

MINUTES OF THE MEETING
OF THE
ARKANSAS LEGISLATIVE COUNCIL

Friday, December 17, 2010

The Arkansas Legislative Council met at 9:00 a.m., Friday, December 17, 2010 in Committee Room A of the Big Mac Building, 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.

Minutes of the Last Meeting

Co-Chair Wilkins referred members to the minutes of the November 19, 2010 meeting of the Legislative Council and asked if there were any questions. There were no questions.

Senator Faris moved that the minutes of the November 19, 2010 meeting of the Legislative Council be approved. The motion received a second and passed by voice vote.

Revenue Report

November 2010 Revenue Report

Co-Chair Wilkins recognized Richard Wilson, Assistant Director of the Bureau of Legislative Research, to present the monthly revenue report for November 2010. Mr. Wilson reported that the November 2010 revenue report reflects that after five months of this fiscal year, the gross collections are \$55.3 million greater than the same period last year for a growth rate of two point six percent (2.6%). The report indicates a decrease since November 2009 in adjusted net general revenue available for distribution this month by \$47.2 million dollars or twelve point one percent (12.1%). The adjusted net available for distribution is \$1,880,528,701.11 for a growth rate of point six tenths percent (.6%). The graph page indicates that revenue is \$25.4 million dollars ahead of the official forecast. The spreadsheet indicates that gross receipts grew at eight point two percent (8.2%) and the withholding tax collections grew at about five percent (5%).

Mr. Wilson answered questions regarding the amount of money owed to the federal government for unemployment compensation benefits. Senator Hendren asked that the Legislative Council request Mr. Artee Williams to come before the committee to provide information on the money owed by the State of Arkansas for unemployment compensation benefits.

Senator Hendren asked if someone could inform the members regarding the money that is owed under the Medicaid Program. Co-Chair Wilkins recognized John Selig, Director of the Department of Human Services, to respond to the question. Mr. Selig stated that the Medicaid Program is okay for fiscal year 2012, but for fiscal year 2013 the Medicaid Program will be

about \$260 million short, but about \$185 million of that is in the Governor's executive recommendation at this point.

Representative Mike Burris asked if there is a schedule set up for the repayment of the money. Mr. Wilson stated there was no schedule that he was aware of. Senator Altes commented that he was sponsoring three bills in the upcoming session that would fix the problem. Representative Lea asked about the increase in collections for vending machine decals. Mr. Wilson responded that there are two options for taxing vending machines: (1) tax on purchases as goods are placed in the machine; and (2) tax per machine on a decal basis. Mr. Wilson stated that these growth rates have been seen before, and amounts depend on how the vendor chooses to be taxed. Representative Lea asked why there is a tax on bingo and not on lottery tickets. Mr. Wilson responded that the bingo tax was set because of the extra staff that would be needed to regulate bingo operators. Senator Steele asked if most states owe the federal government for unemployment compensation benefits and that most states owe more than Arkansas. Mr. Wilson responded that was his understanding. Senator Steele asked if there were several proposals before Congress to waive the debt owed by states and that this has been done before. Mr. Wilson stated that there is precedent for waiving the debt and there were negotiations in Congress now, but he did not know if these included waiving the debt. There were no further questions.

Report of the Executive Subcommittee

Co-Chair Wilkins recognized Co-Chair Maxwell to present the report of the Executive Subcommittee. Co-Chair Maxwell reported that the Executive Subcommittee met on December 16, 2010 and reviewed a proposed bill and resolutions for limiting task forces. The subcommittee also passed a motion to recommend the proposed bill and resolutions for consideration by the Legislative Council. The Executive Subcommittee also discussed a draft rule concerning the use of the legislative meeting space on the fifth floor of One Capitol Mall.

Co-Chair Maxwell asked that Jill Thayer, Legal Counsel to the Director, and Nell Smith, Legislative Research Analyst, be recognized to present additional information to the Legislative Council on these two matters.

