

**APPENDIX B**

**MINUTES**

**2015 – 2016**



## JOINT PERFORMANCE REVIEW COMMITTEE

MAY 18, 2015

### MINUTES

The Joint Performance Review Committee met Monday, May 18, 2015 at 1:00 p.m. in Room 151, State Capitol, Little Rock, Arkansas.

Committee members present were Senator Alan Clark, Senate Chair, Linda Collins-Smith, John Cooper, Jane English, Jeremy Hutchinson, Missy Irvin, Bryan King, Terry Rice, and Gary Stubblefield, and Representatives Kim Hammer, House Chair, Scott Baltz, Jana Della Rosa, Lance Eads, Kenneth Ferguson, Charlene Fite, Mickey Gates, Mary Hickerson, Josh Miller, Micah Neal, Chris Richey, Dan Sullivan, Dwight Tosh, Clarke Tucker, John Walker, and David Whitaker.

Other members present were Senators Linda Chesterfield, Jonathan Dismang, Jimmy Hickey, and Stephanie Flowers, and Representatives Nate Bell, David Branscum, Mary Broadaway, Joe Jett, Frederick Love, Mark Lowery, Mark McElroy, and James Ratliff.

#### **Call to Order**

Representative Hammer called the meeting to order.

#### **Opening remarks – Senator Alan Clark and Representative Kim Hammer, Co-Chairs**

Representative Hammer told committee members that a copy of the duties and responsibilities of the committee are provided [Exhibit C]. He also stated that today's primary agenda item concerns an issue presented during a December, 2014 Legislative Audit meeting. Senator Clark welcomed the committee members.

#### **Discussion of ISP 2015-008 “Requesting the Joint Performance Review Committee Study the Professional Licensing Agencies in Arkansas, the Professional Licensing Standards, and Whether the Need for These Regulatory Activities Exists” by Senator Jane English [Exhibit D]**

Representative Hammer recognized Senator English, sponsor of ISP 2015-008 for comments. Senator English said the ISP study will look at licensing agencies to review the requirements and determine the necessity of licenses and their affect on small businesses. A motion to adopt ISP 2015-008 was made by Senator Gary Stubblefield and seconded by Representative Micah Neal. The motion was passed unanimously.

#### **Discussion of ISP 2015-111 “An Act to Limit the Issuance of Permits for the Off-Premises Sale of Beer and Wine in Proximity to Churches and Schools; and for Other Purposes” by Representative Hammer [Exhibit E]**

Representative Hammer told legislators that ISP 2015-111 concerns the issuance of alcohol permits. The study will provide a review of alcohol sales statewide with a focus on the issuance process. A motion to adopt the ISP was made by Representative Hickerson and seconded by Senator English. The motion was passed unanimously.

## **History, Overview and Panel Discussion of the C.H. Mack Contract and the CoCENTRIX Licensing Agreement with the Arkansas Department of Human Services [Handouts]**

Representative Hammer referenced a list of questions relating to this issue that he had put together. [Handout 1] He then recognized Andy Babbitt, Supervisor Senior Auditor, Division of Legislative Audit. Mr. Babbitt gave an overview of the contract between the Department of Human Services and C. H. Mack and Associates, which was reviewed during a Legislative Audit Committee meeting in December, 2014. A committee member then asked Representative Hammer about the appropriateness of discussing an issue being reviewed by another legislative committee. Representative Hammer noted that no action was taken during that previous Legislative Audit meeting, and that a number of legislators still had concerns regarding the C. H. Mack contract.

Mr. Babbitt gave an overview of software systems licensing agreements between the Arkansas Department of Human Services (DHS), C. H. Mack Associates, and CoCENTRIX. He reviewed the timeline of the DHS contract and expenditures:

- DHS issued a Request for Quotation (RFQ) in July, 2010
- DHS awarded a contract to C. H. Mack in May, 2011 - total cost \$2.14 million
- DHS amended its' original contract with C. H. Mack – for a total cost of \$2.16 million
- DHS completed a vendor performance report resulting in unsatisfactory performance by C. H. Mack- December, 2012
- DHS cancelled its contract with C. H. Mack in May, 2013 - total expenditures \$4.8 million.

Following the cancellation of the contract with C. H. Mack, DHS entered into a Scope of Work Agreement with CoCENTRIX, a software systems company, to provide an electronic Universal Assessment software tool, which the C. H. Mack firm failed to provide. Mr. Babbitt stated that the Scope of Work Agreement with CoCENTRIX is based on a State Cooperative Purchase Agreement issued through the Western State Contracting Alliance (WSCA). Mr. Babbitt said the total cost estimate provided by the Department of Finance and Administration (DF&A) Office of State Procurement (OSP) lists the total amount of monies currently paid to CoCENTRIX at \$9.24 million

Representative Hammer recognized Craig Cloud, Director, Division of Aging and Adult Services, and Tim Lampe, Office of Program Management, DHS. Mr. Lampe was asked to justify the selection by DHS of C. H. Mack. Mr. Lampe summarized the process as follows:

- DHS entered into a contract with C. H. Mack - May 4, 2011
- C. H. Mack furnished a product to DHS - April, 2013
- DHS Information Technology and Data Management experts reviewed the C. H. Mack Medcompass application - July, 2013
- Due to the failure of the application to function, DHS issued a stop payment letter to C. H. Mack - September 20, 2013
- C. H. Mack was required to deliver a corrective plan of action in 45 days per the September 20, 2013 letter

- C. H. Mack was required to deliver a fully functional product in 60 days per the September 20, 2013 letter
- DHS tested the product provided by C. H. Mack from November, 2013 through February, 2014
- Following discussion with the DHS Office of Chief Counsel, DHS terminated its relationship with C. H. Mack in May, 2014

Mr. Lampe was asked to list the terms of the C. H. Mack contract. Mr. Lampe stated that DHS was seeking two major software functions:

- The ability of independent assessors to assess the population of the DHS Division of Aging and Adult Services (DAAS) and the Developmental Disability Services (DDS) population.
- The ability of assessors to provide a plan of care

Mr. Lampe further stated that the assessments of the two populations will result in the recording of service delivery, similar to an electronic medical record, including information a guardian, an individual, and/or a provider community can view.

Mr. Lampe was asked how C. H. Mack was selected. He stated that a total of seven companies responded to an RFQ in July, 2010. A DHS technical evaluation team selected C. H. Mack. Mr. Lampe was asked about the retrieval of existing data from C. H. Mack and if it has been transitioned over to CoCENTRIX. Mr. Lampe stated that the data is housed on a DHS server and DHS is working with the CoCENTRIX vendor to migrate the data into a workable product.

Mr. Lampe was asked to provide the cost of the CoCENTRIX agreement. Mr. Lampe summarized the costs and timeframe:

- DHS entered into a five-year licensing agreement with CoCENTRIX on May 1, 2014
- DHS amended its agreement – October 20, 2014
- The total five-year budget - \$16 million
- The total expenses paid to date - \$9 million
- The agreement has been in place less than a year

Mr. Lampe was asked to describe the method DHS used to select CoCENTRIX. Mr. Lampe stated that he initiated a sole source pilot program with CoCENTRIX in 2013 at a cost of \$65,000 to determine the firm's ability to provide a functioning tool to perform Universal Assessments. Mr. Lampe was asked if he has assumed the responsibility for the Medicaid Eligibility and Enrollment Framework (EEF) project. Mr. Lampe said that he has assumed this responsibility during the past three weeks as a component of the DHS Program Management Office.

Representative Hammer recognized Kenneth Robinson, President, Pine Bluff Psychological Associates (PBPA), who gave an overview of the work his organization provides to DHS.

- In response to an RFQ issued by DHS, a contract was awarded to PBPA - November, 2012

- The terms of the contract consisted of assessing of 5,500 adults served by the DHS Division of Developmental Disabilities Services
- The organization submitted a bid of \$149 per assessment
- A second contract for the assessment of 5,500 children on a DHS waiver waiting list was executed – September, 2013
- The organization submitted a bid of \$169 per assessment

Mr. Robinson stated that at the end of the second contract period, September, 2014, the organization had completed 4,563 assessments. The transmission of the children's names onto the waiver waiting list from DHS to the PBPA rolls has been delayed. Due to the delay, the second contract was extended to June 30, 2015.

Representative Hammer recognized Pam Cooney, Service Coordinator, Pine Bluff Psychological Associates (PBPA). Ms. Cooney discussed the use of the C. H. Mack software system by the organization. She stated that the software was not used by the organization as intended because the assessors could not use the offline portion of the software. Assessors could not access Medcompass through its network.

Representative Hammer recognized John Malcolm, Vice President, Government Solutions and Bill Guize, Senior Vice President, CoCENTRIX. Mr. Malcolm was asked which agencies will receive services under its contract with DHS. Mr. Guize responded to the question and said the original contract covers four DHS agencies; the Division of Aging and Adult Services (DAAS), the Division of Behavioral Health Services (DBHS), Developmental Disability Services (DDS), and the Office of Long Term Care (OLTC)

Mr. Malcolm told the committee members that CoCENTRIX has delivered improved aspects of the software solution to DHS, but the electronic assessment function has not been completed. He also said there have been delays in their contract deliverables. When asked for the original bid amount, Mr. Malcolm stated that the initial bid was \$19 million for a five-year timeframe. Following a restructuring of the contract by Tim Lampe, the contract amount was reduced down to \$16 million. The total expenditures to date is \$9.1 million.

Representative Hammer announced that the Joint Performance Review Committee will meet at 10:00 a.m. Thursday, June 18, 2015 at the Second Chance Youth Ranch in Paron, Arkansas.

There being no further business, the meeting adjourned at 3:10 p.m.

## JOINT PERFORMANCE REVIEW COMMITTEE

JUNE 17, 2015

### MINUTES

The Joint Performance Review Committee met Wednesday, June 17, 2015 at 9:00 a.m. in Room A, Big Mac Building, Little Rock, Arkansas.

Committee members present were Senators Alan Clark, Senate Chair, Linda Collins-Smith, John Cooper, Jane English, Jeremy Hutchinson, Missy Irvin, Terry Rice, David Sanders, and Gary Stubblefield, and Representatives Kim Hammer, House Chair, Scott Baltz, Jana Della Rosa, Lance Eads, Kenneth Ferguson, Mickey Gates, Michelle Gray, Josh Miller, Milton Nicks, Jr., Chris Richey, Dan Sullivan, Dwight Tosh, John Walker, Dave Wallace, and Richard Womack.

Other members present were Senators Jonathan Dismang, Joyce Elliott, Bobby Pierce, Jason Rapert, and Larry Teague, and Representatives Nate Bell, Mary Bentley, Charles Blake, Ken Bragg, David Branscum, Mary Broadaway, Andy Davis, Trevor Drown, Bill Gossage, Kelley Linck, Mark McElroy, David Meeks, Stephen Meeks, Reginald Murdock, Mathew Pitsch, Nelda Speaks, James Sorvillo, and Marshall Wright.

#### **Call to Order**

Representative Hammer called the meeting to order.

#### **Opening remarks – Senator Alan Clark and Representative Kim Hammer, Co-Chairs**

Representative Hammer thanked the vendors involved in the Medicaid/SNAP Eligibility and Enrollment Framework (EEF) project for attending the meeting. He referenced a list of questions relating to the issue that he had put together.

#### **Approval of Minutes – May 18, 2015 [Exhibit C]**

A motion to approve the minutes of the May 18, 2015 JPR Committee meeting was made by Senator English and seconded by Representative Baltz. The motion carried.

#### **Overview of the AR Department of Human Services (DHS) Medicaid/SNAP Eligibility and Enrollment Framework (EEF) Project [Exhibit D, D-1, D-2, D-3]**

Representative Hammer recognized John Selig, Director, Arkansas Department of Human Services (DHS), for an overview of the Eligibility and Enrollment Framework (EEF) project. Mr. Selig said the EEF project has experienced problems because of federal rules, new software required, and software vendor changes. He gave an outline of work performed by DHS:

- DHS began work on the EEF project in 2011 with a deadline of October 1, 2013 for eligibility enrollment
- DHS began work with the Department of Information Systems (DIS) and the Office of State Procurement (OSP) in 2012 processing a Request for Proposal (RFP)
- Noridian Healthcare Solutions was selected by an evaluation team

- DHS negotiated, but was unable to reach agreement with Noridian concerning, milestones, penalties, and deliverables included in the contract
- DHS entered into a Staff Augmentation Contract with DIS
- January, 2015 DHS removed EngagePoint as lead vendor

Mr. Selig said that DHS attempted to manage the project with assistance from DIS, but after several months problems occurred causing delays. Currently, the Governor's office and DIS are working closely with DHS to take corrective actions. A determination was made to create a Project Management Office. Future plans include hiring a systems integrator. Mr. Selig said the legislature approved a contract between DIS and Gartner, Inc. to review the project's software components, including the IBM/CURAM software. The review by Gartner, Inc. is projected to take approximately three months. Recommendations by Gartner, Inc. will be made to the Governor, DHS, DIS, and legislators.

### **Discussion of Western State Contracting Alliance (WSCA) – State Cooperative Purchase Agreement**

Representative Hammer recognized Camber Thompson, Director, Office of State Procurement, Department of Finance and Administration (DF&A). Ms. Thompson told legislators she represents Arkansas as a member of the National Association of State Procurement (NASPO). She explained what a cooperative contract is and said that the state participates in the WSCA contract with Computer Aid, Incorporated (CAI). Cooperative contracts have one state that acts as the lead in the procurement of software. The partnering states act as sourcing teams with different procurement agents in each state. The teams help write and evaluate an RFP to ensure a competitive process through NASPO. A master contract is held by the lead state.

### **Question and Answer Session with Vendors Affiliated With the EEF Project**

Representative Hammer recognized Mark Guerinot, IBM/CURAM Solution, Director, Client Success, and Steve Frank, Sales Leader. Mr. Guerinot gave an overview of his software company's EEF products. He said it is a framework for clients to address social programs, which include medical, food, income assistance, child welfare, and implementation of the Affordable Care Act (ACA). He said the IBM/CURAM software has been successfully deployed in multiple states. As an off-the-shelf commercial product, it required additional configuration to meet individual client needs. Arkansas obtained the software at a cost of \$11.7 million. DHS also procured IBM/CURAM services in an initial contract at a cost of \$1.9 million. Extensions to the contract brought the total cost to \$6.2 million. These services were procured through the CoCENTRIX (SHI) relationship.

