

MINUTES OF THE MEETING
OF THE
ARKANSAS LEGISLATIVE COUNCIL

Friday, June 17, 2016

The Arkansas Legislative Council met at 9:00 a.m., Friday, June 17, 2016, 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.

Minutes of the Last Meeting

Co-Chair Branscum referred the members to the minutes of the May 18, 2016 meeting (Exhibit C) of the Legislative Council and asked if there was a motion to approve the minutes.

Senator Joyce Elliott moved that the minutes of the May 18, 2016 Legislative Council 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 May 2016 revenue report (Exhibit D) prepared by the Bureau of Legislative Research. Mr. Wilson reported that the revenue report for May 2016 reflects that after eleven (11) months of this fiscal year, gross revenue collections are \$6 million lower than last year while the net general revenue available for distribution is \$162.5 million dollars ahead of the same period last year for a growth rate of three point five percent (3.5%). Mr. Wilson reported that the graph reflects net general revenues available for distribution are \$105 million over the official forecast revision on February 1, 2016. Mr. Wilson reported that the spreadsheet reflects that the growth rate for gross receipts is two point seven percent (2.7%) and the total income tax collections are down two point four percent (2.4%). This concluded the report and there were no questions.

Report of the Executive Subcommittee

Co-Chair Branscum recognized Vice Co-Chair Terry Rice to present the report of the Executive Subcommittee (Exhibit E). Vice Co-Chair Rice reported that the Executive Subcommittee met on June 8, 2016 and considered the proposed amendment to the Legislative Council Rules to create the Highway Commission Review and Advisory Subcommittee.

Vice Co-Chair Terry Rice moved that Rule 5(a) of the Legislative Council Rules be amended to create the Highway Commission Review and Advisory Subcommittee. The motion was seconded and passed by a voice vote.

Vice Co-Chair Rice reported that the Executive Subcommittee also considered a request from the Arkansas Department of Education to immediately implement an emergency rule regarding the

Arkansas Qualified Teacher Requirements. The Executive Subcommittee reviewed and approved the rule, which became effective as of 12:01 a.m. on June 10, 2016.

Vice Co-Chair Rice reported that the Executive Subcommittee also discussed the upcoming summer legislative conference schedule and canceling the July 2016 meeting of the Legislative Council. Vice Co-Chair Rice reported that the Executive Subcommittee passed a motion to cancel the Legislative Council meeting during the month of July 2016 and that the actions of Legislative Council subcommittees that would normally be reviewed by the Legislative Council at the July meeting, will be considered final and reported to the Legislative Council during the meeting scheduled in August 2016. This concluded the report and there were no questions.

Vice Co-Chair Terry Rice moved to cancel the Legislative Council meeting during the month of July 2016 and that the actions of Legislative Council subcommittees that would normally be reviewed by the Legislative Council at the July meeting will be considered final and reported to the Legislative Council during the meeting scheduled in August 2016. The motion was seconded and passed by voice.

Report of the Standing Subcommittees

Administrative Rules and Regulations Subcommittee

Co-Chair Branscum recognized Representative Andy Davis to present the report of the Administrative Rules and Regulations Subcommittee (Exhibit F.1). Representative Davis reported that the Administrative Rules and Regulations Subcommittee met on June 14, 2016, and adopted the reports of the Executive Subcommittee concerning the Executive Subcommittee's approval of an emergency rule from the Arkansas Department of Education. Representative Davis reported that the Administrative Rules and Regulations Subcommittee also reviewed the quarterly reports submitted by the Department of Correction in accordance with Act 1258 of 2015. Representative Davis reported that with the exception of one rule that was withdrawn at the request of the agency, the subcommittee reviewed and approved all rules on the agenda including all rules that had been deferred from previous meetings. This concluded the report and there were no questions.

Representative Andy Davis moved that the report of the Subcommittee on Administrative Rules and Regulations be adopted with the exception of item 4.a. from the State Board of Examiners in Counseling, which would be referred back to the Administrative Rules and Regulations Subcommittee. The motion was seconded and passed by voice vote.

