care Act concerning the Internal Revenue Service (IRS) requirement that a client report insurance coverage obtained under the Affordable Care Act when the client files his or her taxes. Mr. Sterling stated that the new software that would be provided by Deloitte Consulting would make available to clients the federal 1095 tax reporting form.

Co-Chair Branscum recognized Senator Terry Rice who asked why this contract was not brought before the Review Subcommittee. Mr. Sterling responded that the department had been negotiating with Deloitte Consulting up to yesterday (Thursday, November 19, 2015) afternoon and the subcommittee meeting was held on Tuesday, November 17, 2015.

Senator Bart Hester moved that the Legislative Council file as reviewed the professional and consultant services contract with Deloitte Consulting and the Department of Human Services. The motion was seconded and passed by voice vote.

Uniform Personnel Classification and Compensation Plan Subcommittee

Co-Chair Branscum recognized Representative Lanny Fite to present the report of the Uniform Personnel Classification and Compensation Plan Subcommittee (Exhibit F.11). Representative Fite reported that the Uniform Personnel Classification and Compensation Plan Subcommittee met on November 18, 2015 and reviewed the following reports and requests: the quarterly employment reports from state agencies and institutions of higher education; the report on special-entry rates for exceptionally well-qualified candidates; the report of labor market rates through September 30, 2015; the report of grid movements based on previously-approved grid plans; the report of provisional positions for two and four-year institutions of higher education detailing fifty-one (51) new provisional positions for fiscal year 2016; the request for two (2) growth-pool positions for the Department of Environmental Quality; the request for a swap-pool position for the Department of Labor; the request for a swap-pool position for the War Memorial Stadium Commission; the request from the Disability Determination for Social Security Administration (DDSSA) for a classification for a DDSSA Program Education Coordinator, but no positions; a request from the Department of Heritage for establishment of a labor-market rate of \$52,167 for a Business Operations Specialist

classification; and a request from the Arkansas School for the Blind for a temporary transition pool position for the School Principal, which will only be active for 185 days. This concluded the report and there were no questions.

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

Reports of Interim or Special Committees

Co-Chair Branscum referred members to the report of the Electronic Filing Systems for Campaign and Finance Reports Subcommittee of the Legislative Council (Exhibit G.1) and recognized Senator Missy Irvin to present the report. Senator Irvin reported that the Electronic Filing Systems for Campaign and Finance Reports Subcommittee met on Monday, November 2, 2015 and discussed the following: the role of the Secretary of State's Office regarding the cost and implementation of the electronic filing systems to file campaign and finance reports; the duties and responsibilities of the subcommittee members required by Section 14 of Act 1280 of 2015; and information regarding mandatory versus optional e-filing of campaign finance reports.

Senator Irvin reported that the subcommittee met again on November 19, 2015 and discussed the State Integrity Investigation Report released by the Center for Public Integrity and heard a presentation on the campaign finance e-filing systems that included a review of pertinent electronic filing systems utilized by other states. Senator Irvin reported that the subcommittee also heard a presentation from Shelby Johnson, Director of the Arkansas Geographic Information Systems Office, on the current status of broadband accessibility in the state. This concluded the report and there were no questions.

Co-Chair Branscum thanked Senator Irvin for her report and noted that no action by the Legislative Council was required for this report.

Review of Communications

Co-Chair Branscum referred members to the communications listed as Exhibit H.1 through Exhibit H.17 on the agenda and also as Exhibit A.1 on the Supplemental Agenda. Co-Chair Branscum noted that none of these communications require action by the Legislative Council and asked if any member had questions or wished to discuss these communications. There were no questions or discussion of these communications.

New Interim Study Proposals and Interim Resolutions

Co-Chair Branscum referred the members to the two new interim study proposals (Exhibit J.1 and Exhibit J.2.) in their packets. Co-Chair Branscum asked members to review these items and then asked if there was a motion to refer the interim study proposals to the appropriate committees.

Co-Chair Branscum recognized Representative Greg Leding who moved that the Interim Study Proposal 2015-157 (Exhibit J.1) and Interim Study Proposal 2015-158 (Exhibit J.2) be referred to the appropriate interim committee for study. The motion was seconded and passed by voice vote.

The interim study proposals were referred as indicated below.

- 1) Interim Study Proposal 2015-157, by Senator Linda Chesterfield, was referred to the Senate Committee on Public Health, Welfare, and Labor. Interim Study Proposal 2015-157 requests that the Arkansas Legislative Council of the Ninetieth Arkansas General Assembly refer to the Senate Committee on Public Health, Welfare, and Labor a study of the present statutory framework regarding waste tires with the goal of finding solutions to the continuing problems that escape the existing framework.
- 2) Interim Study Proposal 2015-158, by Representative Kim Hendren, was referred to the House Committee on Education. Interim Study Proposal 2015-158 is an act to regulate the use of a portable electronic device in a public school and to establish a secure, designated area within a school where a student will deposit his or her personal electronic device during the school day.

Adjournment

At 10:15 a.m., the meeting was adjourned as there was no further business to come before the Legislative Council.

Respectfully submitted,

ATTEST:

Representative David L. Branscum
Co-Chair, House

Marty Garrity
Executive Secretary