Representative Hammer recognized Amy Caro, Vice President and General Manager, Health and Human Services Division, Northrop Grumman, and Brian Keltch, Arkansas Program Manager, Northrop Grumman. Ms. Caro gave an overview of the company and said they have partnered with Arkansas for nineteen years. Beginning in 2013, the company performed tasks related to the EEF project which include:

- The Arkansas Network System for Welfare and Eligibility Reporting (ANSWER)

- Transition Support Task Order providing the transition of DHS Division of County Operations Systems to IBM/CURAM
- The Data Conversion Task Order to convert information containing demographics benefit history, and case narrative images for 400,000 individuals from ANSWER to the EEF
- The EEF Reporting Task Order provided reports required by the federal Centers for Medicare and Medicaid Services (CMS) and the Arkansas Department of Human Services Division of Children and Family Services (DCFS) for reports to support the EEF implementation

Ms. Caro said that Northrop Grumman has provided Legacy IT support to the state for Medicaid eligibility services with 128 Arkansas based employees. In response to a question, Brian Keltch told the legislators their company partnered with the RedMane company on the EEF project. The company is assisting with the transition from the existing system, as required by the Arkansas Governance Board.

Representative Hammer recessed the meeting at noon to resume at 12:50 p.m.

Representative Hammer recognized Pradeep Goel, CEO, EngagePoint and Lorie Farris, Vice President, EngagePoint. Mr. Goel gave an overview of the work his company performed for DHS on the EEF project. He referenced information provided to legislators (Handout 1).

- EngagePoint entered into a time and materials contract with DHS in March, 2013
- EngagePoint was assigned the role of systems integrator in June, 2013
- EngagePoint worked with a variety of vendors from June, 2013 to October, 2013
- Eligibility determination software was in place by November, 2013
- Beginning October, 2013 through December 31, 2013 problems continued to occur
- Multiple teams worked on various issues from January, 2014 through May, 2014

Mr. Goel said EngagePoint was unable to reach consensus with DHS leadership on how to organize the project. The company's contract expired at the end of 2014 and was not renewed by DHS. EngagePoint was allowed to transition its data to another vendor.

Representative Hammer recognized Ashish Mukherji, President, eSystems, and Vivek Sawhney, Vice President, eSystems. Mr. Sawhney gave an overview of his company. He said the company specializes in social services implementations as an IT services company. They also specialize in implementation of the IBM/CURAM product. eSystems was a subcontractor for Noridian. Their role was the customization of the IBM/CURAM product. The system was implemented during a four month timeframe and went into production October 1, 2013. Following production of the system, additional functionality was being incorporated. CMS changed federal requirements and the expected functionality of the IBM/CURAM product did not work as intended.

Representative Hammer recognized Colin Michaelis, Principal, RedMane Technology and Ms. Pui Leung, RedMane. Mr. Michaelis gave an overview of RedMane. Mr.

Michaelis said the company focuses on computer systems for state governments, primarily in the area of social services, SNAP, Child Welfare, and Child Support. RedMane was contracted to assist in the implementation of the IBM/CURAM product. RedMane began work as the Systems Integrator in January, 2014 to develop a modernized SNAP system built on the IBM/CURAM product. He said the project is continuing and is on schedule. Additionally, RedMane has been asked to integrate the SNAP solution with the Modified Adjusted Gross Income (MAGI) Medicaid. RedMane is beginning additional work under a current contract.

Representative Hammer recognized Bruce Dunham, Practice Director, Cognosante, Kurt Hartman, Project Manager, and Aaron Cardola, Cognosante. Mr. Dunham said that Cognosante has been working in Arkansas since 2009. The company is currently developing MMIS project requirements and design. In October, 2014, DHS asked the company to conduct an assessment of the EEF project to evaluate management needs and best practice standards. Upon completion of the assessment, a series of recommendations was given to the DHS IT Steering Committee. Mr. Dunham said the company is working with DHS to establish a new Project Management Office, which he will lead.

Representative Hammer recognized David Sodergren, First Data. Mr. Sodergren said the company entered into a contract with DHS in May, 2013. The company provides project management services, business transformation, and procurement support. The focus of its contract was an evaluation of the IBM/CURAM product. First Data compiles a report, which is submitted on a monthly basis to the Arkansas EEF Governance Board, CMS, and state leadership.

Representative Hammer recognized Wes Menzies, Protech Solutions. Mr. Menzies said the company originally provided staff augmentation for EngagePoint. Protech Solutions entered into a state contract under Computer Aide, Inc. (CAI) November, 2013. Protech Solutions provides experts, system administrators, and Senior IBM/CURAM coders. Mr. Menzies told legislators he is currently working in the change management area as a liaison between the coders and the developers.

Representative Hammer recognized Bill Guize, Senior Vice President and John Malcom, Vice President, Government Solutions, CoCENTRIX. Mr. Malcom gave an update and a progress report from May 18, 2015 to the present. Mr. Malcom said that implementation of a Universal Assessment Platform system for the Division of Developmental Disabilities and the Division of Aging and Adult Services is now current. The company is focusing on an offline solution for the laptops used by Pine Bluff Psychological Associates and the Division of Aging and Adult Services. Improvements have been made, but the system is still experiencing problems.

Representative Hammer announced that the Joint Performance Review Committee will meet June 18, 2015 at the Second Chance Youth Ranch in Paron, Arkansas.

There being no further business, the meeting adjourned at 5:30 p.m.

## JOINT PERFORMANCE REVIEW COMMITTEE

JUNE 18, 2015

### MINUTES

The Joint Performance Review Committee met Thursday, June 18, 2015 at 10:00 a.m. at the Second Chance Youth Ranch, Paron, Arkansas.

Committee members present were Senators Alan Clark, Senate Chair, and Gary Stubblefield, and Representatives Kim Hammer, House Chair, Jana Della Rosa, Kenneth Ferguson, Mickey Gates, Milton Nicks, Jr., Dwight Tosh, and Dave Wallace.

Other members present were David Meeks and Stephen Meeks.

#### **Call to Order**

Representative Hammer called the meeting to order. Representative Hammer recognized Perry Black, Founder of the Second Chance Youth Ranch.

#### **Overview of Programs Offered at the Second Chance Youth Ranch, a DHS Licensed Residential Child Care Facility, Staff Comments, Interaction With Children Housed at the Ranch, and Tour of the Facilities**

Pastor Perry Black welcomed the legislators and gave an overview of the organization, which he described as a 501(c)3, public benefit charity, with a faith based program. The program is designed to provide youth in foster care a safe, stable, homelike environment. He explained that construction of the facility began in 2000 with a goal to build multiple family-style bunkhouses for young adults and house parents, and provide a family environment for the foster children. He then described their new additional program called Transitional Living Program (TLP) which currently houses seven girls in a residence in Bryant, Arkansas. The average age for students in the TLP program is between 16½ and 17 years of age. This program is designed to help older children to transition to becoming an independent adult and to live on their own. The young adults seek and obtain employment and learn life skills such as cooking, cleaning and maintaining their living quarters. The TLP young adults open checking and savings accounts. They are required to save money. Five students in the TLP program have purchased automobiles. An offer has been made to purchase a second residence in Bryant to house boys in the TLP program. Pastor Black said there is a bunkhouse for boys at the Ranch scheduled to open August 1, 2015.

Pastor Black discussed future plans for the organization which involve harvesting of 200 acres of pine trees growing on the property which are projected to provide between \$1.2 to \$1.5 million. The organization plans to use these funds to fence the property, build horse stables, construct a sports field, and a swimming pool.

Pastor Black responded to questions concerning the Ranch's financial arrangements for the services it provides to the students. Cost to operate one house is \$105,000 annually, which includes compensation to house parents, food, utilities, supplies, and transportation. It does not include clinical services, such as therapy and life

maintenance. A partnership with the Counseling Clinic of Benton costs \$175,000, which covers salaries for three employees who provide clinical services. An additional \$200,000 covers the cost for additional clinical staff, two caseworkers, and two therapists, with the majority of the cost reimbursed through Medicaid. The salaries for house parents ranges between \$40,000 to \$50,000 and a salary of \$25,000 for respite house parents.

Pastor Black was asked to describe the relationship between the organization and the Department of Human Services (DHS). He said there are three levels of care provided to children by DHS. Level One students are typically very young. Level Two students are children who have been identified as abused or neglected. Level Three students are children identified as dangerous. The Ranch takes in children who are between 13 to 17 years of age and are identified as Level Two by DHS. All students receive the same services. Two levels of financial arrangements with DHS include:

- \$750.00 per month per student, less a monthly allowance of \$105.00
- \$90.00 per day per student

Pastor Black outlined the process used by DHS to identify students who are eligible to reside at the Ranch. DHS makes the initial contact to the Ranch requesting placement. Children typically spend one to two days over a weekend at the Ranch during which the Clinical Director does an initial screening. The house parents, where the child stays during the weekend, conduct an evaluation of the child and talks with other students already in residence. The evaluations are submitted to Pastor Black who makes the final determination for admittance into the Ranch's program.

### **Overview by Arkansas Department of Human Services (DHS) Staff Regarding Policies for Removing Children from a Troubled Home Environment, Placement of Children in Licensed DHS Facilities, Foster Care, Adoptions, and Funding Sources**

Representative Hammer recognized Cecile Blucker, Director, Division of Children and Family Services, Arkansas Department of Human Services (DHS). Ms. Blucker described the process used by DHS when an investigation into child abuse is conducted. The process begins when a hotline report about a possible abused child has been made. DHS personnel assess and determine whether or not the child is at risk. A final determination is then made as to if the child can safely remain in the home, or needs to be removed. When a determination is made that the child cannot remain in the home, DHS personnel are assigned to locate a suitable placement for the child. If it becomes necessary to involve the court system, a judge makes the final decision for the placement of the child. Based on probable cause, the judge also makes the decision if the child should remain in the foster care system. Ms. Blucker said the current Arkansas population of children in the foster care system is 4,465.

The legislators were taken on a tour of the Ranch, visiting the bunkhouses, common areas, and chapel, and meeting with the students.

There being no further business, the meeting adjourned at 12:00 noon.

## **JOINT PERFORMANCE REVIEW COMMITTEE**

**JULY 30, 2015**

### **MINUTES**

The Joint Performance Review Committee met Thursday, July 30, 2015 in Room A, Mac Building, Little Rock, Arkansas.

Committee members present were Senators Alan Clark, Co-Chair, John Cooper, Jane English, and Missy Irvin, and Representatives Kim Hammer, Co-Chair, Jana Della Rosa, Lance Eads, Kenneth Ferguson, Mickey Gates, Mary "Prissy" Hickerson, Josh Miller, Milton Nicks, Jr., Chris Richey, Dan Sullivan, Dwight Tosh, Clarke Tucker, John Walker, and Richard Womack.

Other legislators present were Senators Linda Chesterfield, Stephanie Flowers, Jimmy Hickey, Bruce Maloch, Larry Teague, and Jon Woods, and Representatives Eddie Armstrong, Bob Ballinger, Nate Bell, Mary Bentley, Mary Broadaway, Karilyn Brown, Andy Davis, Gary Deffenbaugh, Charlotte Douglas, Trevor Drown, Jeremy Gillam, Bill Gossage, Grant Hodges, Bob Johnson, Sheilla Lampkin, Mark McElroy, David Meeks, Stephen Meeks, Betty Overbey, Matt Pitsch, Marcus Richmond, Jeff Wardlaw, and Marshall Wright.

#### **Call to Order**

Representative Hammer called the meeting to order.

#### **Approval of Minutes – June 17, and June 18, 2015 [Exhibit C, C-1]**

A motion to approve the minutes of the June 17, and June 18, 2015 JPR Committee meetings was made by Representative Kenneth Ferguson and seconded by Senator John Cooper. The motion carried.

#### **Discussion of Licensing Procedures Used by the Office of Motor Vehicle, Arkansas Department of Finance and Administration (DFA) [Exhibit D]**

Representative Hammer recognized Tim Leathers, Deputy Director and Commissioner of Revenue, Arkansas Department of Finance and Administration (DF&A). Mr. Leathers gave an overview of the Office of Motor Vehicle and said there are a total of 134 revenue offices and 4.1 million transactions processed annually. The Department has improved the methods it used for the renewal of vehicle registration and driver licenses. A software program known as "ARStar" allows customers to renew their vehicle license by smartphone or online. Mr. Leathers said that data shows 2.9% of all vehicle registration renewals for Fiscal Year 2014-2015 were made by telephone, with 1.47% made on a new Kiosk system. 72% of renewals continue to be made by walk-in customers. Mr. Leathers said he believes the number of walk-in customers will decrease over time as a younger population takes advantage of renewing by smartphone or online.

## **Review of the State Employee Performance Evaluation Process and Training Process**

### **[Exhibit E]**

Representative Hammer recognized Kay Barnhill Terry. Ms. Terry outlined the Arkansas Merit Pay system for state employees:

- Within 30 to 90 days of initial employment, all state employees receive job standards
- At the end of one full year of employment, an evaluation is performed by the employee's immediate supervisor and reviewed by the supervisor's manager
- Four categories of evaluation results are: excellent, exceeds standards, above-average, and unsatisfactory
- Merit pay is awarded to employees based on their evaluation
- 22,698 state employees were evaluated in Fiscal Year 2014-2015
- 10,000 employees received an above-average evaluation
- 4,100 employees received a satisfactory evaluation
- 112 employees were given an unsatisfactory evaluation

## **Report of Transparency Plans-Act 1265 of 2015 the Public Safety Transparency and Accountability Act [Exhibit F]**

Representative Hammer recognized Sheila Sharp, Director, Arkansas Community Correction (ACC), Wendy Kelley, Director, Arkansas Department of Correction (ADC), and John Felts, Chairman, Arkansas Parole Board (APB). Ms. Sharp discussed the report required by Act 1265 of 2015, which is referred to as the "Transparency Act". She said that ACC submitted its report in June, 2015. ACC anticipated a completion date of August, 2015 to allow for any corrections and/or changes found in the report. However, the Department did not receive cost estimates and informational data to make the programming changes required by Act 1265 until the end of July, 2015. She said ACC is acting as quickly as possible to make the required programming changes.

Representative Hammer recognized Wendy Kelley, Director, ADC. Ms. Kelley told the legislators that the ADC is in a similar situation as the ACC regarding programming changes required by Act 1265. She said that the ADC received cost estimates totaling \$112,556 at the end of July, 2015, plus a projected timeframe of five months to complete the required changes. She said the programming changes required are complicated, forcing a revised cost estimate.

John Felts, Chairman, APB stated that the Arkansas Parole Board has the same situation, with the same changes required.

## **Update on the Status of the CoCENTRIX Contract and the Functionality of the Universal Assessment Platform**

Representative Hammer recognized Craig Cloud, Director, Aging and Adult Services, Department of Human Services (DHS). Mr. Cloud discussed the status of the contract between DHS and CoCENTRIX, Inc. He said the current contract deliverables have been met and were successfully tested in an offline environment. The next deadline for a deliverable by CoCENTRIX is August 14, 2015, which is required by the Centers for Medicare and Medicaid Services (CMS) to comply with the International Classification

of Diseases Code (ICD 10) code. Mr. Cloud was asked how many individuals are on a waiting list for services through community-based waivers.

