

JOINT PERFORMANCE REVIEW COMMITTEE

NOVEMBER 4, 2015

MINUTES

The Joint Performance Review Committee met at 1:00 p.m. on Wednesday, November 4, 2015 in Room A, Mac Building, Little Rock, Arkansas.

Committee members present: Senators Alan Clark, Co-Chair, John Cooper, Missy Irvin, and Terry Rice. Representatives Scott Baltz, Lance Eads, Kenneth Ferguson, Charlene Fite, Mickey Gates, Michelle Gray, Mary "Prissy" Hickerson, Josh Miller, Micah Neal, Dan Sullivan, Dwight Tosh, Clarke Tucker, Dave Wallace, and Richard Womack.

Other legislators present: Senators Linda Chesterfield, Jonathan Dismang, Greg Standridge, and Eddie Joe Williams. Representatives Charles Armstrong, Mary Broadaway, Jeremy Gillam, Ken Henderson, David Hillman, Joe Jett, Kelley Linck, Mark Lowery, John Payton, Rebecca Petty, Mathew Pitsch, James Ratliff, Laurie Rushing, Sue Scott, and Nelda Speaks.

Call to Order

Senator Clark called the meeting to order.

Approval of Minutes – October 28, 2015 [Exhibit C]

A motion to approve the minutes of the October 28, 2015 JPR Committee meeting was made by Senator Irvin and seconded by Senator Cooper. The motion carried.

Continued Review of Procedures Used by the Crimes Against Children Division, Arkansas State Police, and the Arkansas Department of Human Services to Remove Children from the Home, the Child Abuse Hotline, and the Child Maltreatment Registry (Arkansas Child Maltreatment Act A.C.A. §12-18-101-1202)

Joseph Churchwell, attorney, Hot Springs, Arkansas, was sworn in under oath by Senator Clark. Mr. Churchwell discussed the court cases of families he represents that involve allegations of child maltreatment. He said that of the five families who testified before the JPR Committee meeting on Thursday, October 1, 2015, three cases are still pending. Mr. Churchwell told legislators he has subsequently been asked to represent three additional families who have had abuse allegations made against them through calls to the Child Abuse Hotline. He believes an emergency situation of abusive use of the Hotline exists and the Arkansas Department of Human Services (DHS) is not monitoring this closely enough. He asked legislators to consider the following recommendations:

- ❖ Have the Legislature fund the Office of Parent Counsel at the same level as the Office of Chief Counsel at DHS
- ❖ Require DHS investigators to wear body cameras
- ❖ Require DHS investigators to give a Miranda-type warning when conducting an investigation

Senator Clark said legislative action cannot be considered prior to the 2017 legislative session. Only DHS policy changes may be considered during the legislative interim regarding the agency's investigation process.

Senator Clark outlined the following concerns he has regarding procedures used in child abuse reports, maltreatment and neglect cases in Arkansas:

- Are there problems with how the state of Arkansas handles child abuse and maltreatment cases
- Are there problems with the laws, privacy and otherwise, that surround these cases and which don't provide sufficient protection for families, parents and children. Do the laws protect the government entities rather than the families
- Are constitutional protections being substituted with true findings alleging guilt and force individuals to prove that the allegations are untrue
- Are there problems with utilizing two separate agencies, the Crimes Against Children Division (CACD) and the Department of Children and Family Services (DCFS), to investigate abuse reports

Senator Clark said it is the intent of the Co-Chairs of the JPR Committee to complete its review and prepare a report to be given to the Governor, the Senate and House Aging, Children, and Youth Committees, and the Governor's Child Welfare Oversight Committee.

Thomas Braswell, Division of Children and Family Services (DCFS), Garland County, DHS, was sworn in under oath by Senator Clark. Mr. Braswell was asked how long has he worked with the Garland County DCFS and what is his position. Mr. Braswell said he is the Assessment Unit Supervisor for Garland County and has been with DHS for three years. He was asked to describe child maltreatment guidelines used by DCFS and the Crimes Against Children Division (CACD) and how the two organizations differ in conducting their investigations. Mr. Braswell described the process used by his DHS office. When a CACD investigator learns of safety concerns for a child or children living in a home, the investigator contacts Mr. Braswell's office and requests an assessment. Mr. Braswell said he reviews CACD investigations only after they are completed and sent electronically to his office. He reviews reports submitted by CACD investigators which contain true findings. He then can make the decision to initiate a protective service case for the child/children. A DHS investigator is then assigned to the case.