Higher Education Subcommittee

Co-Chair Branscum recognized Representative Greg Leding to present the report of the Higher Education Subcommittee (Exhibit F.5). Representative Leding reported that the Higher Education Subcommittee met on June 16, 2016, and heard testimony from Dr. Brett Powell, the out-going Director of the Department of Higher Education, regarding the Higher Education Data Sharing Consortium's Sexual Assault Campus Climate Survey and other survey tools that campuses can use to gauge the climate on the campuses. Representative Leding reported that the subcommittee wished Dr. Powell all the best as he is in the last week in his position as the Director of the Department of Higher Education.

Representative Leding reported that the subcommittee also heard a presentation regarding the Title IX Investigative Process and the on-going investigation at the Fayetteville campus in the handling of a couple of sexual assault cases with testimony from the following staff at the University of Arkansas: Ms. Tamla Lewis, Associate General Counsel; Dr. Danielle Wood, Director of the Office of Equal Opportunity and Title IX coordinator; and Dr. Rachel Eikenberry, Director of the Office of Student Standards and Conduct. Representative Leding reported that the University is currently under investigation by the U. S. Department of Education's Office of Civil Rights. This concluded the report and there were no questions.

Representative Greg Leding moved that the report of the Higher Education Subcommittee be adopted. The motion was seconded and passed by voice vote.

Performance Evaluation and Expenditure Review (PEER) Subcommittee

Co-Chair Branscum recognized Representative David Meeks to present the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee (Exhibit F.8). Representative Meeks reported that the PEER Subcommittee met on June 15, 2016, and approved three items, including: (1) three set-aside release requests of \$1 million each to senior centers and libraries, and \$350,000 to the Sate Plant Board; (2) a request from the Chief Fiscal Officer to continue the increase of point two percent (0.2%) deduction for the State Central Services Fund; (3) a request for an appropriation transfer from the Minority Health Commission. Representative Meeks reported the subcommittee held two miscellaneous federal grant (MFG) requests from the Heritage Department listed as items G.2 and G.3 in the report, but the hold has now been released on these items. Representative Meeks concluded his report by stating that all other agenda items were reviewed and are attached to the report. There were no questions.

Representative David Meeks moved that the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee, including the Heritage Department MFG requests listed as items G.2 and G.3, be adopted. The motion was seconded and passed by voice vote.

Review Subcommittee

Co-Chair Branscum recognized Senator Bart Hester to present the report of the Review Subcommittee (Exhibit F.10) for the subcommittee meetings on June 13, 2016 and June 14, 2016. Senator Hester reported that the Review Subcommittee met on June 13, 2016 to review all Department of Human Services (DHS) items and no items were held.

Senator Hester reported that the Review Subcommittee met again on June 14, 2016 to review all other agency items. Senator Hester reported that the rules were suspended for the purpose of reviewing four technical and general services contracts that were submitted by two agencies, which are listed on page 90 of the report. Senator Hester reported that the subcommittee passed a motion to hold these four contracts for review by the full Legislative Council because there was not a quorum of subcommittee members present. Senator Hester explained that three of these contracts were for marketing and public relations services for the Economic Development Commission, and the fourth contract is for the Office of Health Information Technology with UAMS for five positions. This concluded the report and there were no questions.

Senator Bart Hester moved that both the June 13, 2016 report and the June 14, 2016 report of the Review Subcommittee be adopted, including the four contracts listed on page 90 of the June 14, 2016 report, and that the contract between the Health Department and National Jewish Health, listed as item 12 on page 9 of the June 14, 2016 report, be excluded and reviewed separately. The motion was seconded and passed by voice vote.

Co-Chair Branscum recognized Senator Hester who asked if representatives of the Health Department could be recognized to respond to questions. Co-Chair Branscum recognized Robert Brech, Chief Financial Officer with the Arkansas Department of Health, who responded to questions and then offered to provide the specific information on the contract requested by Senator Hester later in the meeting. Senator Hester asked that the review of this contract be postponed until more information could be provided and Co-Chair Branscum agreed.

Policy-Making Subcommittee

Co-Chair Branscum recognized Representative George B. McGill to present the report of the Policy-Making Subcommittee (Exhibit F.9). Representative McGill reported that the Policy-Making Subcommittee met on June 16, 2016, and discussed referring the reallocation of committee funds to the full Legislative Council as there was not a quorum of subcommittee members present.