Mr. Jim Brader, Director, Developmental Disabilities Services, (DDS) DHS, responded to the question and said there are 2,800 individuals on the waiting list. He said that DDS has been unable to locate a large number of the individuals on the waiting list because they have moved and have not updated their addresses. The Department is working to contact these individuals by sending certified letters, cross-referencing information with other databases, and sending DDS personnel to known addresses. For those persons DDS is unable to locate, their names will be placed on a deferred list.

### **Continuation of Review of Vendors Affiliated with the Arkansas Department of Human Services' Medicaid Eligibility and Enrollment Framework (EEF) Project [Exhibit H]**

Representative Hammer recognized Joanne Gallagher, Director, Computer Aid Incorporated (CAI) and Richard Wyatt, Chief Information Officer, Office of Systems and Technology, DHS.

Ms. Gallagher said that CAI provided direct services for the Medicaid Eligibility and Enrollment Framework (EEF) project in its contract with DHS from August, 2011 to July, 2015. During this time period, there were a total of six Statement of Work (SOW) contracts for a total of \$4.9 million. In July, 2015, the Cognosante company assumed the Program Management Office component of the EEF project for DHS. Ms. Gallagher reviewed the Statements of Work (SOW), which included:

- An analysis of the technical infrastructure that existed within DHS
- Preparation of the Request for Proposal (RFP)
- Additional assistance in preparation of the RFP
- Three additional SOWs provided coordination and reporting of project status, the coordination of project management meetings, and reports to the DHS Governance Group

Representative Hammer recognized Richard Wyatt who discussed the development of the RFP and vendor selection for the EEF project. Mr. Wyatt outlined the process:

- The original RFP received six bids from vendors
- Noridian Healthcare Solutions was the first vendor selected
- February 13, 2015, DHS notified Noridian Healthcare Solutions that negotiations were halted
- February 13, 2015, Mr. Wyatt contacted the Office of State Procurement (OSP) and asked if DHS could award the contract to its second choice bidder, the Northrop Grumman Corporation
- February 13, 2015, Mr. Wyatt was told by OSP that the second bidder could not be selected

Mr. Wyatt said that following the elimination of the first two vendors, the only option available to DHS to meet the October 1, 2013 deadline set by CMS was to utilize the CAI Information Technology staff augmentation contract.

Representative Hammer recognized Camber Thompson, Administrator, Office of State Procurement (OSP), DF&A. Ms. Thompson was asked to describe her familiarity with the RFP vendor selection process for the EEF project. She said she was employed by OSP as Technical/Equipment staff during the time period the RFP was under consideration. In response to questions, Ms. Thompson said she is unable to provide any background on discussions between DHS and the previous OSP administrator.

Representative Hammer stated that without objection by the committee, a letter will be drafted requesting the Division of Legislative Audit to:

- Review time sheets and the approval process for all remote sources for the EEF project - to ensure that the state paid for only the actual hours worked
- Review all additions/deletions of remote sources to/from the EEF project - to ensure the state paid for only the resource the state approved
- Review the skills and expertise and compliance of vendors for the EEF project – to ensure the state paid only for the skills and expertise promised and not anything else

Representative Hammer told the committee that once this report is received from Legislative Audit, a joint meeting of the Joint Performance Review Committee and Legislative Joint Auditing Committee will be scheduled to review the report.

Representative Hammer recessed the meeting at 12:20 p.m.

**Review of Procedures Used by the Arkansas Department of Human Services (DHS) to Remove Children From Their Home, and an Overview of the Child Maltreatment Registry, the Child Abuse Hotline, the Attorney Ad Litem Program, and the CASA Program (Arkansas Child Maltreatment Act (A.C.A. §12-18-101-1202))**

Senator Clark reconvened the committee meeting at 1:00 p.m. He recognized Captain Ron Stayton, Division Commander, Arkansas State Police, and Katherine Finnegan, Primary Investigator-Hot Springs Division, Crimes Against Children, Arkansas State Police.

Captain Stayton described the process used by the Crimes Against Children Division (CACD) of the Arkansas State Police for investigations when a report of child abuse is called in to the Child Abuse Hotline:

- The Child Abuse Hotline is operated 24 hours a day, seven days a week with 27 operators
- Operators conduct a telephone interview with the person reporting the abuse and determine whether the investigation should be assigned to the CACD or to the Department of Human Services Division of Children and Family Services (DCFS)
- An investigator is assigned to gather facts and determine if a preponderance of evidence indicates that child maltreatment has occurred
- A decision is made concerning whether or not the facts support a true finding
- A supervisor reviews the case with the investigator
- When a true finding is made, an offender is notified of their right to appeal – they have 30 days to register an appeal

- Appeals are made to the Administrative Office of Appeals and Hearings
- Testimony is heard by an Administrative Law Judge
- Offenders have the right to appeal the decision of the Administrative Law Judge to the Pulaski County Circuit Court

Legislators discussed in detail the investigations of maltreatment cases by both the CACD and DCFS.

Senator Clark recognized Cecile Blucker, Director, Division of Children and Family Services (DCFS). She told legislators that the DCFS has investigation protocols similar to those used by the CACD. She described the DCFS process:

- An investigator goes to the home and conducts an assessment
- The investigator makes a decision as to whether or not a child/children can safely remain in the home
- If the investigator determines the child/children can safely remain in the home, a protection plan is put in place
- When a protection plan is put in place, the new process requires a team that includes family members and a support system, to meet and reach a consensus on the needs to safely keep the child/children in the home
- When a child/children are removed from the home, they are placed in the foster care system
- When a child/children are removed from the home, a 72 hour hold is established while a judge decides if the child/children should remain in the custody of DCFS, or be released to their family
- When a judge determines that a child/children should remain in foster care, the judge may assign an Attorney Ad Litem to represent the child/children

Legislators discussed the difficulties and challenges involved in child maltreatment cases.

Senator Clark adjourned the meeting at 3:20 p.m.



## JOINT PERFORMANCE REVIEW COMMITTEE

SEPTEMBER 9, 2015

### MINUTES

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

Committee members present were Senator Alan Clark, Co-Chair, Linda Collins-Smith, John Cooper, Jane English, Jeremy Hutchinson, Terry Rice, and Gary Stubblefield, and Representatives Kim Hammer, Co-Chair, Scott Baltz, Jana Della Rosa, Kenneth Ferguson, Charlene Fite, Mary "Prissy" Hickerson, Milton Nicks, Jr., Dwight Tosh, John Walker, and Dave Wallace.

Other legislators present were Linda Chesterfield, Bart Hester, Bill Sample, Greg Standridge, and Eddie Joe Williams, and Representatives Charles Armstrong, Bob Ballinger, Mary Broadaway, Jim Dotson, Trevor Drown, Jon Eubanks, David Fielding, Justin Gonzales, David Hillman, Greg Leding, Kelley Linck, Frederick Love, Mark McElroy, Stephen Meeks, Betty Overbey, Sue Scott, and James Sorvillo.

#### **Call to Order**

Representative Hammer called the meeting to order.

#### **Approval of Minutes – July 30, 2015 [EXHIBIT C]**

A motion to approve the minutes of the July 30, 2015 JPR Committee meeting was made by Senator Cooper and seconded by Senator Collins-Smith. The motion carried.

#### **Consideration of Motion: "To Authorize Committee Co-Chairs to Approve Special Expenses Incurred by the Committee [Exhibit D]"**

A motion to authorize Committee Co-Chairs to approve special expenses incurred by the Committee was made by Representative Hickerson and seconded by Senator Hutchinson. The motion carried.

#### **Continue Discussion of Licensing Procedures Used by the office of Motor Vehicle and the Office of Revenue Office Administration, Arkansas Department of Finance and Administration (DF&A) [Exhibit E]**

Representative Hammer recognized Walter Anger, Assistant Commissioner for Operations, Office of Financial and Management Services, DF&A, Marla McHughes, Administrator, Office of Revenue, Office Administration, DF&A, and Roger Duren, Administrator, Office of Motor Vehicle, DF&A.

Ms. McHughes responded to questions by legislators regarding the Office of Revenue's employee turnover, job standards, training, and evaluations. She gave the following information:

- Total number of employees in all revenue offices throughout the state - 472
- Current employee turnover rate - 15%
- Cost for training service representatives - \$2,000 per employee
- Employee training consists of computer based training, navigation of the computer system, review of procedural manuals, including motor vehicle and drivers license manuals
- Applicants must meet basic job standards and requirements

Ms. McHughes responded to a question concerning success rates by Office of Revenue for hiring managers. She said she will collect the requested data for the committee.

Tim Leathers was asked to research the number of positions within the Office of Revenue affected by the hiring of two persons in the same position within a one-year timeframe. He said the information will be obtained and provided to the committee.

Kay Barnhill, Personnel Administrator, Office of Personnel Management, DF&A answered questions posed by legislators concerning workforce retention, including exit interview data. She was asked to compile a list of state agencies who perform exit interviews. Ms. Barnhill was also asked to compile a report regarding citizen complaints about revenue offices.

Representative Hammer introduced Misty Banks, Accounting and Title Clerk, and Bridgette Chandler, Everett Buick, GMC, Bryant, Arkansas. Representative Hammer told committee members that Ms. Banks and Ms. Chandler were invited by the Co-Chairs to give the automobile dealer's perspective regarding registering new vehicles for their customers. He also said that the Everett GMC Buick dealership in Bryant was named the number one overall auto dealership in the world for the month of August, 2015.

Ms. Banks told legislators their dealership sold over 600 vehicles in August, 2015. She said that in prior years, automobile dealers had been able to register vehicle purchases online with the Office of Revenue. Currently, automobile dealers now have to provide their customers with the paperwork necessary to register their vehicle. She believes the installation of a Kiosk inside dealerships for vehicle registration and the renewal of car tags would help customers. Ms. Chandler discussed the 30 day temporary vehicle tags required by the Office of Revenue. She said that 30 days for both dealers and customers to complete the title process of vehicle purchase is unrealistic and should be extended to 40 or 60 days.

**Continued Discussion of the Review of State Employee Evaluations/Vetting Process, and Overview of the 360° Employee/Leadership Evaluation Process [Exhibit G, G-1]**

Representative Hammer recognized Kay Barnhill to discuss an employee evaluation system called the 360° evaluation used by several companies. Ms. Barnhill gave an overview of the 360° evaluation system, commonly known as a multi-source evaluation system. She outlined the system:

- Employees select their manager, peers, and subordinates to evaluate their performance

- the system is typically used for managerial positions
- Feedback from evaluations is anonymous and gathered from different sources
- The evaluation system requires a coach and training to compile the evaluations

Ms. Barnhill said advantages of this system is that it provides different perspectives of job performances. Disadvantages are the cost and complexity. She also said that state agency evaluations are used for the purpose of compensation and salary adjustment decisions, whereas the 360° evaluation system was developed for the overall performance evaluation of an agency or workforce.

**Overview of the Information Network of Arkansas (INA), A State Governing Board, What They Do and Their Mission (Established by Statute §25-27-101 et. Seq.) [Exhibit G, G-1]**

Representative Hammer recognized Bob Sanders, General Manager, and Janet Harris, Director of Operations, Information Network of Arkansas (INA). Mr. Sanders gave an overview of INA which includes:

- INA was created through legislation in 1995 to accelerate e-government in Arkansas
- INA is a public/private partnership with NIC, eGovernment Services for Federal, State, and Local Government
- The INA mission was established by legislation to explore and expand access to public information and services for citizens and businesses
- NIC is the largest provider of e-government services in the U.S. serving 30 states and 3,600 different state, local and federal government entities
- INA operates as a self-funded business model with no state appropriation
- Primary funding are fees paid by businesses using the service
- INA is governed by a twelve-member board of public and private members
- INA has developed and supports 750 websites and services for state and local government, including elected official searches, online property tax payment, online business franchise tax, and online criminal background checks
- INA has an enterprise payment processing system connected to the state financial system for auditing purposes
- Web and mobile application development is provided to state agencies at a subsidized rate
- INA serves 280 government entities within the state; state agencies, boards and commissions, cities, counties, county tax collectors, and prosecuting attorneys
- INA has a dedicated security team with three different annual third party audits of finances, controls and security

Janet Harris described the services that INA provides:

- INA partners with the Arkansas Game and Fish Commission for their mobile application, which hunters use for logging in observation history on hunts, checking game, and/or permit applications
- INA partners with the Department of Higher Education to provide a universal mobile application, allowing students to apply for available scholarships
- INA launched an e-filing site with the Office of State Auditor two years ago allowing citizens access to services

- INA partners with fifty-three county collectors statewide providing online property tax payments
- INA partners with the Office of Motor Vehicle, DF&A to provide an online tag renewal system through a mobile application, which allows citizen to renew their car tags from their mobile device
- INA partnered with the Arkansas Highway and Transportation Department two years ago to provide the IDrive Arkansas mobile application
- The state portal, Arkansas.gov for all state government services has had 6 million visitors since 2011

Legislators discussed the contract between INA and the state fees, transaction fees, and funding.

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

# JOINT PERFORMANCE REVIEW COMMITTEE

SEPTEMBER 10, 2015

## MINUTES

The Joint Performance Review Committee met Thursday, September 10, 2015 at 9:00 a.m. in Room A, Mac Building, Little Rock, Arkansas.

Committee members present were Senators Alan Clark, Co-Chair, John Cooper, Missy Irvin, Terry Rice, David Sanders, and Gary Stubblefield, and Representatives Kim Hammer, Co-Chair, Scott Baltz, Jana Della Rosa, Kenneth Ferguson, Mary "Prissy" Hickerson, Josh Miller, Milton Nicks, Jr. Dwight Tosh, and Dave Wallace.

Other legislators present were Senators Linda Chesterfield, Joyce Elliott, Stephanie Flowers, Jimmy Hickey, Bill Sample, Greg Standridge, Eddie Joe Williams, and Representatives Charles Armstrong, Charles Blake, David Branscum, Gary Deffenbaugh, Trevor Drown, Jon Eubanks, David Fielding, Bill Gossage, Michael John Gray, Ken Henderson, David Hillman, Lane Jean, Sheilla Lampkin, Fredrick Love, Mark McElroy, David Meeks, Matt Pitsch, Nelda Speaks, and Jeff Wardlaw.

### **Call to Order**

Representative Hammer called the meeting to order.