Mr. Braswell was asked how long DCFS has to complete an investigation. He said the normal timeframe is thirty days. Extensions may be requested to add additional days for a total of sixty days. Mr. Braswell responded to a question concerning the differences between decisions made by his office and the CACD regarding safety plan assessments. He said there have been disagreements with CACD over decisions he has made regarding safety plan assessments of a home. Mr. Braswell was asked to define CHRIS and how it is used by the CACD and DCFS. Mr. Braswell said CHRIS is the Children's Reporting and Information System, a database used by CACD and DCFS in investigative casework activities. Legislators discussed the differences in investigative

standards used by the CACD and DCFS. Legislators also discussed the increase in the abuse of anonymous phone calls made to the Child Abuse Hotline.

Cecile Blucker, Director, DCFS, DHS, was sworn in under oath by Senator Clark. Ms. Blucker responded to a request made at the Thursday, October 1, 2015 JPR Committee meeting. She provided one report that contains data on Child Maltreatment Reports handled by the Child Abuse Hotline during SFY 2015. (Handout 1) She explained the data for the Child Abuse Hotline and detailed reports accepted for DR and accepted for investigation, including percentages of substantiation rates and by reporter type. Ms. Blucker also reviewed a second report that contained data listed by each county that includes substantiation, appeal, and overturned rates for all investigations received during SFY 2014.

Ms. Blucker discussed the number of Child Abuse Hotline calls received in Benton County. 3,896 calls were received for SFY 2015. 2,080 calls were accepted for investigation, 422 were found to be true findings. Of the 422 true findings, 75 were appealed and 36 of the 75 were overturned following an appeal.

Senator Clark announced that the JPR Committee will meet Thursday, November 5, 2015 at 10:30 a.m. in Room A, MAC building.

There being no further business, the meeting adjourned at 3:00 p.m.

JOINT PERFORMANCE REVIEW COMMITTEE

NOVEMBER 5, 2015

MINUTES

The Joint Performance Review Committee met at 10:30 a.m. Thursday, November 5, 2015 in Room A, Mac Building, Little Rock, Arkansas.

Committee members present: Senators Alan Clark, Co-Chair, John Cooper, and Terry Rice. Representatives Scott Baltz, Kenneth Ferguson, Charlene Fite, Mickey Gates, Mary "Prissy" Hickerson, Josh Miller, Micah Neal, Milton Nicks, Jr., Dan Sullivan, Dwight Tosh, and Dave Wallace.

Other legislators present: Senator Johnathan Dismang and Bruce Maloch. Representatives Charles Armstrong, Jim Dotson, Charlotte Douglas, Michael John Gray, Joe Jett, Greg Leding, Frederick Love, David Meeks, Mathew Pitsch, Sue Scott, Nelda Speaks, DeAnn Vaught, and Marshall Wright.

Call to Order

Senator Clark called the meeting to order.

Opening Remarks by Senator Alan Clark, Senate Co-Chair, JPR Committee

Senator Clark referenced **ISP 2015-090** (SB560 of 2015) (Exhibit C-1). He told legislators retail business owners are required to pay sales tax on merchandise and labor donated to charitable organizations. He believes this is a disincentive to charitable giving. He pointed out that many owners are unaware of the sales tax requirement.

Senator Clark recognized Charisse Dean, Arkansas Family Council. Ms. Dean said the Family Council is a nonprofit organization whose majority of their funding is dependent on donations. She said the purpose of allowing organizations to have a nonprofit status is that it encourages charitable giving. She said local business owners should not be penalized by having to pay sales tax on donations to schools and nonprofit organizations.

Mike Mertens, Assistant Director, Arkansas Association of Educational Administrators, was recognized. Mr. Mertens discussed fundraising efforts used by schools, clubs and local organizations. He said volunteer groups often partner with schools for large-scale projects like building baseball fields, greenhouses, and animal structures for the Future Farmers of America (FFA) organization. Many projects include in-kind donations of goods and supplies. Mr. Mertens said all the school districts across the state depend heavily on contributions and want to see them continued. He said continuing to levy sales tax on donations would hinder contributions.

Senator Clark recognized David Steele, Chief, Shaw Volunteer Fire and Rescue Department, Saline County. Chief Steele emphasized that volunteer fire departments

rely on donations throughout the state. He said the Shaw Volunteer Fire Department holds an annual fish fry as their fundraising event, which is sponsored by local businesses. Their local business community is a huge supporter of his fire department. Chief Steele said maintaining adequate funding is difficult for volunteer fire departments who rely mainly on distribution of funds through Act 833. He stressed that fire departments truly need the donations to help supplement department funds.