Co-Chair Wilkins recognized Nell Smith who gave a PowerPoint presentation of the report entitled, "Review of Arkansas General Assembly Task Forces and Other Study Commissions". The report provided the following information:

- For this study, the definition of task force was a group created to study a particular topic and to make recommendations to the legislature rather than state agencies. The study was limited to groups that had at least one legislative member or were staffed by Bureau employees (see Appendix A for list).
- The number of task forces created has grown each biennium from five in 2003 to eighteen in 2009.
- The report analyzed the composition of the task force membership and shows that most have non-legislative members or a combination of legislative and non-legislative members. One task force had only legislative members.

- The report tracks the number of active task forces, which are newly-created task forces as well as task forces that were continued into the next biennium. The number of active task forces increased from five in 2003 to twenty-two in 2009 (see chart on page 3).
- The report analyzed the topics studied by task forces that would fall within the jurisdiction of the nineteen standing committees (see chart on page 4). Most topics were health, welfare, or labor related.
- The report tracked the cost of task forces by calculating mileage and per diem payments to legislative task force members, which shows an increase (see chart on page 5) from about \$9,500.00 in 2006 to \$42,000.00 in 2008. In the first six months of 2010, mileage and per diem payments amounted to \$42,000.00.
- The report indicates that staff support for task forces usually requires one staff person with clerical support, and sometimes research assistance. An additional staff person was hired in 2010 who will be dedicated to task forces.
- The report includes on page six a survey of other states and how they have managed task forces. Thirty-seven states responded and indicated that in eight states the number of task forces created from year to year appears to be increasing, four states appear to have a decrease in number, and the rest report the number remains stable. Some states have taken steps to limit the number of study groups, which include requiring a fiscal impact statement for new study groups, assigning one committee the responsibility of considering all bills that create or continue a study group, and the promulgation of rules that define what constitutes a study group.

The following information was provided in response to questions from the Legislative Council members:

- The research was conducted and the report was prepared to address concerns that: (1) the authority of the standing committees was being diminished because issues in the jurisdiction of the standing committee were being considered by a task force instead of the committee; (2) scheduling conflicts between the meetings of the standing committees and the task forces; and (3) the increased demand for staff support to meet the needs of both committees and task forces.
- The only cost to conduct the research and prepare the report is the time of the Bureau staff and, since the reports were presented at regularly scheduled meetings of the Executive Subcommittee, there was no additional cost for per diem.

Co-Chair Wilkins recognized Jill Thayer, Legal Counsel for the Director, who presented the draft resolutions prepared at the request of the Executive Subcommittee that incorporate four options that were discussed at the last meeting. The options were presented in three proposals (see Attachment A).

The first proposal before the committee is a draft bill that applies to all task forces that exist or are created as of January 1, 2011. The draft bill: (1) defines the term "task force", (2) sets out a few parameters for staff assistance to task forces and allows the director to approve additional assistance; (3) requires a fiscal impact statement; (4) includes a requirement that a bill be introduced during the first fifteen days of a legislative session when a bill creates a task force or extends the life of an existing task force; (5) requires that bills creating a task force have

provision for a date when the task force would expire and that, unless a specific date is listed, a task force would expire on December 31 of the year preceding the next regular session after the task force was created; and (6) includes a sunset clause that states that all task forces that exist as of the effective date of this bill would expire on of January 1, 2012.

The second proposal is a House Resolution that amends the rules of the House of Representatives to require that all bills concerning task forces be referred to the Committee on Rules and also requires a fiscal impact statement.

The third proposal is a Senate Resolution that amends the rules of the Senate to require that all bills concerning task forces be referred to the Efficiency Committee and also requires a fiscal impact statement. Ms. Thayer offered to answer questions.

Following the presentation, Co-Chair Wilkins stated that these proposals would require action of the House and Senate and that action taken by the Legislative Council does not change the statute. Co-Chair Wilkins recognized members for questions and comments and there followed discussion of the proposals.