### **Continued Review of the Arkansas Department of Human Services' Medicaid Eligibility and Enrollment Framework [EEF] Project Exhibit C]**

The following presenters were sworn in under oath by Representative Hammer:

- John Norman, Director of Operations, the Arkansas Health Insurance Marketplace
- Cheryl Gardner, Executive Director, the Arkansas Health Insurance Marketplace
- Pradeep Goel, CEO, EngagePoint
- Rebecca Kee, Director, Procurement Services, University of Arkansas at Little Rock
- Camber Thompson, Administrator, Office of State Procurement, DF&A
- Jane Benton, Arkansas Public School Resource Center
- Richard Wyatt, CIO, Department of Human Services

Representative Hammer recognized Mr. Pradeep Goel, CEO, EngagePoint, for his presentation. Mr. Goel summarized the assessment report prepared by EngagePoint (Exhibit C-1). He said his company analyzed the EEF project, developed a set of options, and outlined the following recommendations:

- ❖ Citizen Centric case management is recommended for citizens who will be eligible throughout their life span
- ❖ Eligibility determination for various types of eligibility models, current and future
- ❖ Financial administration across all models with cost sharing, subsidies, and payments across all programs
- ❖ Reconciliation across multiple stakeholders, state agencies, federal, commercial, clinical, plus employers, and individuals
- ❖ Citizen Centric Data Layer that serves as the shared, truth repository for citizen identity, benefit history, supporting content, evidence, and life events

- ❖ Integration Layer that facilitates system integration, process integration, data integration, content integration, and transaction integration across Legacy and future systems with the IV&V solution

Representative Hammer recognized Jane Benton, former Administrator, Office of State Procurement (OSP). Ms. Benton gave an overview of her recollection of the bid process between DHS and Noridian Healthcare Solutions during the startup of the EEF project.

- ❖ OSP was not involved when DHS awarded a contract to Noridian Healthcare Solutions in October, 2012
- ❖ Based on file notes reviewed during her employment, Ms. Benton recalls that OSP was contacted at the end of January, 2013 regarding problems DHS was having with contract negotiations
- ❖ Based on notes in Ms. Benton's OSP file dated December 18, 2012, OSP was told that a lead negotiator for Noridian Healthcare Solutions changed, causing delays in contract negotiations
- ❖ Personnel from OSP and DHS met with Noridian Healthcare Solutions on February 3<sup>rd</sup> and 4<sup>th</sup>, 2013
- ❖ Noridian Healthcare Solutions advised OSP and DHS they could not meet the October 1, 2013 and January 1, 2014 contract deadlines
- ❖ DHS and OSP discussed possible options available due to the failure to award a contract
- ❖ Following the discussions, it was determined that not enough time remained to negotiate a contract with another vendor to meet the October 1, 2013 deadline set by CMS
- ❖ February 13, 2013, a letter from Dick Wyatt, DHS, was sent to Noridian Healthcare Solutions terminating contract negotiations and not negotiating with the second highest bidder.

Ms. Benton was asked whether or not a complaint was filed by the Northrop Grumman Corporation as the second choice vendor for the EEF project. Rebecca Kee responded to the question and said that no official protest was made. But, a letter of inquiry was received by DHS from Northrop Grumman Corporation questioning the process used in the awarding of contracts by the state.

Ms. Benton was asked if she knew about the absence of documents for the contract negotiations between DHS and Noridian Healthcare Solutions. She said she did not find documentation in the file she obtained from her previous employment with OSP. She also said that she does have notes regarding negotiations conducted February 3<sup>rd</sup> and 4<sup>th</sup>, 2013, but no specific documents.

Mr. Richard Wyatt was asked if he knew of documentation regarding the initiation of contract negotiations between DHS and Noridian Healthcare Solutions. Mr. Wyatt stated that he has the Advance Planning Documents that contain that information.

Legislators discussed the absence of documentation maintained by DHS used for the purpose and objectives of negotiations as required by state procurement rules. Following this discussion, Senator Jimmy Hickey, Senate Chair of Legislative Audit requested

documents be prepared by DHS to be presented to the Legislative Audit Committee at its meeting scheduled for Friday, September 18, 2015 at 9:00 a.m.

Representative Hammer recognized Cheryl Gardner, Executive Director, and John Norman, Director of Operations, Arkansas Health Insurance Marketplace. Ms. Gardner gave an overview of the state exchange:

- The Arkansas Health Insurance Marketplace is in the process of launching a state exchange
- The state exchange is 100% federally funded
- A state exchange built by the federal government will cost 3.5% for each health plan sold
- A state who builds and runs its own exchange can control costs
- Ongoing analysis indicates a state-owned exchange cost to be a 1% surcharge for each health plan sold
- The Arkansas Health Insurance Marketplace has a contract for \$7.2 million

Representative Hammer read the following - giving notice to the members:

"This gives notice that the Joint Performance Review Committee will take up the matter of exercising subpoena power in connection with the ongoing review of this matter. A meeting will be held at which time a vote will be taken on the subpoena power of the Committee. The meeting will be held at least seven days from today and prior to a meeting scheduled for Friday, October 2, 2015. The meeting to make the subpoena determination will be held on Wednesday, September 16, 2015 at 9:30 a.m. in Room B."

### **Review of Medicaid Management Information System (MMIS)**

Representative Hammer recognized John Selig, Director, and Mark White, Deputy Director, Arkansas Department of Human Services. Mr. Selig gave an overview of the MMIS system. He said there are two big data systems that work with Medicaid. One is the Medicaid EEF program. The MMIS system is specific to Medicaid and is the provider side, the system that pays all the claims and tracks who is getting paid. It gives the Department the data it needs to run the pharmacy program. The EEF system determines if clients are eligible. Mr. Selig said the only connection between the MMIS and EEF is the EEF system will relay information for the population eligible for service. Mr. Selig said the MMIS system is new and has been much easier to implement. It is on budget, on time, and is working very smoothly.

Mark White said the MMIS system has been split into three components, with a different RFP process for each component. The pharmacy component has been completed and is operational. The SNAP and Non-MAGI components are still being built and contract negotiations continue.

Mr. Selig was asked how many applications are pending. Mr. Selig said there are 30,000 pending applications, many being duplications, including individuals already eligible for service. The Medicaid system consists of 800,000 to 900,000 individuals in the system, including the private option.

**Update on the Status of the CoCENTRIX Contract with the Arkansas Department of Human Services and the Current Functionality of the Universal Assessment Platform**

Representative Hammer recognized May Ahdab, CEO, Gregg Barker, CTO, and John McIcolm, Vice President, Government Solutions, CoCENTRIX, and Craig Cloud, Director, Aging and Adult Services, and James Brader, Director, Developmental Disabilities Services, Arkansas Department of Human Services.

Craig Cloud provided an update on the CoCENTRIX contract and said many of the remaining items the Division of Aging and Adult Services has been waiting to complete functionality of Phase I were pushed through on September 9, 2015, which is a key deliverable date. Mr. Cloud said the Division will be testing the functionality over the next several weeks working with Pine Bluff Psychological Associates and internal DHS staff.

Mr. Cloud was asked if everything that has been provided by CoCENTRIX is owned by CoCENTRIX or the state, and what will be ongoing maintenance cost at the conclusion of the contract.

Mr. Cloud responded and said the product developed by CoCENTRIX to date is proprietary to their company. However, the contract provides for the use of the product by the state. Negotiations will need to be made regarding continued maintenance of the product.

CoCENTRIX was asked why the state is not the owner of the intellectual property developed by CoCENTRIX and whether or not the state paid for the start up of the application.

Greg Barker, CTO, CoCENTRIX answered and said the state did not pay for the application start up. The company has other customers who utilize the CCP, which has the ability to have a universal assessment tool specifically coded based on NRA algorithms.

May Ahdap, CEO, CoCENTRIX said it is the protocol of CoCENTRIX to license software but the company retains IP ownership.

There being no further business, the meeting adjourned at 12:20 p.m.

## JOINT PERFORMANCE REVIEW COMMITTEE

SEPTEMBER 16, 2015

### MINUTES

The Joint Performance Review Committee met Wednesday, September 16, 2015 at 9:30 a.m. in Room B, Mac Building, Little Rock, Arkansas.

Committee members present were Senators Alan Clark, Co-Chair, Linda Collins-Smith, Jane English, Missy Irvin, Terry Rice, Gary Stubblefield, and Representatives Kim Hammer, Co-Chair, Kenneth Ferguson, Charlene Fite, Mary "Prissy" Hickerson, Josh Miller, Dan Sullivan, and Clarke Tucker.

Other legislators present were Senators Bill Sample, Larry Teague, and Eddie Joe Williams, and Representatives David Branscum, Mark McElroy, James Ratliff, and Marshall Wright.

#### **Call to Order**

Representative Hammer called the meeting to order.

#### **Opening Remarks – Senator Alan Clark and Representative Hammer, JPR Co-Chairs**

Representative Hammer told committee members the purpose of this meeting is to discuss the issuance of subpoenas to Noridian Healthcare Solutions, Northrop Grumman Corporation, and the Centers for Medicare and Medicaid (CMS), specifically Jessica Kahn. However, a subpoena won't be needed for the Northrop Grumman Corporation. They recently submitted a letter stating their voluntary willingness to appear before the Committee. Noridian Healthcare Solutions has also agreed to voluntarily appear before the Committee. The only subpoena that needs to be issued is to Jessica Kahn with CMS. Representative Hammer explained that enforcement of this subpoena ends at the state line. However, he did state that this action will send a strong message to CMS by the Committee as part of its efforts to review all pertinent information concerning contract negotiations for the Medicaid Eligibility and Enrollment Framework (EEF) project for Arkansas.

A motion to issue a subpoena to Jessica Kahn, CMS, was made by Representative Dan Sullivan and seconded by Representative Kenneth Ferguson. Representative Hammer explained that a vote on the motion will be taken by each Chamber. Senator English, Senate Vice Chair called for the vote by Senate Committee members. The motion passed unanimously. Representative Hammer called for a vote by the House Committee members. The motion passed unanimously. Ms. Kahn will be mailed the subpoena which compels her attendance at the October 2, 2015 meeting of the JPR Committee.

Representative Hammer announced upcoming JPR meetings, which are scheduled for Thursday, October 1, and Friday, October 2, 2015. He stated that a committee meeting scheduled by a Call of the Chair may occur to accommodate the appearance of other EEF vendors subsequent to the issuance of the subpoena.

With no further business before the committee, the meeting adjourned at 9:45 a.m.



## JOINT PERFORMANCE REVIEW COMMITTEE

OCTOBER 1, 2015

### MINUTES

The Joint Performance Review Committee met Thursday, October 1, 2015 in Room A, Mac Building, Little Rock, Arkansas.

Committee members present were Senators Alan Clark, Co-Chair, Linda Collins-Smith, John Cooper, Jane English, Missy Irvin, Terry Rice, and Gary Stubblefield, and Representatives Kim Hammer, Co-Chair, Scott Baltz, Lance Eads, Kenneth Ferguson, Charlene Fite, Mickey Gates, Michelle Gray, Mary "Prissy" Hickerson, Josh Miller, Dan Sullivan, Dwight Tosh, Clarke Tucker, Dave Wallace, and Richard Womack.

Other legislators present were Senators Cecile Bledsoe, Stephanie Flowers, Greg Standridge, and Eddie Joe Williams, and Representatives Charles Armstrong, Bob Ballinger, Karilyn Brown, Donnie Copeland, Jim Dotson, Charlotte Douglas, Dan Douglas, Les Eaves, Jon Eubanks, Lanny Fite, Joe Farrer, David Fielding, David Hillman, Mike Holcomb, Douglas House, Joe Jett, Ron McNair, David Meeks, Stephen Meeks, Betty Overbey, John Payton, Mathew Pitsch, James Ratliff, Marcus Richmond, Laurie Rushing, James Sorvillo, Nelda Speaks, James Sturch, John Vines, and Marshall Wright.

#### **Call to Order**

Senator Clark called the meeting to order.

#### **Comments by Senator Alan Clark and Representative Hammer, Co-Chairs, JPR Committee**

Senator Clark provided background for the meeting's discussion regarding laws and procedures the Arkansas Department of Human Services (DHS) follows in its investigations of child maltreatment cases. He believes the procedures that accompany child abuse reports, maltreatment and neglect cases in Arkansas are very complicated. He said testimony will be presented by families who believe they have been negatively and wrongly affected by the system. He asked legislators to be mindful of the following three questions:

- Are there problems with the way the state of Arkansas handles child abuse and maltreatment cases?
- Are there problems with privacy laws used for the protection of families, parents and children?
- Are constitutional protections for families being upheld?

#### **Approval of Minutes – September 9 & 10, 2015 and September 16, 2015**

Minutes of the September 9 and 10, 2015, and September 16, 2015 committee meetings were approved by acclimation.

#### **Continuation of the Review of Procedures Used by the AR Department of Human Services to Remove Children From the Home, and the Child Maltreatment Registry (Arkansas Child Maltreatment Act A.C.A. §12-18-101-1202 [Exhibit D-Definitions]**

The following presenters were sworn in under oath by Senator Clark:

- Joseph Churchwell, attorney at law

- Hal Stanley
- Dr. William C. Viser

Senator Clark recognized Joe Churchwell. Mr. Churchwell said he will introduce his clients who will describe their personal stories, beginning with Hal Stanley.

Senator Clark recognized Mr. Hal Stanley. Mr. Stanley gave a detailed account of the removal of his children by the Arkansas Department of Human Services (DHS) in January, 2014 which involved:

- A DHS investigator served Mr. and Mrs. Stanley with a warrant at their home
- Mr. Stanley asked to be allowed to contact his attorney, but his request was refused
- Representatives from the local sheriff's department, the coroner's office, an ambulance, and a large number of armed officials surrounded the Stanley's home
- Mr. and Mrs. Stanley were questioned for more than five hours during which time his seven children were given physical examinations without the presence of either parent
- The seven children were taken from their home at approximately 9:00 p.m.
- Mr. and Mrs. Stanley were told the children were being taken for a 72 hour hold
- Five of the seven children removed by DHS were returned for a 60-day trial period
- The two oldest Stanley children were returned after a four month period
- The Stanley's currently have custody of all seven children

Mr. Stanley said an appeal is currently pending before the Office of Appeals. He believes his situation illustrates what is wrong with the current DHS system in its investigations of child maltreatment.

Mr. Stanley was asked if DHS investigators presented their credentials to identify themselves when the children were removed. Mr. Stanley said no identification was provided.

Senator Clark recognized Dr. William Viser. Dr. Viser told legislators he has been involved in a large number of child custody matters in his private practice as a professional family counselor. He described a variety of factors that impact children who are removed from their homes, including

- Psychological and neurobiological effects associated with disrupted attachment to biological parents
- Emotional disruption for all family members
- The challenge to adjust to the foster care environment

Dr. Viser said individuals who take advantage of false reporting to the Child Abuse Hotline do so for many reasons, primarily to gain custody of a child from the accused parent and to punish the accused parent. False reporting of these types of allegations are so great in number they have been labeled as the SAID syndrome, Sexual Allegations In Divorce. Data has shown that 45% of all true findings by DHS are reversed upon appeal.

Mr. Alex White was sworn in under oath by Senator Clark. Mr. White read a prepared statement concerning child abuse allegations made against him which resulted in the loss of his job with the Developmental Disabilities Services (DDS). He described specific allegations of physical abuse made against him by his ex-wife. He subsequently made

statements to DCFS investigators in both Grant and Saline Counties. Conflicting information was provided from the two county offices. The allegations are pending an appeal.