Senator Clark recognized Representative Mickey Gates, who spoke as the owner of Stonebridge Collection in Hot Springs, Arkansas. Representative Gates told committee members he was surprised to learn of the obligation to pay sales tax on charitable donations that were made by his business. He learned of the tax obligation when an audit of his business was conducted. He believes most business owners are unaware of this sales tax requirement.

Senator Clark recognized John Theis, Assistant Commissioner of Revenue, and Tom Atchley, Administrator, Office of Excise Tax Administration, Arkansas Department of Finance and Administration (DF&A). Mr. Theis reviewed the history of the state's sales tax. Arkansas began the sales tax in 1941, which included taxes on a withdrawal from stock provision. Mr. Theis said the theory of the withdrawal from stock provision is that sales tax should only be collected one time from the ultimate consumer of the item. Merchants are given a resale permit by the state to purchase items tax free from their suppliers for resale. When a customer makes a purchase of an item from the merchant, the customer pays the sales tax. When a merchant removes an item from his/her inventory for personal use this indicates that the merchant has sold the item to himself or herself. Mr. Theis gave an example of a Arkansas Supreme Court cases regarding the withdrawal from stock provision.

Mr. Theis told legislators notification to business owners of the sales tax requirement on charitable giving is prescribed by statute. He said a link on the DF&A website directs business owners to the information when a business is registered. Mr. Theis said average audit collections on the withdrawal from stock provision ranged between \$300,000 to \$500,000 statewide during the previous 8 to 10 years. Mr. Theis also said the withdrawal from stock provision of the sales tax applies only to items physically placed in inventory. He stated the fiscal impact to the state would be approximately \$1.1 million for one year should the charitable giving sales tax requirement be eliminated. Mr. Theis told committee members the Department of Finance and Administration does not have a policy position regarding Senator Clark's ISP or Senate Bill 560 of 2015.

Senator Clark announced that the JPR Committee will meet Monday, November 9, 2015 at 1:30 p.m. in Room A, MAC Building.

There being no further business, the meeting adjourned at 12:10 p.m.

JOINT PERFORMANCE REVIEW COMMITTEE

NOVEMBER 9, 2015

MINUTES

The Joint Performance Review Committee met at 1:00 p.m. on Monday, November 9, 2015 in Room A, Mac Building, Little Rock, Arkansas.

Committee members present: Senators Alan Clark, Co-Chair, Linda Collins-Smith, John Cooper, Jane English, Missy Irvin, Terry Rice, and Gary Stubblefield. Representatives Kim Hammer, Co-Chair, Scott Baltz, Lance Eads, Kenneth Ferguson, Charlene Fite, Mary "Prissy" Hickerson, Josh Miller, Micah Neal, Milton Nicks, Jr., Dan Sullivan, John Walker, and David Whitaker.

Other legislators present: Senators Jonathan Dismang, Joyce Elliott, Scott Flippo, Bruce Maloch, Greg Standridge, Larry Teague, and Jon Woods. Representatives Charles Armstrong, Justin Boyd, Bruce Cozart, Jim Dotson, Dan Douglas, Trevor Drown, David Fielding, Vivian Flowers, Michael John Gray, David Hillman, Sheilla Lampkin, Kelley Linck, Frederick Love, Reginald Murdock, Betty Overbey, Mathew Pitsch, and James Ratliff.

Call to Order

Representative Hammer called the meeting to order.

Opening Remarks by Representative Kim Hammer and Senator Alan Clark, Co-Chairs, JPR Committee

Representative Hammer stated that without objection the committee members will hear a brief presentation by the Arkansas Department of Workforce Services (DWS). This presentation is an addition to the regular agenda. Representative Hammer recognized Phil Harris, Assistant Director, Temporary Assistance for Needy Families (TANF) Program, DWS, and Nagashri Nagaraj, Project Manager, Arkansas Workforce Integrated Network System (ARWINS) project, TANF Division, DWS. Mr. Harris reviewed the capabilities of the ARWINS system and that its current structure does meet the requirements of the Medicaid Eligibility and Enrollment Framework (EEF) platform. Mr. Harris described the ARWINS system:

- The system is an information service digital platform designed to serve multiple programs with similar clients
- The system aligns with the needs of the Supplemental Nutrition Assistance Program (SNAP), Medicaid, and the Workforce Innovation Opportunity Act (WIOA)
- The system provides a one-stop service delivery experience through self-service or assisted access to employers, service providers, partners, customers, and participants in the workforce development system
- The aim of the system is to develop partnerships with different agencies and the private sector, plus the formation of teams to provide a more efficient and effective workforce development system