Representative McGill explained that if the Policy-Making Subcommittee fails to reallocate committee funds prior to July 1, 2016, the committee funds allocated for the upcoming 2017 fiscal year would be equal to the amount each committee was allocated at the start of the previous fiscal year and that amounts could be altered and additional requests could be considered at the next Policy-Making Subcommittee meeting. This concluded the report and there were no questions.

Representative George B. McGill moved that each committee be allocated for the upcoming 2017 fiscal year an amount equal to the amount each committee was allocated at the start of the previous fiscal year and that requests for additional funds be considered at the next meeting of the Policy-Making Subcommittee. The motion was seconded and passed by a 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 June 15, 2016, and reviewed the following reports and requests: reports from the Department of Finance and Administration detailing the special entry rates for exceptionally well-qualified candidates and labor market rates approved by the Chief Financial Officer during May; report of grid movements based on previously-approved grid plans; provisional positions reports for the Department of Higher Education detailing sixteen (16) new provisional positions for the University of Arkansas; a request for emergency review of miscellaneous federal grant (MFG) positions for the Arkansas Game and Fish Commission; request for the establishment of a second-language certification differential on-call pay for the Arkansas Game and Fish Commission and the Arkansas Department of Emergency Management; requests for a growth pool, a swap-pool, and a transition pool position for the Arkansas Medical Board, the Arkansas State Police and the Office of Health and Information Technology; a request for a special-entry rate for a well-qualified candidate for the Arkansas Tobacco Control Board; a request for an additional classification to be added to the

previously-approved salary administration grid for the Arkansas Public Service Commission; a request for an adjustment to the salary administration grid for the correctional officers at the Department of Correction; and a request from the Department of Finance and Administration for a continuation of all previously-approved salary administration grids, labor-market rates, differential pool positions, and MFG position classification. 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.

Lottery Oversight Subcommittee

Co-Chair Branscum recognized Senator Jimmy Hickey, Jr. to present the report of the Lottery Oversight Subcommittee (Exhibit F.12). Senator Hickey reported that the Lottery Oversight Subcommittee met on June 16, 2016, and took the following actions: (1) heard testimony on the activities and operations of the Office of the Arkansas Lottery from Mr. Larry Walther, Director, Arkansas Department of Finance and Administration (DF&A) and Mr. Bishop Woosley, Director, Office of the Arkansas Lottery; (2) heard testimony from Mr. Bishop Woosley and reviewed the proposed fiscal year 2017 annual budget, reviewed a major procurement contract with Smartplay, and reviewed a major procurement contract for supplemental advertising, marketing, and media services; and (3) heard an update on the business plan and consulting services from Mr. Bishop Woosley and Mr. John Skrimshire, Vice President of Commercial Operations for Camelot Global. This concluded the report, and there were no questions.

Senator Jimmy Hickey, Jr. moved that the report of the Lottery Oversight Subcommittee be adopted. The motion was seconded and passed by voice vote.

Review of Communications

Co-Chair Branscum referred members to the communications listed as Exhibit H.1 through Exhibit H.14 on the agenda and noted that the following five items require action by the Legislative Council:

- 1) a request from Arkansas Teacher Retirement System (Exhibit H.5), submitted pursuant to A.C.A. § 19-11-1302, for the Legislative Council's review of the partial equity ownership investments;
- 2) a request from the DF&A Division of Building Authority (Exhibit H.10c), submitted pursuant to A.C.A. § 22-2-108(7)(B), for the Legislative Council's review of the purchase of real property known as the Capitol Place Building;
- 3) a request from the Arkansas Department of Higher Education (Exhibit H.11), submitted pursuant to A.C.A. § 6-61-808, for the Legislative Council's review of the distribution of funds from the Research Development Fund to the University of Arkansas at Fayetteville for expenses associated with the Arkansas Research and Education Optical Network (ARE-0N);
- 4) a request from the Division of State Parks (Exhibit H.13), submitted pursuant to Section 20 of Act 988 of the 2015 Regular Session, for the Legislative Council's review of the annual general revenue comparison of anticipated expenditures for FY 2017 with estimated expenditures for FY 2016, and actual expenditures for FY 2015; and
- 5) a request from the University of Arkansas at Fayetteville (Exhibit H.14), submitted pursuant to A.C.A. § 19-11-264, for the Legislative Council's review of the contract with Magie Ford

Lincoln Co., in which a member of the General Assembly is part owner.