Mr. Jim Brader, Director, Developmental Disabilities Services (DDS) was sworn in under oath by Senator Clark. Mr. Brader was asked about his knowledge concerning the termination of Mr. Alex White by DDS. Mr. Brader said he could not discuss specific employment issues. He reviewed DDS employment termination policies and said an employee who has an allegation of child abuse or maltreatment made against them is immediately disqualified from employment. The DDS policy does not provide for an internal grievance procedure for the terminated employee.

Lisa MaGee, attorney, Arkansas Department of Human Service, was sworn in under oath by Senator Clark. Ms. MaGee was asked to explain the DDS employee termination policy. She said Statute 21-15-110 requires state agencies to immediately discharge employees when a charge of child maltreatment is brought against an employee.

Ms. Bridgitt Brantley was sworn in under oath by Senator Clark. Ms. Brantley told legislators she believes the DHS system is misused in parental custody matters. She said when she and her husband married she had two children from a previous marriage and her husband had one child from a previous marriage. Mrs. Brantley summarized events her family experienced beginning in December, 2013 when an anonymous call was made to the Child Abuse Hotline:

- An anonymous caller alleged Ms. Brantley's six year-old daughter had sexually abused her five year-old stepson
- Joint custody and visitation rights with her stepson were immediately taken away by DHS
- DHS interviewed all three children at their school without the knowledge of the parents
- Following a court appearance, a protective safety plan was initiated by DHS in the Brantley home
- The safety plan dictated no contact by the six year-old daughter when Ms. Brantley's five year-old step son visited
- A second allegation of sexual abuse against her six year-old daughter was made the day after her stepson visited the Brantley home following implementation of the safety plan
- Mrs. Brantley was never interviewed by DHS

Following court-ordered investigations of all parties, the Judge in the matter gave custody of the stepson to Mr. and Mrs. Brantley and supervised visitation to the child's mother. Mrs. Brantley said her family has incurred over \$15,000 in legal fees. She believes DHS policies should include protections for individuals who are falsely accused.

Dr. Clair Kelley was sworn in under oath by Senator Clark. Dr. Kelley told legislators Mr. Churchwell is the third attorney who has represented her family for over nine years, beginning in 2008. She provided details and a timeline of all of the allegations of child maltreatment made against she and her husband, including:

- July, 2008 a call was made to the Child Abuse Hotline alleging physical abuse of Dr. Kelley's stepson by his father

- Subsequent to interviews by a DHS investigator, the allegation was found untrue
- July, 2010 a second call was made to the Child Abuse Hotline alleging physical abuse of her stepson by Dr. Kelley
- DHS investigators went to the Kelley's home, forced the children to be disrobe and be examined. The charges were found to be untrue
- July, 2014 a call to the Child Abuse Hotline was made alleging physical abuse by both Dr. Kelley and her husband and the charges were again found to be untrue

Dr. Kelley said she and her husband currently have custody of their stepchildren. She believes the system has failed when false allegations continue to be accepted and investigated.

Kanoe Fendley was sworn in under oath by Senator Clark. Ms. Fendley described her personal experience concerning allegations of child abuse and maltreatment made against her through calls placed to the Child Abuse Hotline. She described calls made that included a variety of child maltreatment allegations:

- A allegation was made saying she was unable to financially support her two children
- Following an interview by a DHS investigator, no further contact was made by DHS
- In 2010, an anonymous call to the Child Abuse Hotline alleged Ms. Fendley to be incapacitated from alcohol
- Following an interview at her home at 11:30 p.m., no further contact was made by DHS
- An anonymous call to the Child Abuse Hotline alleged physical abuse of the two children by Ms. Fendley
- Ms. Fendley lost custody of the two children, but has since regained custody following an appeal hearing

Ms. Findley said she has no faith in the system protecting her parental rights.

The following presenters were sworn in under oath by Senator Clark:

- Heather Findley, Garland County DCFS Supervisor
- Cecilla Dyer, Attorney, Office of Chief Council, DHS
- David Sterling, Attorney, DHS

Ms. Findley was asked to discuss her position with DHS and her observations of child maltreatment cases during the previous year. Ms. Findley said she is currently a supervisor with DHS. In her former position as a caseworker, she said her job duties included evaluating families' needs.

Senator Clark recognized David Sterling who asked to address the committee. Mr. Sterling said DHS employees are prohibited by statute from giving testimony on specifics of an investigation involving a child maltreatment case.

Ms. Cecilla Dyer was asked if data is available for child maltreatment cases, in particular those cases that have gone through an appeal process. She was also asked if data is available on a county level. Additionally, she was asked to provide the committee with data on calls made to the Child Abuse Hotline regarding the number of calls determined to be false allegations.

Lisa MaGee responded to the requests for data from Ms. Dyer and said the data for the number of anonymous reports accepted and the number of calls determined as true can be provided to the legislators. Ms. MaGee said the Department can also collect data concerning information given regarding the right of an individual to appeal.

There being no further business, the meeting adjourned at 5:45 p.m.



## JOINT PERFORMANCE REVIEW COMMITTEE

OCTOBER 2, 2015

### MINUTES

The Joint Performance Review Committee met Friday, October 2, 2015 in Room A, Mac Building, Little Rock, Arkansas.

Committee members present were Senators Alan Clark, Co-Chair, Linda Collins-Smith, John Cooper, Jeremy Hutchinson, Terry Rice, and Gary Stubblefield, and Representatives Kim Hammer, Co-Chair, Kenneth Ferguson, Michelle Gray, Mary "Prissy" Hickerson, Dan Sullivan, Dwight Tosh, and Dave Wallace.

Other legislators present were Senators Linda Chesterfield, Stephanie Flowers, Bart Hester, Jason Rapert, Bill Sample, and Eddie Joe Williams, and Representatives Charles Armstrong, Nate Bell, David Branscum, Andy Davis, Jim Dotson, Charlotte Douglas, Trevor Drown, Jon Eubanks, Joe Farrer, David Fielding, Lanny Fite, Jeremy Gillam, Michael John Gray, David Hillman, Douglas House, Joe Jett, Kelley Linck, Mark McElroy, Stephen Meeks, James Ratliff, Laurie Rushing, James Sorvillo, and Nelda Speaks.

#### **Call to Order**

Representative Hammer called the meeting to order.

#### **Comments by Representative Kim Hammer and Senator Alan Clark, Co-Chairs, JPR Committee**

Representative Hammer said that an update on the Adult Protective Services (APS) Unit, Arkansas Department of Human Services (DHS) is added to today's agenda due to a lack of time in the previous day's meeting.

Representative Hammer recognized Craig Cloud, Director, Aging and Adult Services, (DHS). Mr. Cloud gave an overview of the APS Unit and said a number of changes have been initiated in recent months. Shannon Halijan has been appointed as the new Director. A significant number of personnel changes have also been made in leadership positions. Assessments are being made throughout the Unit. Mr. Cloud believes the new direction the Unit is taking will provide positive results.

Mr. Cloud was asked to prepare a report to be presented at a future meeting. He was also asked to include the policies and specific assessment tools used to determine a person's competency or incompetency.

#### **Continued Review of the Arkansas Medicaid Eligibility and Enrollment Framework (EEF) Platform and EEF Vendor Contracts**

Representative Hammer told legislators Mr. Richard "Dick" Wyatt, CIO, Department of Human Services asked to address the Committee. Representative Hammer said that without objection, Mr. Wyatt would be allowed to come before the Committee. Mr. Wyatt was sworn in under oath by Representative Hammer.

Mr. Wyatt read a prepared statement concerning contract negotiations with Noridian Healthcare Solutions and Northrop Grumman Corporation for the Medicaid Eligibility and Enrollment (EEF) project. He made suggestions for restructuring contracts, specifically staff augmentation contracts to include written deliverables and penalties.

Representative Hammer told legislators that both Noridian Healthcare Solutions and Northrop Grumman Corporation have volunteered to attend the next scheduled Committee meeting. A response from the U.S. Department of Health and Human Services to a subpoena requesting Jessica Kahn, CMS, to come before the Committee listed legal restrictions about appearing before the Committee. Representative Hammer said Co-Chairs have asked Marty Garrity, Director, Bureau of Legislative Research, to review the legal requirements outlined in Ms. Kahn's letter and restate the subpoena previously issued.

Pradeep Goel, CEO, EngagePoint, was sworn in under oath by Representative Hammer. Mr. Goel gave a detailed overview of the analysis by EngagePoint of the Arkansas EEF project. He described the EEF project as a complex multi-stakeholder, multi-program system to bridge the Modified Adjusted Gross Income (MAGI) and Non-MAGI eligibility groups, including The Supplemental Nutrition Assistance Program (SNAP). This system relies on data from many sources. Mr. Goel said the core components of the system are the integration layer and data layer. Functional aspects of the system are case management, eligibility determination, enrollment management, financial management, reconciliation, plus reporting necessary for every program. Mr. Goel gave the following recommendations for the future building of the EEF project:

- Define a risk profile for the EEF project
- Choose a team with the skill sets to manage a methodology
  - Contract with vendors and require a contractual agreement to comply with the chosen methodology. The methodology should address the scope, schedule, architecture, integration, acceptance management, release management, infrastructure management, and operational management.

Senator Cooper made the following Motion:

The JPR Committee shall publicly recognize EngagePoint for the work it has done and recommend DHS give EngagePoint a positive reference so it may continue to do work in Arkansas and other states

Mr. John Selig, Director, DHS was sworn in under oath by Representative Hammer. He was asked if he knew of any reason EngagePoint would not be allowed to participate in future projects in the state and be able to bid on any Request for Proposal (RFP). Mr. Selig said he knows of nothing to prevent the company from bidding in the state.

Following discussion by legislators on the motion, without objection, the motion was pulled down by Senator Cooper.

### **Review of the EEF Governance Board's History, Duties and Responsibilities [Exhibit D]**

The following members of the EEF Governance Board were sworn in under oath by Representative Hammer:

Jeff Dean, Arkansas Department of Information Systems  
Scot Utley, Arkansas Department of Information Systems  
Susan Burton, Division of County Operations, DHS  
Tim Lampe, Director, Office of Quality Assurance, DHS  
Delia Anderson, Director, Division of County Operations, DHS  
Mary Franklin, Division of County Operations, DHS  
Bashorat Ibragimova, Division of Medical Services, DHS  
Robert Williams, Division of County Operations, DHS  
Larry Crutchfield, Division of County Operations, DHS

Mr. Lampe gave an overview of the EEF Governance Board, which he chairs as Project Director of the DHS Program Management Office (PMO). Mr. Lampe said he came onto the project in April, 2015 when he assumed the position as Project Manager. On July 6, 2015, Cognosante was contracted to develop project management plans, including a Project Charter to identify the governing structure for the project. Four aspects of the structure are:

- ❖ An Executive Steering Committee which meets weekly for an update and progress report
- ❖ A Governance Review Board which meets weekly for a project status review
- ❖ A Technical Review Board which meets weekly to review the architecture and/or technical aspects
- ❖ The Business Review Board meets frequently to review business

Mr. Lampe said the Governance Board prepares a weekly report of the scope, risk, deliverable status, and design. Minutes of the Board's decisions are published in addition to a comprehensive status update report.

**Update on the Status of the CoCENTRIX Contract with the Arkansas Department of Human Services and the Current Functionality of the Universal Assessment Platform [Exhibit E]**

Representative Hammer swore in under oath the following presenters:

Mary Ahdab, CEO, CoCENTRIX

Gregg Barker, CTO, CoCENTRIX

Craig Cloud, Director, Aging and Adult Services, DHS

James Brader, Director, Developmental Disabilities Services (DDS), DHS

Tim Lampe, Director, Office of Quality Assurance, DHS

Representative Hammer recognized Craig Cloud to give a status update of the CoCENTRIX licensing agreement. Mr. Cloud told legislators that deliverables have been provided by CoCENTRIX and are being tested for functionality. Items waiting for functionality, specifically are the DHS-704 form and other critical items which are pending before a decision can be made to go-live. Mr. Cloud said the project has been put on hold at the request of DHS in conjunction with agreements by himself and James Brader, Director, DDS. An assessment of all payments made during the course of the project will be conducted. Each payment will be referenced to a specific deliverable. A decision to move the project forward will be made when a final assessment has been concluded.

Mr. Cloud was asked if any payments are currently being withheld. He responded and said payments are being withheld at this time. However, two weeks ago he learned of hosting fees that had to be paid to SHI, the host company for CoCENTRIX and other vendors. He also learned of a payment of \$411,592.00, which had been authorized to be made to CoCENTRIX. Mr. Cloud said that once he discovered the payment authorization he immediately began efforts to recall the payment. Mr. Cloud was asked who authorized the payment to CoCENTRIX.

Mr. Tim Lampe, Director, Office of Quality Assurance, DHS responded and said he had mistakenly authorized the payment.

Greg Barker, CTO, CoCENTRIX responded to a question as to whether or not the company has returned the payment. He said this payment has not been received.

May Ahdap, CEO, CoCENTRIX told legislators her company was well aware that payments were being withheld based on testimony given during previous committee meetings. She said that had the payment been received it would have been returned.

Craig Cloud explained to legislators that all payments for the project are made to the contract hosting company, SHI. SHI has agreed to return the \$411,592.00 payment to DHS.

DHS representatives were asked to explain a payment of \$302,304 made to CoCENTRIX in June, 2014 for the initial Phase 0.

Craig Cloud said his staff researched and found a Statement of Work (SOW) referenced as Phase 0 which was signed in late April, 2014 by Anna Lanski, former DDS Assistant Director. The SOW provided for assessments to be conducted by Pine Bluff Psychological Associates for the developmental disability population. The assessments are used to make determinations for the level of care and treatment plans.

Legislators discussed in detail the development of a universal assessment tool as it relates to the Community First Choice Option (CFCO) of the Affordable Care Act (ACA). Legislators raised concerns about current DHS programs that need to interface with federal mandated programs specifically requiring a universal assessment tool.

May Ahdap told legislators it is her understanding that the Medicaid Transportation Plan requires states to build a universal assessment tool for Medicaid. The reason Medicaid is pushing the tool is it relates to payments for services with no formal assessment for structure treatment plans and delivery of services. Ms. Ahdap said Medicaid audits of states will involve the review of a universal assessment tool, a level of care plan, a treatment plan, and a determination of whether or not provider agencies and states have conformed to the plans.

Ms. Ahdap was asked if it is her testimony that CMS and/or Medicaid has issued a mandate that states are required to develop a universal assessment tool. Ms. Ahdap responded and said she has conducted research and found this to be a trend with many states moving forward with universal assessment tool development. She also said she will do further research and send the literature to the committee.