Mr. Harris believes the ARWINS system will improve employment and self-sufficiency outcomes for low-income individuals, plus respond to the needs of our state and local labor markets. The system is intuitive and comprehensive, allowing the workers to focus on the needs of their customers. He then gave the following details of the system:

- ARWINS is a web-based suite of tools where customer information is recorded one time and then used across multiple programs such as TANF, SNAP, the Medicaid Work Pays and Diversion, components of TANF
- the ARWINS system contains a comprehensive assessment tool, the Integrated Work Readiness Assessment (IWRA), which is used by workers to identify short and long-term barriers to individuals served by DWS. Examples of barriers are lack of education, physical and mental health limitations, substance abuse, unreliable transportation, and lack of child care
- Within the ARWINS system is the Career Pathway Planning (CPP) tool, which facilitates the development and tracking of education, training, employment planning, and is designed to reduce barriers with a focus on outcomes
- The system can process benefits for TANF, Work Pays and Diversion, plus components of Transitional Employment Assistance (TEA)
- The system can extend across programs such as SNAP and Medicaid, and tie them all to participant compliance with an emphasis on personal responsibility, plus provide a workforce readiness plan

Mr. Harris was asked the following questions:

- How long has the ARWINS system been in place within DWS
- Does the ARWINS system currently have the capabilities to meet the needs of the Medicaid system, or would it require modifications
- Who owns the licensure for the ARWINS system and what are the ongoing costs
- What are the real time results of the ARWINS system
- How quickly can an individual's eligibility be determined
- Can the system provide an eligibility redetermination for individuals within the programs
- How often are redeterminations done
- How often and how frequently is information provided pertaining to eligibility determination

Mr. Nagaraj responded to the questions:

- Development of ARWINS began July, 2014
- the ARWINS system has the capacity for shared infrastructure across multiple programs. Although it was built primarily for DWS, the information the system captures for the TEA program is similar to SNAP, plus all of the programs within the Medicaid EEF platform. Extensions to the system can easily be constructed for shared infrastructure across agencies and programs
- ARWINS was built by DWS as an open-source framework, there are no licensing costs
- In 2014, DWS integrated TEA, the Work Pays and Diversion programs, and the three components of TANF to deliver a working software

- ARWINS was built to provide real-time access. If there is a need, the data is available in real-time
- The system can make redeterminations, it provides an initial walk-in application, plus timely redeterminations, reevaluations, and re-certifications on a periodic basis, six months or annually
- TANF requires a standard six and twelve month review redetermination process. ARWINS is capable of recognizing information changes for clients on the same day eligibility redetermination and certifications are made allowing for continuing benefit authorization
- The majority of TEA participants report their progress to the DWS offices bi-weekly, or at the maximum of a monthly basis

Mr. Harris was asked to prepare a detailed report on the capabilities of the ARWINS system to be presented at a future JPR Committee meeting.

Address Licensure Issues, Discuss the Frequency and Revision Process of the "Provider Medicaid Manual"

Representative Hammer recognized Mark White, Deputy Director, Arkansas Department of Human Services (DHS). Mr. White gave an overview of the process they use to revise provider manuals:

- 62 provider manuals cover 98 provider types and 278 individual specialties
- Each manual has five sections, four of which are consistent
- One section in each manual is individualized by provider type
- Manuals are updated annually
- Approval of manual changes is given by the Office of the Governor, the Arkansas Department of Finance and Administration (DF&A), and the Senate and House Committees on Public Health, Welfare and Labor
- Changes regarding episodes of care are made by the Health Care and Quality and Payment Policy Advisory Commission and the Centers for Medicare and Medicaid Services (CMS)
- DHS requires Medicaid providers to be licensed or certified, depending on certain areas of requirements. The Medicaid provider application process takes 30 to 45 days.

Review of Scope of Practice Rules in Arkansas and Task Switching [Exhibit D]

Representative Hammer recognized Dr. David Mitchell, Associate Professor of Economics, University of Central Arkansas. Dr. Mitchell told legislators he is the director of the Arkansas Center for Research and Economics, a policy and education institute housed in the College of Business at the University of Central Arkansas. He gave a PowerPoint presentation and said his Institute researched Medicare data regarding the number of Medicare recipients seeking access to care outside of the state. Data indicated one-in-five individuals sought specialized care outside the state. He outlined the need for broader authority for Nurse Practitioners, and a reduction in rules and regulations for Nurse Practitioners. Dr. Mitchell believes that more regulations result in less competition, with more barriers, for Nurse Practitioners, plus higher consumer costs, less innovation, and less access to care.