Co-Chair Branscum asked if there were any questions regarding the other communications and there were none.

Arkansas Teacher Retirement System

Co-Chair Branscum asked if there were any questions regarding the request from Arkansas Teacher Retirement System (Exhibit H.5), for the Legislative Council's review of the partial equity ownership investments. There were no questions. Co-Chair Branscum asked if there was a motion.

Vice Co-Chair Terry Rice moved that the Arkansas Teacher Retirement System partial equity ownership investments with the following: Altaris Constellation Partners, L.P.; Bison Capital Partners, V, L.P.; UBS Trumbull Property Income Fund, L.P.; and LaSalle Asia Opportunity Fund IV, L.P. be filed as reviewed by the Legislative Council. The motion was seconded and passed by voice vote.

Division of Building Authority

Co-Chair Branscum asked if there were any questions regarding the request from the Department of Finance and Administration Division of Building Authority (Exhibit H.10c), for the Legislative Council's review of the purchase of real property known as the Capitol Place Building. There were no questions. Co-Chair Branscum asked if there was a motion.

Vice Co-Chair Terry Rice moved that the Division of Building Authority's purchase of real property known as the Capitol Place Building be filed as reviewed by the Legislative Council. The motion was seconded and passed by voice vote.

Arkansas Department of Higher Education

Co-Chair Branscum asked if there were any questions regarding the request by the Arkansas Department of Higher Education (Exhibit H.11) for the Legislative Council's review of the distribution of \$507,812.42 from the Research Development Fund to the University of Arkansas at Fayetteville for expenses associated with the Arkansas Research and Education Optical Network (ARE-0N). There were no questions. Co-Chair Branscum asked if there was a motion.

Vice Co-Chair Terry Rice moved that the Legislative Council give favorable advice for the distribution of \$507,812.42 from the Research Development Fund to the University of Arkansas at Fayetteville for expenses associated with the Arkansas Research and Education Optical Network (ARE-0N). The motion was seconded and passed by voice vote.

Division of State Parks

Co-Chair Branscum asked if there were any questions regarding the request by the Division of State Parks (Exhibit H.13) for the Legislative Council's review of the annual general revenue comparison of anticipated expenditures for FY 2017 with estimated expenditures for FY 2016, and actual expenditures for FY 2015. There were no questions. Co-Chair Branscum asked if there was a motion.

Vice Co-Chair Terry Rice moved that the annual general revenue comparison of anticipated expenditures for FY 2017 with estimated expenditures for FY 2016, and actual expenditures for FY 2015 be filed as reviewed by the Legislative Council. The motion was seconded and passed by voice vote.

University of Arkansas at Fayetteville

Co-Chair Branscum asked if there were any questions regarding the request from the University of Arkansas at Fayetteville (Exhibit H.14) for the Legislative Council's review of the contract with Magie Ford Lincoln Co., in which a member of the General Assembly is part owner. There were no questions. Co-Chair Branscum asked if there was a motion.

Vice Co-Chair Terry Rice moved that the University of Arkansas at Fayetteville contract with Magie Ford Lincoln Co. be filed as reviewed by the Legislative Council. The motion was seconded and passed by voice vote.

New Interim Study Proposals and Interim Resolutions

Co-Chair Branscum referred the members to Interim Study Proposal 2015-166 (Exhibit J.1), by Senator Bryan King, which is an act to remove remediation as a function of institutions of higher education and to transfer higher education remediation funding to other state entities. Co-Chair Branscum asked if Senator King was ready to present the study proposal. Senator King was not in attendance, and Co-Chair Branscum asked if there was a motion.

Vice Co-Chair Terry Rice moved that Interim Study Proposal 2015-166 be referred to the Senate Committee on Education. The motion was seconded.

Co-Chair Branscum recognized Senator Bruce Maloch who asked to discuss this interim study proposal. Senator Maloch commented that the way this study is worded, it would do away with remediation and he feels that this study should not be pursued as it is worded. He asked that action on Interim Study Proposal 2015-166 be postponed until the sponsor is able to present it to the Legislative Council and to respond to questions.