Representative Hammer asked John Selig, Dick Wyatt, and Tim Lampe to respond to questions regarding the authorization of the payment of \$411,592.00 to CoCENTRIX.

Mr. Wyatt responded to questions regarding his involvement in the payment to CoCENTRIX. He explained the payment process:

- A quotation is received from SHI on behalf of vendors
- Purchase orders are processed with payment amounts listed by line item
- Purchase orders are submitted to Tim Lampe
- Tim Lampe authorizes payments for goods and services
- Tim Lampe forwards invoices to AP to make payments

Mr. Wyatt was asked if he did not make a correlation between the payment in process, and previous testimony that payments were to be withheld until all issues with the agreement between DHS and CoCENTRIX were resolved. Mr. Wyatt responded and said his testimony is that he was not aware of the directive to withhold payments.

John Selig was asked what the committee could expect from DHS regarding payments being made while the project has been placed on hold, particularly with the discovery of the \$411,592.00 payment authorized to CoCENTRIX? Mr. Selig noted that Mr. Lampe made it clear in his statement that he made a mistake and accepted full responsibility. Mr. Selig said the committee can expect DHS to follow the commitments it makes to the committee. Mr. Selig stated that this situation will not happen again and no payments will be made until all parties, including the committee, are in agreement.



## JOINT PERFORMANCE REVIEW COMMITTEE

OCTOBER 28, 2015

### MINUTES

The Joint Performance Review Committee met Wednesday, October 28, 2015 at 1:00 p.m. in Room A, Mac Building, Little Rock, Arkansas.

Committee members present were Senators Alan Clark, Co-Chair, Linda Collins-Smith, John Cooper, Missy Irvin, Terry Rice, and Representatives Kim Hammer, Co-Chair, Scott Baltz, Jana Della Rosa, Lance Eads, Kenneth Ferguson, Charlene Fite, Michelle Gray, Mary "Prissy" Hickerson, Milton Nicks, Jr., Dwight Tosh, David Whitaker, and Richard Womack.

Other legislators present were Senators Eddie Cheatham, Scott Flippo, Blake Johnson, Greg Standridge, Larry Teague, and Representatives Charles Armstrong, Mary Bentley, Justin Boyd, Jim Dotson, Dan Douglas, Joe Farrer, Deborah Ferguson, David Fielding, Justin Gonzales, Mike Holcomb, Joe Jett, Kelley Linck, Ron McNair, James Ratliff, Marcus Richmond, Sue Scott, James Sorvillo, Nelda Speaks, and DeAnn Vaught.

#### **Call to Order**

Representative Hammer called the meeting to order.

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

Representative Hammer reviewed the duties and responsibilities of the JPR Committee as listed by statute under Subchapter 9. A copy of the statute was provided as a handout. He read through the duties as a reminder to members regarding subject matters under review.

#### **Approval of Minutes – October 1-2, 2015 [Exhibit C, C-1]**

A motion to approve the minutes of the October 1-2, 2015 JPR Committee meetings was made by Senator John Cooper and seconded by Representative Mary "Prissy" Hickerson. The motion carried.

#### **Review of the Decision by the U.S. Supreme Court in the Matter of the FTC versus the North Carolina Board of Dental Examiners and its Impact on Scope of Practice in the Medical Profession [Exhibit D, D-1]**

Senator Clark recognized Dan Greenberg, President and attorney, Advance Arkansas Institute. Mr. Greenberg gave a PowerPoint presentation summarizing the decision by the U.S. Supreme Court in February, 2015 regarding litigation between the North Carolina State Board of Dental Examiners and the Federal Trade Commission. Mr. Greenberg said this litigation will have an impact on boards and commissions concerning immunity from anti-trust laws. The Court's decision does not guarantee that boards and commissions are defined as government bodies and immune from anti-trust regulation. When a board or commission has a controlling number of practicing and regulated professions, active supervision by state government is necessary to avoid antitrust liability. Mr. Greenberg said the Court defines active supervision as flexible and context-dependent. Minimum requirements of active supervision require a supervisor to review content of a regulation

and the ability to veto or modify the regulation. Mr. Greenberg gave the following suggestions of modifications to the rules and regulation of the review process:

- Language from the U.S. Supreme Court decision should be included in law
- Approval by the Legislative Council
- Scrutiny performed by legislative staff of any form of anti-competitive or anti-consumer language

Mr. Greenberg discussed proposed legislation called the Boards and Commissions Immunity Act, which would change the structure of state government regarding boards and commission rules and regulations. The proposed legislation would provide similar monitoring currently used in other states who have an Office of Regulatory Affairs. The idea is that personnel in the Governor's office, the Attorney General's office, or the Bureau of Legislative Research would scrutinize proposed regulations to help avoid negative impact on competitiveness, job creation, and not conflict with antitrust laws.

### **Continued Review of the Information Network of Arkansas (INA) Regarding State Contracts and Fees [Exhibit E]**

Representative Hammer recognized the following presenters:

- Matthew Cashion, Independent Insurance Agents, INA Board Vice Chair
- Bob Sanders, General Manager, INA
- Janet Harris, Director of Operations, INA
- Harold Evans, Arkansas Bar Association, INA Board member

Mr. Cashion told legislators he serves as Vice Chair of the INA board, which consists of twelve members defined by statute. He said the statute outlines the duties and makeup of the board, which includes members from the Arkansas Economic Development Commission, the Secretary of State's office, the Department of Information Systems, the Department of Finance and Administration, the Arkansas Bar Association, the Arkansas Library Association, and four participating associations chosen by the Governor.

Representative Hammer recognized Bob Sanders who responded to questions asked by committee members at the JPR meeting on September 9, 2015. Mr. Sanders said the contract for network manager services was awarded to the Analysts International Corporation (AIC) in 1997, and again in 2011. The current contract will expire in 2018. Mr. Sanders described the contract, which is based on a self-funded business model through a public/private partnership between the INA Board and AIC. The duties of the twelve-member board include providing oversight and approve fees. The mission of INA is defined by legislation to provide access to software expertise for citizens and businesses through state government agencies, in particular, eGovernment services

Representative Hammer recognized Janet Harris. Ms. Harris gave an overview of the self-funded business model used by INA. The self-funded model is based on an enterprise-wide approach encompassing a number of government agencies, boards and commissions who do not have internal resources for online services and applications. She said the majority of services provided by INA are funded through convenience fees. The self-funded model looks at the successful self-funded agency transactions with a large volume to generate sufficient revenue to support the enterprise. The transaction fees are

pooled together to serve all agencies. Transactional revenue helps cover the costs for all operations across the enterprise. Ms. Harris gave an example of an average transaction and fee for accountants to renew their license with the State Board of Accountancy:

- The statutory license renewal fee is \$85.00
- Online license renewal charge is \$3.55
- Average cost for a paper based renewal transaction is \$17.00

### **Continued Review of the CoCENTRIX Licensing Agreement with the AR Department of Human Services [Exhibit F]**

Representative Hammer swore in under oath the following presenters:

- Mary Ahdab, CEO, CoCENTRIX
- Gregg Barker, CTO, CoCENTRIX
- Craig Cloud, Director, Division of Aging and Adult Services, DHS
- James Brader, Director, Developmental Disabilities Services (DDS), DHS
- Mark White, Deputy Director, DHS
- Tim Lampe, Director, Office of Quality Assurance, DHS

Mr. Cloud gave an update of the project audit performed by the Department of Human Services (DHS). He said the majority of the audit for the universal assessment testing project has been completed. DHS believes the completion of the audit will confirm the total project budget of \$9.5 million is sufficient to ensure delivery of Phase 1. With the Go-Live of Phase 1, DHS will assess the performance of the product. Mr. Cloud said the SHI platform can no longer support information technology contracts. Should DHS choose to contract with CoCENTRIX for Phase II and Phase III of the project, DHS will have to proceed with a sole source contract. This contract would include defined deliverables, defined work product, timeframes, and allow for completion of the product under the initial \$16.2 million cap established for the project.

Mr. Gregg Barker gave a PowerPoint presentation explaining the different phases of Scope of Work CoCENTRIX has delivered. Mr. Barker said it is the opinion of CoCENTRIX that the contract for Phase 0 was a separate contract, with a separate Scope of Work. He said CoCENTRIX was brought into the project as the Coordinated Care Platform (CCP) to develop the Universal Assessment Tool (UAT) for community based care, in-home care, outpatient day treatment facilities, sheltered employment workshops, inpatient residential, and long-term care facilities. Mr. Barker said that when CoCENTRIX entered into a new contract for Phase 1, additional deliverables were requested. He said CoCENTRIX worked with DHS to build the assessment tool and provide analysis until they were asked to stop the project. He also said that although the deliverables were not well-defined by DHS, the company has worked with DHS to make changes as they were requested. He stated the company believes they have delivered everything agreed upon for Phase 1 of the project.

Mark White, Deputy Director, DHS, was asked what was the number of vendors who bid on the UAT project. Mr. White said he understood that an agreement with CoCENTRIX was procured through the Western States Contract Alliance (WSCA) contract, a state cooperative purchasing contract.

Tim Lampe Project Director, Program Management Office, DHS, was recognized by Representative Hammer. In response to questions by committee members, Mr. Lampe said a licensing agreement was signed on June 3, 2014 with CoCENTRIX for work on Phase 1 of the UAT project.

Mary Ahdap, CEO, CoCENTRIX was asked to respond to questions raised regarding CoCENTRIX writing a Scope of Work (SOW) for the UAT project. Ms. Ahdap said that when CoCENTRIX began working with DHS, they were given a list of requirements which CoCENTRIX used to prepare a proposal. She said CoCENTRIX did not develop the requirements.

Charlie Green, Director, Behavioral Health Services, DHS was sworn in under oath by Representative Hammer. Mr. Green responded to questions concerning the contract DHS entered into with CoCENTRIX in 2014. Mr. Green said Anna Lansky, former Assistant Director for Program Management, Division of Developmental Disabilities Services, DHS signed the contract. Mr. Green said Ms. Lansky was the subject matter expert at that time. However, Ms. Lansky did not have expertise in software or information technology.

Jane Benton, former Administrator, Office of State Procurement (OSP), Arkansas Department of Finance and Administration, was sworn in under oath by Representative Hammer. Ms. Benton was asked what was the role of OSP at the time the DHS contract was negotiated with CoCENTRIX. She stated OSP had no involvement.

John Selig, Director, DHS was sworn in under oath by Representative Hammer. Mr. Selig was asked his opinion of placing the project on hold until completion of Phase 1 is confirmed and a settlement with CoCENTRIX is negotiated for any outstanding work or payments.

Mr. Selig confirmed his agreement to hold the project to ensure testing confirms Phase 1 is operational, and that no additional Phases will be pursued that are based on a time and materials contract.

Representative Hammer told committee members a recommendation will be made concerning the project at the JPR meeting scheduled for October 29, 2015.

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

**JOINT PERFORMANCE REVIEW COMMITTEE**  
**OCTOBER 29, 2015**  
**MINUTES**

The Joint Performance Review Committee met Thursday, October 29, 2015 in Room A, Mac Building, Little Rock, Arkansas.

Committee members present were Senators Alan Clark, Co-Chair, Linda Collins-Smith, John Cooper, Missy Irvin, and Terry Rice, and Representatives Kim Hammer, Co-Chair, Scott Baltz, Jana Della Rosa, Lance Eads, Kenneth Ferguson, Michelle Gray, Mary "Prissy" Hickerson, Milton Nicks, Jr., Dan Sullivan, Dwight Tosh, and Clarke Tucker.

Other legislators present were Senators Eddie Cheatham, Jonathan Dismang, and Blake Johnson, and Representatives Charles Armstrong, Jim Dotson, Trevor Drown, Jon Eubanks, David Fielding, David Hillman, Joe Jett, Greg Leding, Kelley Linck, Frederick Love, George McGill, John Payton, Sue Scott, James Sorvillo, and Nelda Speaks,

**Call to Order**

Representative Hammer called the meeting to order.

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

A motion was made by Senator Clark and seconded by Representative Tosh directing the Arkansas Department of Human Services (DHS):

- to suspend its current contract with CoCENTRIX
- to conduct testing on Phase 0 and Phase 1 deliverables of the original CoCENTRIX contract with DHS
- to negotiate disputed payment amounts regarding completion of Phase 0 and Phase 1
- to present an update to the JPR Committee at its meeting scheduled for Monday, November 9, 2015

The motion carried.

Representative Hammer told legislators the Committee Co-Chairs will officially request the Division of Legislative Audit to conduct an audit of the CoCENTRIX licensing agreement to ensure all aspects of the contract, including services delivered and billed to the state, are in compliance with the terms of the agreement. The motion to approve that the request be sent to Legislative Audit was made by Senator Clark. The motion was seconded by Representative Tosh. The motion carried.

**Discussion of the Contract Negotiations for the Medicaid Enrollment and Eligibility (EEF) Platform, Arkansas Department of Human Services [Exhibit C]**

Albert Barclay, Director for Program Integrity, Noridian Healthcare Solutions, Inc. (Noridian) was sworn in under oath by Representative Hammer. Mr. Barclay gave a PowerPoint presentation and told legislators that he led the contract negotiations with DHS on behalf of Noridian regarding the design and development of the Arkansas Eligibility and Enrollment Framework (EEF) platform. Mr. Barclay gave the following summary:

- August, 2012 Noridian submitted a proposal in response to a Request for Proposal (RFP) issued by DHS in July, 2012
- October 31, 2012 DHS issued a term contract to Noridian
- November 9, 2012 DHS provided Noridian with a 61-page draft contract that bore little resemblance to the original RFP terms and conditions which Noridian based its proposal on

Mr. Barclay highlighted changes added to the November 9, 2012 draft contract:

- the November 9, 2012 draft included a broad indemnity clause by Noridian in favor of Arkansas significantly increasing Noridian's potential liability with the state
- the RFP original terms and conditions limited indemnification for patent infringement and security breaches
- the November 9 draft allowed DHS to cancel the contract whenever it wanted and was unclear if Noridian would be compensated if that occurred
- the November 9 draft prohibited Noridian from firing personnel without the approval of DHS, which unduly interfered with Noridian's ability to manage its workforce
- the November 9 draft required Noridian to permit DHS or another contractor to hire Noridian employees at the end of the project

Mr. Barclay indicated that a significant obstacle in the negotiations was the use of function points by DHS to manage the project. Noridian responded to the November 9 draft with proposed revisions. DHS responded with further drafts that added even more new provisions that were not in the RFP. During February, 2013 the parties exchanged dozens of drafts, met by telephone, and in person several times to discuss proposed contract language. Negotiations stretched into December, 2012 and January, 2013. DHS insisted on significant penalties and liquidated damages for late delivery. Noridian did not believe it should accept responsibility for time lost renegotiating the RFP terms on which its proposal was based. On February 14, 2014, DHS terminated contract negotiations with Noridian when the parties could not reach agreement on several key terms.