Representative Hammer recognized John Herzog, Account Executive, Hewlett-Packard Enterprise Services. Mr. Herzog said his organization acts as the fiscal agent for the Medicaid program by contracting with DHS for provider enrollment. Mr. Herzog was asked how long the process for enrollment into Medicaid takes for a physician moving into the state. He said the average time is 30 to 45 days. He was asked how Arkansas compares to other states for Medicaid enrollment and state licensure. Mr. Herzog said he does not have comparison data, but enrollment in Arkansas indicates there are 39,000 providers with an enrollment of 90 provider-types, with an average of 34 days for the enrollment process.

Representative Hammer recognized Peggy Cryer, Executive Secretary, Arkansas State Medical Board, and Kevin O'Dwyer, Legal Counsel, and John O'Neal, Information Technology Manager, State Medical Board. Ms. Cryer gave an overview of the Arkansas State Medical Board:

- Performs a review of all applicants applying for licensure in the state to ensure they meet all standards to qualify for a license
- Arkansas has approximately 15,000 licensees
- The Board meets every two months
- Over the past five years, the Board has taken action against 198 licensees

Ms. Cryer described physician licensure as a two-step process beginning with pre-licensure. The Pre-Licensure Section verifies information on an individual's application, which is then forwarded to the Licensure Department. A licensing coordinator reviews the applicant's documentation and application. The Board provides online communication to applicants. Ms. Cryer said her office is presenting to the Board options to streamline the application process during its meeting scheduled for December, 2015. She said her office has reviewed similar programs provided by the Federation of State Medical Boards. Another option to be presented to the Board is offering a Provisional License, currently being used by Texas. Ms. Cryer will meet with personnel at the Arkansas Department of Human Services in coming weeks to determine the licensure parameters for physicians for the Medicare program. Ms. Cryer discussed the Centralized Credentials Verification Service (CCVS) initiated in 1995 to assist physicians in rural hospitals. Ms. Cryer was asked for the number of physicians who serve on the State Medical Board. Kevin O'Dwyer said there are twelve physicians on the fourteen-member Board.

Representative Hammer advised that those boards on the agenda who weren't able to give their presentations to the committee due to the lack of time will be placed on the agenda for a future JPR committee meeting.

There being no further business, the meeting adjourned at 4:15 p.m.

JOINT PERFORMANCE REVIEW COMMITTEE

DECEMBER 9, 2015

MINUTES

The Joint Performance Review Committee met at 1:00 p.m. on Wednesday, December 9, 2015 in Room 151, State Capitol Building, Little Rock, Arkansas.

Committee members present: Senators Alan Clark, Co-Chair, Linda Collins-Smith, John Cooper, Jane English, Missy Irvin. Representatives Kim Hammer, Co-Chair, Lance Eads, Kenneth Ferguson, Charlene Fite, Mickey Gates, Michelle Gray, Chris Richey, Dan Sullivan, Dwight Tosh, Clarke Tucker, John Walker, and David Whitaker.

Other legislators present: Senators Linda Chesterfield, and Representatives Vivian Flowers, Stephen Meeks, and James Sorvillo.

Call to Order

Senator Clark called the meeting to order.

Remarks by Senator Alan Clark and Representative Kim Hammer, JPR Co-Chairs

Senator Clark reviewed the portion of the duties and responsibilities of the JPR Committee, which include investigations into specific problem areas in the administration of state government, and conduct hearings on citizen complaints regarding the operation of state government.

Approval of Minutes – October 29, 2015 [Exhibit C]

A motion to approve the minutes of the October 29, 2015 JPR committee meeting was made by Senator English and seconded by Representative Fite. The motion carried.

Status of the Universal Assessment Tool Software Being Implemented by CoCENTRIX

Craig Cloud, Director, Aging and Adult Services Division, Arkansas Department of Human Services (DHS), and Gregg Barker, CTO, CoCENTRIX, were sworn in under oath by Representative Hammer. Craig Cloud gave an update on the licensing agreement between DHS and CoCENTRIX. He said that following the October 29, 2015 JPR Committee meeting, DHS and CoCENTRIX held discussions concerning the payments DHS is withholding. CoCENTRIX has agreed to recall a total of \$600,000 in outstanding invoices. Mr. Cloud has since approved a payment of \$32,000 in outstanding invoices to SHI, the entity which retains CoCENTRIX as an approved vendor for the state. The original CoCENTRIX agreement includes an \$8,000 monthly payment to SHI. DHS will continue to make the monthly payments as long as the CoCENTRIX product and platform are being used by DHS. Travel expenses for CoCENTRIX totaling \$59,000 has also been approved.