Co-Chair Wilkins recognized Senator Whitaker for a point of order. **Senator Whitaker moved that in light of the long debate and the lack of consensus among members, that the measures be tabled at this time to allow members more opportunity to study the proposals. The motion was seconded by Senator Lavery and was passed by voice vote.**

Co-Chair Wilkins asked Ms. Thayer to proceed with the presentation of the proposed policy on use of the committee rooms located in the Big Mac Building that was also attached to the Executive Subcommittee Report. Ms. Thayer explained that the Executive Subcommittee requested drafts of proposed policy on use of the Committee Rooms A and B, the lobby area, and the area behind the committee rooms in the Big Mac Building. The proposed policy (see Attachment B) provides for the following:

- The use of Committee Rooms A and B would be limited to use by the General Assembly and subcommittees and the staff of the Bureau of Legislative Research.
- Upon the approval of both co-chairs of the Legislative Council, a legislative task force or legislative caucus may meet in Committee Room A and B if no suitable committee room is available in the State Capitol.
- The area behind the committee rooms is designated for use by members and staff only, but the conference room may be used by the Executive Subcommittee for their meetings. The conference would be available for use by members of the General Assembly for meetings with agency personnel after obtaining the approval of either the House or Senate co-chair of the Legislative Council.
- The lobby may not be used for meetings or events because it is the main pass through to the committee rooms and Bureau offices. Also, no food may be served or eaten in the lobby area except for the security guard stationed in the lobby.

- The Bureau provides for security for this area and will arrange for the security guard to remain if needed for meetings scheduled before or after normal working hours.
- The Bureau will be responsible for scheduling the rooms for meetings and posting the meetings on the General Assembly web site.

Co-Chair Wilkins recognized members for questions and comments and there followed discussion of the proposed policy. Co-Chair Wilkins stated that the proposed policy would be tabled at this time.

Reports of Standing Subcommittees

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 December 14, 2010 and stated that all items on the agenda were reviewed and approved with the exception of the request from the Arkansas Development Finance Authority listed as item 2 on page three of the report. Representative Burris offered to answer questions and also asked the chair for a point of personal privilege.

Co-Chair Wilkins recognized Representative Burris for a point of personal privilege. Representative Burris stated that he has had the privilege to co-chair the Rules and Regulations Subcommittee with Senator Malone and thanked him for his guidance and cooperation with the subcommittee. Representative Burris stated it has been a real privilege to serve with Senator Malone and the other members of the subcommittee and thanked them for their dedication.

Representative Burris moved the adoption of the report of the Administrative Rules and Regulations Subcommittee and the motion passed by voice vote.

Co-Chair Wilkins recognized Senator Glover who commented that a meeting of the Charitable, Penal, and Correctional Institutions Subcommittee had been scheduled, but due to a conflict with another committee meeting, the meeting was re-scheduled for December 23, 2010. At that time, the subcommittee will hear a final report concerning stabilizing the inmate population.

Claims Review Subcommittee

Co-Chair Wilkins recognized Senator Lavery to present the report of the Claims Review Subcommittee. Senator Lavery reported that the Claims Review Subcommittee met December 13, 2010 and made the recommendations as outlined in the report in the members' packets. Senator Lavery reported that the subcommittee affirmed the re-issuance of three warrants, affirmed one awarded claim, affirmed one negotiated settlement agreement, denied and dismissed five claims appealed by the claimant, and affirmed one claim appealed by the respondent. There were no questions concerning the report.

Senator Lavery moved the adoption of the Claims Review Subcommittee Report and the motion passed by voice vote.