Richard Wyatt, Chief Information Officer (CIO), Department of Human Services, was sworn in under oath by Representative Hammer. Mr. Wyatt was asked to discuss the changes made to the original RFP proposal, also who was Todd Shrub and what was his role in the negotiations. Mr. Wyatt said the changes were primarily performance indicators and Todd Shrub was an employee of Computer Aid, Inc. (CAI) in their healthcare division, who previously worked with DHS developing the RFP. Mr. Wyatt was asked if Mr. Shrub is currently employed by DHS. Mr. Wyatt said Mr. Shrub was an employee of CAI who then left the project in April, 2014 to go to work for EngagePoint.

Jane Benton former Administrator, Office of State Procurement (OSP), Arkansas Department of Finance and Administration was sworn in under oath by Representative Hammer. Ms. Benton was asked to discuss her role during contract negotiations between DHS and Noridian. Ms. Benton described the RFP process used by OSP:

- o A buyer was assigned and OSP drafted the RFP, working with the agency and the supplier
- o State procurement personnel trained a DHS evaluation committee to evaluate the RFP
- o DHS made a recommendation to award the RFP to Noridian
- o OSP issued an outline agreement/purchase order
- o January, 2014 OSP was contacted by DHS regarding its inability to reach an agreement with Noridian
- o February 3 and 4, 2014, OSP through a negotiation team, attempted to reach an agreement with Noridian
- o Due to significant changes by DHS to the original RFP, negotiations failed
- o Discussions were held with DHS and a decision was made that DHS would have to take charge of the project due to the limited timeframe and obtain another vendor

Amy Caro, Sector Vice President and General Manager, Health Division, Northrop Grumman Information Systems, was sworn in under oath by Representative Hammer. Ms. Caro was asked about communications with DHS because Northrop Grumman was the second ranked vendor and did they ask DHS to be considered when negotiations failed with Noridian. Ms. Caro said her company sent an e-mail to Mr. Wyatt and Janie Huddleston, a former DHS employee, stating the willingness of Northrup Grumman to negotiate for the EEF contract. Ms. Caro was asked if Northrup Grumman believed it was too late to negotiate and sign a contract by the end of February, 2014. Ms. Caro stated the company sent correspondence to DHS stating their willingness to negotiate a fixed-cost contract that would meet the timeframe.

Jeff Dean, Chief Operating Officer, Department of Information Systems and Interim Director, CIO for DHS, was sworn in under oath by Representative Hammer. Mr. Dean was asked to discuss the role of DIS during the contract negotiations. Mr. Dean stated DIS offered assistance for system support and development of work stations. Representative Hammer made a motion to refer this matter in its entirety to the Division of Legislative Audit for a full audit. The motion was seconded by Senator Collins-Smith. The motion carried.

John Selig, Director, DHS was sworn in under oath by Representative Hammer. Mr. Selig was asked if DHS would consider requests made by vendors associated with the EEF project who ask for a letter of recommendation. He said DHS is required to give their honest opinion of the work done by a vendor when writing a letter.

**Presentation by the Institute for Organizational Excellence-University of Texas at Austin Regarding Their “Survey of Employee Engagement” (SEE) Assessment Tool Used by State Agencies, Businesses, and Industry to Assess Their Strengths and Concerns, Including the 360-Degree Leadership Assessment [Exhibit D, D-1, Handout]**

Representative Hammer recognized Dr. Michael Lauderdale, the School of Social Work, and Dr. Noel Landuyt, Institute for Organizational Excellence (IOE) , University of Texas at Austin. Dr. Lauderdale told legislators the IOE originated at the request from the Governor of Texas in 1979 to perform an assessment of state agencies. He said the IOE work is performed through contracts with individual agencies. Dr. Landuyt said the IOE provides research for approximately 35 states, with Texas as their largest client. The assessments performed are based on the premise that strong state agencies have ethical and responsible leaders who create a more engaged workforce. The assessments have three measurements:

- Leadership based on external and internal data
- Strategy for implementing continuous improvement
- Building sound organizations through solid data, including feedback from employees

Dr. Landuyt said the State of Texas requires state agencies to submit a five-year strategic plan every two years. The agencies perform assessments of human resources and perform an employee engagement survey. The agencies contract directly with the IOE and assign a liaison who works directly with the IOE. Additionally, there are computer programmers, graduate students, and staff who work with the agencies to prepare the survey. The survey is customized for the specific divisions and departments within an agency. Agency administrators make employees aware of the survey. Dr. Landuyt used the example of the Texas Department of Motor Vehicle and presented a video used by that agency to communicate to employees the importance of completing the survey. Agencies are able to monitor response rates in real-time to determine employee participation. Once the data is tabulated, algorithms are run within six to eight weeks, creating multiple reports. The reports are then provided to the agency. The reports provide a breakdown of data, comparative and benchmark data, highlights key factors, and lists turnover rates. The report gives the agency a performance review. Some agencies are required to review risk areas and create intervention plans.

Dr. Landuyt said the IOE began providing agency reports to the Texas Senate Finance Committee and the House Appropriations Committee in 2002. State legislators receive a workforce summary sheet, including survey responses, turnover, and retention data on specific agencies. State legislators also receive data on state employees specific to their district. An additional survey is provided to the leadership, plus a 360° assessment. The 360° assessment is reviewed by supervisor peer groups and the employees who report to them. Dr. Landuyt said this assessment provides an internal review of managerial and supervisory skills.

Kay Barnhill, State Personnel Administrator, Department of Finance and Administration, was asked if there are services in Arkansas that duplicate these types of assessments provided by Dr. Lauderdale and Dr. Landuyt's organization. Ms. Barnhill said Arkansas

does not have these types of services. She did say she is currently serving on a Task Force directed by the Arkansas State Employee Association to study four large Arkansas state agencies: DF&A, the Department of Health, the Department of Human Services, and the Department of Parks and Tourism. The study will focus on workforce retention and employee satisfaction.

Legislators discussed the costs of the program. Dr. Lauderdale was asked to perform a sample review of the Arkansas Department of Finance and Administration and the Department of Human Services and prepare an estimate. The Committee requested that the professors prepare a presentation to be given at a future JPR Committee meeting.

Senator Clark announced JPR Committee meetings scheduled for November 4, November 5, and November 9, 2015.

There being no further business, the meeting adjourned at 12:15 p.m.



## 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.



## JOINT PERFORMANCE REVIEW COMMITTEE

FEBRUARY 11, 2016

### MINUTES

The Joint Performance Review Committee met at 10:00 a.m. on Thursday, February 11, 2016 in Room A, MAC Building, Little Rock, Arkansas.

Committee members present: Senator Clark, Co-Chair, Linda Collins-Smith, John Cooper, Jane English, Missy Irvin, Terry Rice, and Gary Stubblefield. Representatives Kim Hammer, Co-Chair, Scott Baltz, Kenneth Ferguson, Michelle Gray, Mary "Prissy" Hickerson, Josh Miller, Micah Neal, Milton Nicks, Jr., Chris Richey, Dan Sullivan, Dwight Tosh, and Clarke Tucker.

Other legislators present: Senators Linda Chesterfield, Jonathan Dismang, Stephanie Flowers, Bart Hester, and Jon Woods. Representatives John Baine, Bob Ballinger, David Branscum, Gary Deffenbaugh, Jim Dotson, Jon Eubanks, Bill Gossage, Michael John Gray, Grant Hodges, Sheilla Lampkin, Greg Leding, Kelley Linck, David Meeks, Stephen Meeks, Reginald Murdock, Betty Overbey, James Ratliff, James Sorvillo, and Nelda Speaks.

#### **Call to Order**

Senator Clark called the meeting to order.

#### **Opening Remarks by Senator Clark and Representative Hammer, JPR Co-Chair**

Representative Hammer recognized Kerrie Carlock, staff attorney, Bureau of Legislative Research. Ms. Carlock was asked to address the Committee concerning testimony given by state employees before the Committee. Ms. Carlock said communication by public employees to public officials is referenced in Arkansas Code Annotated 21-1-503, which states in part:

"an employer will not penalize employees political activity nor be prohibited from communicating with an elected public official concerning a matter related to the public employees job. A public employee is not prohibited from exercising a right or privilege under the freedom of information act. It shall be unlawful for any public employer to discipline, threaten to discipline, reprimand, either orally, or in writing, place a notation in the public employee's personnel file disciplining, or reprimanding the public employee, or to otherwise discriminate in any way against a public employee for any exercise of communication with an elected public official, or an exercise of a right or privilege under the freedom of information act".

#### **Approval of Minutes – November 4, 5, and 9, 2015, and December 9 and 10, 2015 [Exhibit C, C-1, C-2, C-3, C-4]**

A motion to approve the minutes of the November 4, 5, and 9, 2015, December 9 and 10, 2015 JPR committee meetings was made by Senator Cooper and seconded by Representative Nicks, Jr. The motion carried.

### **Brief Update on the Licensing Agreement Between CoCENTRIX and the Department of Human Services**

Craig Cloud, Director, Aging and Adult Services, Department of Human Services (DHS), was sworn in under oath by Representative Hammer. Mr. Cloud was asked to give an update on the licensing agreement between DHS and CoCENTRIX. Mr. Cloud said that CoCENTRIX has delivered all of the requested items agreed upon between DHS and CoCENTRIX with the one exception due to be delivered by CoCENTRIX on Monday, February 15, 2016. The remaining item relates to an interface with the DHS "ANSWER" system, the portal that processes traditional Medicaid financial eligibility for the Medicaid population, specifically behavioral health, developmental disability, aging, long term care, and all population segments that did not shift with the implementation of the new system. Mr. Cloud said the DHS Project Manager, Northrop Grumman is responsible for testing delivered items and project testing takes three to four weeks. When testing is completed, DHS will make a final decision concerning its original contract through the Western States Contracting Alliance (WSCA), for CoCENTRIX, which was a five year agreement for maintenance of licenses.

### **Brief Review of Vendor Changes for the Health Services Account (HSA) and the Flexible Spending Account (FSA), Employee Benefits Division (EBD), Arkansas Department of Finance and Administration**

Janis Harrison, Interim Director, Employee Benefits Division (EBD), was sworn in under oath by Representative Hammer. Ms. Harrison was asked to give an update on Health Savings Accounts (HSA) and Flexible Spending Accounts (FSA) for state and public school employees. Ms. Harrison said two different vendors processed the HSA and FSA accounts for a number of years. In January 2014, EBD developed and issued a Request for Proposal (RFP) and awarded a contract to WageWorks in October, 2015 to consolidate both accounts. The previous vendor for the HSA accounts, DataPath charged \$4.00 per participant, per month for administration fees, compared to WageWorks charge of \$1.90. The previous vendor for the FSA accounts, Fringe Benefits Management Company (FBMC) charge was \$3.75 per participant, per month for administration fees compared to WageWorks charge of \$3.25. Ms. Harrison said notification of the change of vendors was provided to all health insurance representatives and employees. The issues EBD discovered during the transition of vendors include:

- missing participants were found during the health insurance open enrollment period for state and public school employees
- WageWorks conducted an audit and manually processed forms that had not been uploaded into their system
- FSA account participants received requests from a previous vendor for documents to support their claims
- EBD learned the card and claims transaction information did not transfer from the previous vendor to WageWorks
- WageWorks will process the claims within the next two weeks and notify 2015 FSA account participants.

Ms. Harrison said many of the issues resulted from the transition of vendors. EBD hopes to resolve all of the issues by the end of March, 2016.

Robyn Keene, Financial Consultant, Arkansas Association of Educational Administrators (AAEA) was sworn in under oath by Representative Hammer. Ms. Keene was asked to provide the perspective of the school districts concerning EBD's change of vendors. Ms. Keene said she has not heard many complaints. She said the school districts have the choice of submitting their payroll deductions through a transfer or by paper check. Only one school district reported a delay by WageWorks in processing payments to FSA account participants.

**Discussion of Issues with the Division of Children and Family Services (DCFS), Arkansas Department of Human Services (DHS) and the Role of the Attorney Ad Litem Program, the Parent Counsel Program, and Court Appointed Special Advocates (CASA)**

Senator Clark thanked the JPR Committee members for the diligence and time they are giving to these issues.

Brian Welch, Director, Arkansas Parent Counsel Program, was sworn in under oath by Senator Clark. Mr. Welch referenced Exhibit F-1, an overview of the Parent Counsel program and told legislators he has been the director of the program for two and half years. During his tenure, he seen the number of Parent Counsel attorneys increase from 51 to 64. Attorneys receive \$855 per case, whether the case involves a few months or a number of years. There are three criteria for a parent or custodian to receive representation through the program:

- The parent or custodian has had a child removed from their custody
- The court finds the parent or custodian to be indigent
- The parent or custodian must request representation

The Parent Counsel program follows the requirements established by Administrative Order 15, with client driven representation, which means the client directs the attorney in what they need the attorney to do. Mr. Welch said the first concern is reunification of the child and parents back into the home. When a court rules against reunification during the early stages of the proceeding, the representation shifts to ensure the program provides the parents or custodian with services, either court ordered or as needed to facilitate returning the children to their home. In the final stages of a case, representation will shift toward more parent centric when the court is moving toward termination of parental rights. Mr. Welch said the program represents parents or custodians only in dependency-neglect cases.

Renia Robinette, Administrative Office of the Courts (AOC), Director, Attorney Ad Litem Program, was sworn in under oath by Senator Clark. Ms. Robinette told the legislators she is the Director of the Dependency Neglect section of the Attorney Ad Litem program. This section represents child cases filed before the circuit court when there is an allegation of dependency-neglect, an allegation that the child has been subjected to abuse or neglect in their home of origin. The program functions under statute and Administrative Order 15. Attorney Ad Litem are mandated to provide an independent investigation of all the circumstances in each case. Information is obtained from the Department of Human Services (DHS). Attorneys also contact therapists, physicians, counselors, teachers, neighbors, law enforcement, and parents and relatives of the child. The attorneys are mandated to ensure they advocate for the child/children using all relevant information.

Ms. Robinette referenced Exhibit F-2, a flow chart listing the type of hearings that are conducted. She said the starting salary for a full-time Attorney Ad Litem is \$45,000. In Fiscal Year 2015, there were a total of 5,604 cases involving 8,981 children.

Joseph Cox, Assistant Director and Chief Fiscal Officer, Division of Children and Family Services (DCFS), was sworn in under oath by Representative Hammer. Mr. Cox was asked questions concerning mileage reimbursements to foster parents:

- ❖ There was a disputed amount of \$9,242.52 which was caused by errors on mileage reimbursement forms
- ❖ Is the average turnaround time to process mileage reimbursement two to three weeks
- ❖ What is the 300 mile rule

Mr. Cox responded to the questions as follows:

- ❖ Errors were discovered regarding the disputed \$9,242.52
- ❖ The average turnaround time is two to three weeks
- ❖ The 300 mile rule states that persons who travels in excess of 300 miles in one day, is required to obtain approval for payment by the Chief Fiscal Officer of the Division

Mr. Cox was asked to contact each DCFS county office and specifically request the number of pending mileage reimbursement forms.