Mr. Cloud was asked if all of the items in the original licensing agreement have now been resolved. Mr. Cloud explained that a change has been made by the Federal Medicaid for the method used to process payments associated with diagnosis coding requirements. Prior to October 2015, Medicaid identified the codes as ICD9 codes, requiring a specific platform to be used to process the payments. Subsequent to

October 2015, Medicaid initiated ICD10 codes. Mr. Cloud said DHS has made a commitment to provide the ICD10 code requirements to the Division of Developmental Disability (DDS) population affected by this change. CoCENTRIX has agreed to deliver the ICD10 diagnosis codes to the DDS platform by January 15, 2016.

Discussion of Foster Care and Grandparent Issues

Senator Clark discussed the shortage of foster parents in Arkansas. He said the percentage of placement of foster children with relatives in Arkansas is much lower than neighboring states. A July 2015, report to the Office of the Governor by the Child Welfare Policy and Practice Group listed the following placement rates: Arkansas 14%, Louisiana 21%, Mississippi 26%, Missouri 21%, Oklahoma 29%, and Texas 29%. Senator Clark said further research found the national average to be 29%.

Nelda Wilson, James Knowlton, and Shadd Baker were sworn in under oath by Senator Clark. Each person shared their personal experience regarding their grandchildren being placed into the custody of the Arkansas Department of Human Services (DHS).

Mrs. Wilson said she has three grandchildren who were taken into custody by DHS on May 29, 2015. Her grandchildren were removed from their home following an investigation by DHS. The home was found to be unsafe for the children based on environmental issues. Mrs. Wilson said she wrote numerous letters to DHS for six weeks asking for visitation. She said DHS never responded to her requests. She then wrote asking why visitation had not been allowed. Receiving no information, Mrs. Wilson and her husband hired an attorney. Visitation privileges were allowed only after the Wilson's attorney interceded with DHS.

Mr. Knowlton told legislators he spent eight months attempting to adopt his grandchildren who were taken into custody by DHS. DHS staff told him that because he was 65, he was too old to adopt. He appealed for custody of his grandchildren in a court hearing. His request was denied by the court because he was still in contact with his son, the father of the children. Mr. Knowlton told the legislators he believes he is capable of raising his grandchildren, but DHS would not give him the opportunity to pursue custody.

Mr. Baker gave a detailed account of his attempts to obtain custody of his granddaughter over the past three years. He explained that his then 18 month old granddaughter was severely abused and hospitalized in critical condition in Memphis, Tennessee in 2013. He and his wife were not allowed to visit their granddaughter during her hospital stay and were told to hire an attorney. The Bakers hired an attorney in Tennessee only to learn that Arkansas DHS had obtained custody and jurisdiction. Mr. and Mrs. Baker then hired an attorney in Arkansas. Five months after his granddaughter's release from the hospital and multiple court hearings, the Bakers were granted visitation privileges by the court. Visitations were scheduled on alternate weekends with a Court Appointed Special Advocate (CASA) to monitor the visits. Mr. Baker said the visitations were in his home, but they never saw a CASA representative. A further court hearing was held, at which time the Judge admonished DHS for a lack of organization in the case, a lack of documentation, and the failure to provide therapy services to Mr. Baker's granddaughter. Mr. and Mrs. Baker attempted to obtain custody, but during a

placement hearing in January, 2014 their request was denied. Visitations were allowed to continue until a court hearing in June 2014, when all parental rights were denied. Mr. Baker said he has filed a grievance against his attorney who he believes failed to adequately represent the interest of his family. He is also seeking assistance to stop the adoption of his granddaughter by the foster parents who she was placed with.

Cecile Blucker, Director, Division of Children and Family Services, DHS, was sworn in under oath by Senator Clark. Ms. Blucker was asked what, if any charges have been filed against the three persons testifying before the committee. She said she is not allowed to discuss specific cases. She outlined DHS policies that are followed in the situations described by the presenters. Each case is reviewed by a Judge, a DHS attorney, and an Attorney Ad Litem. Family issues, family structure, and family support systems are considered in each case. Ms. Blucker was asked if DHS employs an age limit for individuals seeking to adopt children into their custody. She said there is no age limit. Ms. Blucker was asked to talk about any federal requirements or statutes DHS must comply with regarding custody issues.

Lisa MaGee, attorney, Arkansas Department of Human Services, was sworn in under oath by Senator Clark. Ms. MaGee discussed the federal regulations and said that states are allowed to create their own statutes associated with granting preference to relatives in custody cases. She said that Arkansas has legislation granting preference to relatives in custody cases. However, the preference is interpreted by the appellate courts in the state and only applies to an initial placement.