Higher Education Subcommittee

Co-Chair Wilkins recognized Representative Roebuck to present the report of the Higher Education Subcommittee. Representative Roebuck reported that the Higher Education Subcommittee met jointly November 23, 2010 with the House Vocational/Technical Institutions Subcommittee of the Education Committee at Black River Technical College in Pocahontas. The Higher Education Subcommittee also met jointly on December 16, 2010 with the House and Senate Education Committees and heard the presentations listed in the report in the members' packets. There were no questions concerning the report.

Representative Roebuck moved that the report of the Higher Education Subcommittee be adopted and the motion passed by voice vote.

Litigation Reports Oversight Subcommittee

Co-Chair Wilkins recognized Representative Rice to present the report of the Litigation Reports Oversight Subcommittee. Representative Rice reported that the Litigation Reports Oversight Subcommittee met on December 16, 2010 and that the meeting was routine. There were no questions concerning the report.

Representative Rice moved that the report of the Litigation Reports Oversight Subcommittee be adopted and the motion passed by voice vote.

Performance Evaluation and Expenditure Review (PEER) Subcommittee

Co-Chair Wilkins recognized Representative Dismang to present the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee. Representative Dismang reported that the PEER Subcommittee met December 13, 2010 and reviewed and approved all items on the agenda. Representative Dismang noted that this is the meeting in which we recommended to the Legislative Council the release of \$90 million dollars of student's money that was set aside to go toward teachers' salaries, raises, and bonuses. The subcommittee found that there is no discretion as to how the school districts spend those funds and he encouraged the members to encourage their school boards to use the funds appropriately and not use them for ongoing projects. There were no questions concerning this report.

Representative Dismang moved the adoption of the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee 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 December 1, 2010 and reviewed all items on the agenda including methods of finance, discretionary grants, professional and consultant contracts, and technical services contracts. Representative Dunn reported that no items were held. There were no questions regarding this report.

Representative Dunn moved the adoption of the report of the Review Subcommittee and the motion passed by voice vote.

Uniform Personnel Classification and Compensation Plan Subcommittee

Co-Chair Wilkins recognized Senator Faris to present the Uniform Personnel Classification and Compensation Plan Subcommittee report. Senator Faris reported that the subcommittee met on December 16, 2010 and heard: three OPM pool position requests from the Department of Information Systems, the Arkansas Insurance Department, and the Northwest Arkansas Community College; two-year and four-year growth pool requests from the Northwest Arkansas Community College and the University of Arkansas at Little Rock; salary adjustment requests from two circuit court judges; and two requests for miscellaneous federal grant positions. There were no questions regarding this report.

Senator Faris moved the adoption of the report of the Uniform Personnel Classification and Compensation Plan Subcommittee and the motion passed by voice vote.

Co-Chair Wilkins recognized Senator Hendren who asked if anyone could provide him with information about the reports in the newspaper concerning the Game and Fish Commission's policy on Freedom of Information requests. Co-Chair Wilkins recognized Senator Glover who responded that Sheffield Nelson had made allegations and requested the Attorney General to investigate. The Division of Legislative Audit is conducting an audit at this time and that report should be provided to members before the convening of the 2011 regular session.

Reports of Interim and Special Committees

Task Force on Substance Abuse Prevention

Co-Chair Wilkins recognized Senator Pritchard to present the report of the Task Force on Substance Abuse Prevention. Senator Pritchard provided the following information in his presentation:

- Substance Abuse is a chronic health issue and has a huge impact on prisons, the Health Department, businesses in terms of theft and accidents; and impacts families. Approximately seventy-five percent (75%) of the inmate population is incarcerated due to drug abuse and drug abuse related crimes.
- The non-legislative members of the task force are listed on page eight of the report and they were dedicated members and passionate about this issue.
- The Executive Summary of the report is found on page 1 which includes the following task force recommendations: (1) increase the wholesale excise tax on alcoholic beverages to support substance abuse treatment and prevention programs; (2) maintain support of the Arkansas Tobacco Settlement Proceeds Act; (3) expand the prescription drug monitoring programs in Arkansas; (4) reinstate authority to seize drivers licenses of all underage individuals charged with "minor in possession"; (5) require the posting in restaurants and bars warnings to women of the danger of fetal alcohol spectrum disorder; (6) revision of Garrett's Law to require physicians to report alcohol use by pregnant women

under 21 years of age; and (7) maintain the legal age to drink at 21 years, including on military bases.