Vice Co-Chair Terry Rice withdrew his motion to refer Interim Study Proposal 2015-166 to the Senate Education Committee. Co-Chair Branscum stated that the motion has been withdrawn and consideration of Interim Study Proposal 2015-166 would be deferred until the sponsor is available to present the study proposal.

Co-Chair Branscum recognized Representative Andy Davis who stated he would like to request that the committee hear from Dr. Brett Powell on this study proposal and he asked if Dr. Powell could be invited to be present when the Legislative Council considers Interim Study Proposal 2015-166 again. Co-Chair Branscum agreed to this request.

Supplemental Agenda

Co-Chair Branscum referred the members to the Supplemental Agenda and stated that a motion to suspend the rules to allow the Legislative Council to consider Interim Study Proposal 2015-168 is needed.

Interim Study Proposal 2015-168

Vice Co-Chair Terry Rice moved that the rules be suspended to consider Interim Study Proposal 2015-168. The motion was seconded and passed by voice vote.

Co-Chair Branscum recognized Representative Kim Hammer to explain Interim Study 2015-168 (Exhibit A.1). Representative Hammer explained that there was a Supreme Court ruling in a case recently this year that has impacted the ability of judges to determine settlements with regards to divorce. Representative Hammer stated the study proposal was brought to him by Judge Herzfeld from Saline County, and the study proposal has been vetted with several parties involved. Representative Hammer stated he wanted this interim study so that the issue could be totally aired out and a solution worked out in time for the next regular session. Representative Hammer concluded by asking that Interim Study Proposal 2015-168 be referred for study. There were no questions or discussion.

Vice Co-Chair Terry Rice moved that Interim Study Proposal 2015-168 be referred to the House Committee on Judiciary. The motion was seconded and passed by voice vote.

Discussion of Contract

At this time, Co-Chair Branscum stated that now there would be a discussion of the contract that was excluded from the June 14, 2016 Report of the Review Subcommittee, which is the contract between the Arkansas Department of Health and National Jewish Health (contract number 4600034433) listed as item 12 on page 9 of this report.

Co-Chair Branscum noted that additional personnel from the Arkansas Department of Health were in route to the meeting and discussion would commence when they arrive. Shortly thereafter, Co-Chair Branscum recognized Dr. Gary Wheeler, Chief Medical Officer, and Michelle Snortland, Branch Chief for the Tobacco Prevention and Cessation Program, to respond to questions.

Co-Chair Branscum recognized Senator Bart Hester who asked the following questions: (1) Did any in-state companies apply to provide hot line services; (2) why is it \$ 1.8 million for a hot line; (3) is it necessary; (4) how many people called the hot line last year; and (5) what was their work product. Senator Hester also asked how much of the \$1.8 million is used for advertising; how does the Quit Line compare to the gambling hot line and the drug hot lines; and has it been considered that all of the hot lines be operated by the same company for any shared savings that could result. Other members asked about the cost-effectiveness of the program, whether the program targeted the demographic groups that would make the program most effective, does the program address the use of tobacco products other than cigarettes, and how much of the funding is spent for advertising and salaries. The members also expressed the desire to see measurable results in relation to the money spent for the program, as well as data comparisons that would indicate how the programs in Arkansas rank in cost effectiveness with programs in other states.

Dr. Wheeler and Ms. Snortland responded that there were no in-state vendors who responded to the Request for Proposals (RFP) and that a national vendor was selected to provide better services at a lower cost. They also indicated that the vendor contract provides for everything such as operation of the hot line, the provision of counseling and education, and provision of nicotine replacement supplies such as nicotine patches, lozenges, and gum. The program also develops campaigns that

work for targeted groups, such as youth and pregnant women, and has resulted in a rise in the quit rates and in a marked decrease in the sale of cigarettes.

Co-Chair Branscum recognized Senator Hester for a motion. **Senator Bart Hester moved that the contract between the Arkansas Health Department and National Jewish Health not be reviewed. The motion was seconded and passed by voice vote.**

Adjournment

At 10:00 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