Ms. Blucker was asked what type of employee evaluation system DHS performs. She said the evaluations are conducted by each employee's supervisor based on the employee's job description and duties. Employee performance evaluations are sent to the DHS Central Office. Becky Dunningan, Area Director Supervisor, Office of Community Service, DHS, reviews the evaluations and supporting documents.

Review of the Differences in Statutes, Policies, and Procedures Regarding the Removal of Children From Their Home

Mickey Stevens, Attorney, Pine Bluff, was sworn in under oath by Senator Alan Clark. Mr. Stevens outlined his previous work history as an Investigator with the Texas Child Protective Services, and as an attorney for the Arkansas Department of Human Services (DHS). He discussed the difference in statutes governing child welfare in Arkansas and Texas. Child welfare statutes in Arkansas are found in a section of the Arkansas juvenile code, whereas the state of Texas separates the child welfare statutes into its own code section. Mr. Stevens believes Arkansas should emulate Texas and separate the code sections for child welfare and child protection statutes. He also believes Arkansas should change the definitions of child abuse in its statutes and rewrite much of the child welfare statutes for better clarity.

Senator Clark announced the JPR Committee meeting scheduled for 9:00 a.m. Thursday, December 10, 2015, Room 151, State Capitol Building.

There being no further business the meeting adjourned at 3:50 p.m.

JOINT PERFORMANCE REVIEW COMMITTEE

DECEMBER 10, 2015

MINUTES

The Joint Performance Review Committee met at 9:00 a.m. on Thursday, December 10, 2015 in Room 151, State Capitol Building, Little Rock, Arkansas.

Committee members present: Senators Alan Clark, Co-Chair, Linda Collins-Smith, John Cooper, Jane English, Missy Irvin, and Terry Rice. Representatives Kim Hammer, Co-Chair, Kenneth Ferguson, Charlene Fite, Mary "Prissy" Hickerson, Josh Miller, Milton Nicks, Jr., Chris Richey, Dan Sullivan, Dwight Tosh, Clarke Tucker, John Walker, and David Whitaker.

Other legislators present: Senator Blake Johnson. Representatives John Baine, Trevor Drown, Jeremy Gillam, Bob Johnson, David Meeks, Mathew Pitsch, James Ratliff, Sue Scott, DeAnn Vaught, Marshall Wright

Call to Order

Representative Hammer called the meeting to order.

Opening Comments by Representative Hammer and Senator Clark, JPR Co-Chairs

Representative Hammer recognized Senator Irvin for an announcement. Senator Irvin told committee members that a press conference is scheduled for Thursday, December 17, 2015 from noon until 1:00 p.m. The Office of the Governor, The Child Welfare Policy and Practice Group, and legislators will present foster care children with Christmas gifts during the press conference. Senator Irvin said there are over 4,600 children in foster care in Arkansas. This event provides an opportunity for the legislative branch of state government to support the children.

Report on the Arkansas Workforce Integrated Network System (ARWINS) Developed by the Arkansas Department of Workforce Services

Representative Hammer told legislators that he, Senator Clark, and the Chairs of the Senate and House Public Health, Welfare and Labor Committees are working with Daryl Bassett, Director, Arkansas Department of Workforce Services (DWS), and Steve Guntharp, Assistant Director, DWS, to sponsor a demonstration of the ARWINS system at the DWS offices. The system has been developed by DWS. The demonstration will begin at 11:30 a.m. Tuesday, December 15, 2015. Mr. Bassett said that DWS will provide a shuttle service for legislators from the Capitol Building to DWS beginning at 11:00 a.m.

Overview of the Process and Best Practices for Writing Requests for Proposals (RFP) and Requests for Qualifications (RFQ) [Exhibit B]

Representative Hammer recognized Martha Tuthill, Senior Consultant, The Stephen Group. Ms. Tuthill gave a PowerPoint presentation. [Exhibit D] Representative Hammer said that during the previous months, legislators have had numerous questions about the process used by state agencies to write Requests for Proposals for state contracts. Ms. Tuthill told legislators her professional background includes 25 years working with a large Information Technology vendor. Over the past five years, she has assisted state agencies in Florida,

Mississippi, Texas, and Arkansas in preparing better contracts. Ms. Tuthill outlined her recommendations. Agencies can use these guidelines to help clarify their RFP requirements:

- Be specific in defining what the agency wants done
- Be flexible to alternate approaches
- Be specific when naming performance indicators. Clearly state the scope of work. Include measures to help determine how well the vendor meets or exceeds minimum standards of performance