Senator Pritchard stated the report details each of the task force's recommendations and asked the members to study it. There were no questions regarding the report.

Arkansas Legislative Task Force on Substance Abuse Treatment Services

Co-Chair Wilkins recognized Senator Pritchard to present the report of the Arkansas Legislative Task Force on Substance Abuse Treatment Services. Senator Pritchard provided the following information in his presentation:

- The members of the task force are listed on page iii of the report and they were dedicated and passionate about these issues.
- There is some good news in the report on page 5. The 2008 report from this task force, included Project 95 which indicated that only 5 percent of the people who sought drug abuse treatment received it, but the current report indicates that the percentage has increased to 6 percent.
- Lack of treatment services is reported to be the number one drain on state resources and documentation of this is found in Appendix at the back of the report.
- Often people with mental health issues also have substance abuse issues.
- The summary and recommendations are on page 2 and include the following: (1) seek new funding resources to expand treatment capacity and fund Medicaid, and support drug courts; (2) continue accountability and quality improvements; (3) support a treatment continuum of care; (4) revise involuntary commitment laws related to substance abuse; (5) review inter-agency referral and continuity of care trends.
- The report concludes that substance abuse is a very serious problem, and if it is treated as a disease instead of a social issue there are results.

There were no questions regarding the report.

Special Oversight Subcommittee on Federal Stimulus Money

Co-Chair Wilkins recognized Representative Tyler to present the report of the Special Oversight Subcommittee on Federal Stimulus Money. Representative Tyler reported that the subcommittee has met several times over the year and this is the year-end report. Representative Tyler reminded members that details are available on the Governor's web page which is at recovery.arkansas.gov. Representative Tyler answered questions from the members.

In response to the request of Representative Dismang, Co-Chair Wilkins recognized Kiswa Smith, Deputy Counsel for the Governor, and Jake Wheeler with the Department of Finance and Administration, who came forward and responded to questions regarding the number of jobs created in state government from stimulus money, the length of employment for those jobs, as well as the programs that were created from stimulus funding.

Blue Ribbon Committee on Highway Finance

Co-Chair Wilkins recognized Co-Chair Maxwell to present the report of the Blue Ribbon Committee on Highway Finance. Co-Chair Maxwell referred members to the final report in their packets and asked members to study it as it is directed to the members of the General Assembly and officials in state government. There were no questions regarding this report.

Review of Communications

Co-Chair Wilkins referred members to the communications in their packets and asked if there were any questions. There were no questions regarding the communications.

Co-Chair Wilkins recognized Senator Whitaker for a motion. **Senator Whitaker moved that the Legislative Council give favorable advice to the priority land acquisitions as presented by the Arkansas State Parks Division (Exhibit H.4b) and the motion passed by voice vote.**

Co-Chair Wilkins recognized Representative Lea for a motion. **Representative Lea moved that the Legislative Council give favorable review of the six private partnership investments submitted by the Arkansas Teacher Retirement System (Exhibit H.4c) and the motion passed by voice vote.**

Announcements

Co-Chair Wilkins reminded members that the Joint Budget Committee is scheduled to meet following the adjournment of the Legislative Council and it is necessary that members sign-in again for the Joint Budget Committee.

Co-Chair Wilkins recognized David Ferguson who acknowledged that this is the last meeting to be chaired by Senator Wilkins and Representative Maxwell and he commented that he has enjoyed working with both chairmen.

Adjournment

There being no further business to come before the committee, the meeting was adjourned at 11:45 a.m.

Respectfully submitted,

ATTEST:

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

David Ferguson
Executive Secretary