RFP and RFQ Best Practices:

- Attract the widest number of qualified vendors
- Clearly specify what work the agency wants the vendor to accomplish and what performance levels are acceptable
- Provide complete information for the vendor to follow so the vendor can price the work accurately
- Be specific about all work that will be required

Scope of the RFP or RFQ:

- Match the agency requirements with the most common market offerings
- Seek vendors who routinely do this type of work
- Consider what happens at the end of the contract. What materials should the state own at the conclusion of the project

Performance Indicators:

- Focus on measures the vendor has control over
- Performance standards can vary. Establish a minimum to avoid liquidating damages, also to avoid corrective action, and include a option allowing for "earn back"

Representative Hammer recognized Camber Thompson, Administrator, Office of State Procurement (OSP), Department of Finance and Administration. Ms. Thompson was asked if she believes Arkansas's state agencies are capable of developing an RFP as detail-oriented as Ms. Tuthill described. Ms. Thompson said the OSP staff and state agencies have these capabilities. She added that OSP is developing an RFP training class to be offered January 12, 2016 to all state agencies.

Representative Hammer recognized Craig Cloud, Director, Arkansas Adult Protective Services (APS), Arkansas Department of Human Services (DHS). Mr. Cloud was asked to discuss the assessment tool used to determine a person's competency. Mr. Cloud said APS uses a screening tool called the Mini Mental State Examination (MMSE). This screening tool helps investigators determine if a person has the mental capacity and sufficient judgment to make decisions. In response to questions, Mr. Cloud outlined procedures used by APS:

- when investigators go to a person's home, they must determine if the person is in immediate danger. Do circumstances found in the screening indicate the person may be mentally incompetent or otherwise impaired
- when an investigator determines that the person requires services, a 72 hour hold is initiated
- the person is immediately referred to a physician who makes the ultimate decision

- a probable cause hearing is held based on a review of evidence and a physician's report and guidance
- the judge makes a determination of whether or not APS should have full custody of the person
- when a judge finds that the person requires full custody by APS, treatment and welfare of the person becomes the responsibility of APS. Mr. Cloud told legislators there are currently 400 individuals throughout the state who are in the custody of APS. Legislators discussed the determination process and the rights of individuals to appeal the decision of APS and the courts.

Representative Hammer recognized Mischa Martin, attorney DHS. Ms. Martin told legislators she is the Assistant Director, Division of Developmental Disabilities Services, DHS. Ms. Martin said individuals placed in APS custody are assigned a public defender if they are indigent. Individuals who are not indigent are assigned counsel by the court who is to be paid from that person's assets. Appeals are made to the Court of Appeals only when a final order has been issued by the Circuit Court.

Continued Review of the Policies and Regulations of Various Medical-Related Boards Regarding Reciprocity with Other States, Issuing Temporary/Provisional Licenses, In-State Relicensing, Amount of Time to Process Applications, and Plans to Shorten and Improve the Licensing Process

Maggie Sponer, Administrative Director, Arkansas Psychology Board, and Dr. Michael Loos, Executive Director, Arkansas Board of Examiners in Counseling, were sworn in under oath by Representative Hammer. Ms. Sponer said processing applications by her Board can take as little as two weeks or as much as a year. She provided an overview:

- Approximately 50 applications are received each year
- Approximately 25 licenses are issued each year
- Eight to thirteen complaints are filed each year
- Approximately 1,000 individuals are licensed in the state
- Licensees are required to complete twenty continuing education units each year
- Licensees are required to follow the American Psychological Association Code of Ethics and Principles

Representative Hammer recognized Dr. Michael Loos, Executive Director, Arkansas Board of Examiners in Counseling. Dr. Loos told committee members he has been in his position for eighteen months and has helped the agency to significantly improve its efficiency during that time. He said Exhibits E-1 through E-2c contain all of the Board's rules and regulations, plus a copy of the packet applicants receive. Applicants are responsible for providing the documents necessary to receive accreditation. Dr. Loos said there are issues the Board is unable to control, such as background checks and competency exam scores. He discussed his future plans to digitize files, which will improve the credential renewal process and create more accuracy. Dr. Loos was asked how many individuals apply annually. He said the Board receives approximately 250 applications each year. He was asked what is the total number of accredited counselors in Arkansas. Dr. Loos said there are a total of 3,000 licenses, which include 2,116 with active licenses, and some who reside out-of-state, or are non-practicing.

There being no further business, the meeting adjourned at 3:00 p.m.