Senator Clark recessed the meeting at noon to resume at 1:00 p.m.

At 1:15 p.m. Senator Clark reconvened the meeting and recalled Renia Robinette, Director, Attorney Ad Litem program. Ms. Robinette was asked questions regarding testimony provided earlier in the committee meeting:

- ❖ Has there been only one case investigated subsequent to legislation passed during the 90<sup>th</sup> legislative Session allowing an Attorney Ad Litem to petition the court in a dependency-neglect case
- ❖ Is an Affidavit involved
- ❖ In the event an Attorney Ad Litem petitions the court, do the courts automatically appoint the Attorney Ad Litem

Ms. Robinette responded to the questions as follows:

- ❖ Legislation passed during the 90<sup>th</sup> legislative Session allows an Attorney Ad Litem to file Ex Parte, a temporary order pending a formal hearing
- ❖ An Affidavit is required
- ❖ An Attorney Ad Litem would have to request an appointment by the Court

### **Discussion to Focus on Providing Better Services to Foster Care Children, Judicial Conflicts, and Enhancing Case Worker Performance**

Kathryn L. Hudson and Justin S. Huett, Parent Counsel, Law Office of Kathryn L. Hudson, Little Rock were sworn in under oath by Senator Clark. Ms. Hudson told legislators her law firm became involved in 2015 in the representation of parents whose parental rights were being terminated by DCFS. She discussed in detail her concerns regarding inappropriate protocol occurring in the court system involving DCFS attorneys and caseworkers. She said her firm's clients were not served the appropriate court documents, nor were they notified of the

dates of court hearings. Justin S. Huett, Attorney, Law Office of Kathryn L. Hudson, discussed a specific case the law firm is litigating involving a child with mental illness. Mr. Huett said the child has been placed in foster care by DHS. DHS is moving toward the termination of parental rights.

Mary Beth Luibel, Director, Court Appointed Special Advocates (CASA), was sworn in under oath by Senator Clark. Ms. Luibel gave an overview of CASA program:

- Over 1,000 volunteers advocate for 3,800 children
- CASA becomes involved in dependency-neglect proceedings once they are entered into the court system
- Volunteers complete an application process and take a minimum of thirty hours of training under one of twenty-four CASA local programs
- All programs are performed in accordance with National and State CASA standards
- CASA volunteers are appointed by a judge and work closely with Attorney Ad Litem
- Volunteers file formal written court reports at each hearing
- Volunteers attend staffing meetings with the children and monitor the progress of parents

Jim Hall, parent, was sworn in under oath by Senator Clark. Mr. Hall discussed his personal experiences regarding his troubled daughter and the lack of behavioral health care facilities in the area where he lives, which has caused extensive travel time to obtain services.

With no further business, the meeting adjourned at 3:35 p.m.



**JOINT PERFORMANCE REVIEW COMMITTEE  
FEBRUARY 25, 2016  
MINUTES**

The Joint Performance Review Committee met at 10:00 a.m. on Thursday, February 25, 2016 in Room A, MAC Building, Little Rock, Arkansas.

Committee members present: Senators Alan Clark, Co-Chair, Ronald Caldwell, Linda Collins-Smith, Joyce Elliott, Bart Hester, Missy Irvin, and Terry Rice. Representatives Kim Hammer, Co-Chair, Scott Baltz, Charlene Fite, Mickey Gates, Mary "Prissy" Hickerson, Josh Miller, Micah Neal, Milton Nicks, Jr., Dwight Tosh, Dave Wallace, and David Whitaker.

Other legislators present: Senators Jonathan Dismang, Greg Standridge, and Jon Woods. Representatives Jim Dotson, Charlotte Douglas, Sheila Lampkin, David Meeks, Betty Overbey, Mathew Pitsch, James Sorvillo, and Marshall Wright.

**Call to Order**

Representative Hammer called the meeting to order.

**Approval of Minutes – February 11, 2016 [Exhibit C]**

A motion to approve the minutes of the February 11, 2016 JPR committee meeting was made by Representative Baltz and seconded by Representative Tosh. The motion carried.

**Continued Discussion of Methods and Options to Improve Efficiency, Accountability, and Transparency in State Government and Foster Better Communication Between Agencies and Their Employees [Exhibit D, D-1]**

Representative Hammer recognized Dr. Michael Lauderdale, Principal Investigator, and Dr. Noel Landuyt, Director, Institute for Organizational Excellence (IOE), University of Texas at Austin. Dr. Lauderdale told legislators the Institute was created in 1979 in Austin, Texas to research the efficiency of state government. The Institute conducts research in 35 states and for 130 state agencies. The Institute surveys ¼ million government employees each year. Research is performed using an employee engagement model to determine efficiencies and effectiveness of agencies, provide benchmarking comparisons, and measures for the entire state. Dr. Landuyt outlined how the process could work in Arkansas:

- The Institute would identify partners; universities, state agency directors, and key liaisons within state agencies
- A local partner would work specifically with the state agency
- The Institute would contract directly with a state agency
- Cost for data collection and creation of reports would range from \$2.00 to \$3.00 per employee
- The Institute would provide orientation to agencies, governmental leaders, and local partners

Dr. Landuyt said data from state agencies would be collected using an electronic survey called the Survey of Employee Engagement, which requires less than ten minutes for employees to complete. The Institute would then compile reports using the data, provide orientation and interpretation to the legislature, and be provided to the agency under contract. The process is done in real time and takes a couple of months from inception to reporting. Dr. Landuyt was asked to identify the local partner he referenced. Dr. Landuyt said the Institute typically works with a state university.

Representative Hammer recognized Joni Lee, University of Arkansas at Little Rock (UALR), Melissa Rust, University of Arkansas System Office, and Randy Massanelli, University of Arkansas at Fayetteville. Ms. Lee was asked if she believes the process offered by the Institute would be effective in Arkansas. She said the university system would have to determine faculty and professional staff requirements needed to partner with IOE. She said obtaining the data collected from a state employee survey, and have it provided to university personnel for assessment, would facilitate their work with each state agency.

Representative Hammer recognized Melissa Rust. Ms. Rust said the University of Arkansas System has several campuses with faculty members who have research expertise. She believes the faculty would be able to provide the necessary expertise for this process should the state proceed with the survey.

Representative Hammer recognized Randy Massanelli. Mr. Massanelli said the University of Arkansas at Fayetteville has two programs, both provide evaluation and consulting services, including:

- The Engineering/Business School has a program called Ignite, an industry engagement organization. The program provides research-based solutions to the industry for identified issues under a Memorandum of Understanding.
- The University School of Education has an evaluation team that performs research measurements for K-12 educators.

Mr. Massanelli told legislators that discussions were held between his office and the IOE to determine how the University of Arkansas could provide assistance. He thinks the University would need to restructure portions of its programs, but it does have the expertise to work with the Institute.

Representative Hammer recognized Edith Crowell, Training Manager, Office of Personnel Management. Ms. Crowell was asked if Arkansas has a comprehensive statewide survey of state employees similar to IOE's survey. She said it does not.

**Brief Update on the Status of the CoCENTRIX Software for the Universal Assessment Tool Being Used by the Division of Aging and Adult Services, Department of Human Services (DHS)**

Craig Cloud, Director, Division of Aging and Adult Services (DHS) was sworn in under oath by Representative Hammer. Gregg Barker, CTO, CoCENTRIX, was sworn in under

oath via telephone. Mr. Cloud said that DHS is in the process of negotiating the final terms of the agreement with CoCENTRIX for an estimated costs of \$1.1 million for maintenance for the remainder of 2016. He said that CoCENTRIX delivered the final deliverable, the "ANSER" interface, on February 15, 2016. The DHS Project Manager, Northrop Grumman, is in the process of testing the interface. Once testing is completed, all DHS requirements will have been met. Mr. Cloud said that any additional payments will require a new Request for Proposal (RFP) containing defined deliverables and fixed-cost parameters for traditional Medicaid.

Gregg Barker, CoCENTRIX, was asked for his comments. Mr. Barker agreed with Mr. Cloud's statements and had no additional comments.

A motion to recommend that DHS make the final payment to CoCENTRIX was made by Representative Hammer and seconded by Senator Rice. The motion carried.

**Review of the Technical and General Services Contract Between the Employee Benefits Division (EBD) and the American Health Holding, Inc. – Assigned to the JPR Committee by Legislative Council [Exhibit F]**

Janis Harrison, Interim Executive Director, Employee Benefits Division (EBD), and Paul Ford, Interim Administrator, Office of State Procurement (OSP), were sworn in by Representative Hammer.

Ms. Harrison was asked when did she assume the EBD Interim Director position. She was also asked to describe the Request for Proposal (RFP) process and timeline for the contract between EBD and American Health Holding, Inc. The contract was referred by the Arkansas Legislative Council (ALC) to the JPR Committee during the ALC meeting on February 19, 2016. Ms. Harrison said she assumed the EBD Interim Director position on January 3, 2016. She referenced page four of the contract provided to committee members (Exhibit F) which shows the timeline for the Population Health Management RFP. Ms. Harrison said she understood that EBD opened the bid for the RFP in the Spring of 2015, which would consolidate services for utilization, review, management, and case management. The consolidation would bring two contracted programs together into one RFP. She said RFP documentation indicate that the appropriate steps were taken and there was sufficient time allowed for a decision to be made by EBD on July 2, 2015. The former EBD Executive Director determined that no award would be issued. Ms. Harrison was asked why no bid was awarded and if efforts were made to retool the RFP to re-release the bid.

Paul Ford responded to the question and said that OSP reviewed the evaluation results and noticed confusion and misunderstanding by the evaluators rating the contract bids. Mr. Ford said the determination was made to create a new RFP. Mr. Ford was asked if he knew why the RFP was not reissued considering the time available, July 2, 2015 to December 31, 2015, appeared to have allowed ample time to do so. Mr. Ford said his office had not received certain specifications needed and referred the RFP back to EBD for new specifications for the RFP.

Ms. Harrison said a letter was submitted by Mr. Bob Alexander, the former EBD Director, to DF&A Internal Purchasing in November 2015 requesting sole source justification. December 2015, EBD was notified of approval for the sole source contract. However, nothing occurred following the notification. Ms. Harrison said that moving forward, EBD is starting the process of writing a new RFP because the current contract will cease at the end of 2016. Ms. Harrison said her office hopes to have its work completed for review by OSP in May 2016.

Representative Hammer said that without objection an official request will be sent to Mr. Bob Alexander, former Director, EBD, to appear before the committee. He then recessed the Committee meeting at 12:10 p.m.

### **Discussion of Foster Care and Adoptions Procedures in Arkansas**

Senator Clark reconvened the Committee meeting at 1:15 p.m.

Mandy Moss, former Foster Parent of the Year and an adoptive parent, and Katherine Blackmon, Katherine Blackmon Carroll Law Firm, were sworn in under oath by Senator Clark. Ms. Moss described in detail her family's experience in the foster care system over the past five years:

- Mr. and Mrs. Moss became a foster family December 2010
- Mr. and Mrs. Moss had six foster care placements in 2011
- Mr. and Mrs. Moss were named Foster Family of the Year
- In 2012, the Moss family received a nine month-old foster child
- A permanency planning hearing resulted in Mr. and Mrs. Moss being named as the adoptive family of the nine month-old child

Ms. Moss provided an overview of events and conversations with DHS staff concerning the family moving to a different county. The Moss family moved to Northwest Arkansas in July 2012 with the understanding that a Termination of Parental Rights (TPR) of the biological parents was scheduled for August 2012. The Moss family agreed to provide transportation every two weeks, a ten-hour round trip drive, for visitations with the child's biological parents. What was to have been a one-month timeframe resulted in one and half years due to delays by DHS and the courts before the biological parents rights were terminated. Mr. and Mrs. Moss ultimately adopted the foster child with the help of a private attorney. Ms. Moss said she and her husband were harassed, threatened, and targeted by DHS throughout the process.

Ms. Carroll responded to questions by legislators as to if the events surrounding the foster care and adoption by the Moss family is an isolated case. Ms. Carroll said during her 19 years of private practice she has had many dealing with DHS and experienced five cases in 2015 similar to what happened with the Moss family. She said families have experienced retaliation and punishment by DHS employees and it is not uncommon.

Cecile Blucker, Director, Division of Children and Family Services (DCFS), was sworn in under oath by Senator Clark. Ms. Blucker discussed DCFS policies when DHS personnel

do not follow legal due process within the foster care system. DCFS employees are to follow the required procedures to implement disciplinary action when it is warranted.

Lauri Currier, Executive Director, The CALL, was sworn in under oath by Senator Clark. Ms. Currier described The CALL as a group of Christian individuals interested in helping foster care children. The organization was developed in 2007 in partnership with DCFS in Pulaski County. Ms. Currier said The CALL is a 501 C-3 non-profit organization funded through individual donors, churches, corporations, and foundations. The organization is led by volunteers with the goal of providing foster homes for children within local communities. In 2010, DCFS asked The CALL to become a statewide organization. The CALL had affiliates in 21 counties at that time. They launched statewide in 2011, creating and implementing standards of practice and expanding recruitment and training. There are currently CALL affiliates in 37 counties. The CALL provides training for foster families using a model known as PRIDE training. Ms. Currier highlighted data from the organization:

- 489 information meetings for foster families have been held
- 3,579 families attended informational meetings over the past 7 years
- 1,384 families were recruited during the meetings
- 237 PRIDE training weekends have been held
- 1,817 foster families have completed training
- 984 foster homes have been opened
- 338 adoptive families have been opened

Todd and Monica were sworn in under oath by Senator Clark. Senator Clark told legislators the couple requested their last names not be made public. Todd said he and his wife were recruited and trained as foster parents by The CALL. They accepted placement of a newborn baby in November 2015 at the request of a DHS investigator, due to the presence of drugs in the baby at birth. Todd and his wife fostered the newborn, providing medical care for the infant using the same pediatrician they use for their biological children. He provided details of what happened to his family during the time they provided foster care:

- An initial visit with the newborn's biological family occurred on November 18, 2015
- The Arkansas State Police Crimes Against Children Division (CACD) advised Todd and Monica that a report of child neglect had been made against them on November 19, 2015 through the Child Abuse Hotline
- A CACD investigator, a DHS investigator, and a DHS caseworker inspected Todd and Monica's home, checked the baby, reviewed medical reports, and took photographs
- Todd and Monica were told they would receive a letter from the CACD investigator within 30 days containing the findings of the investigation
- Todd and Monica continued to foster the infant, plus a toddler, for several more weeks until both the baby and the toddler were placed with relatives
- The second week of January 2016, Todd contacted a DHS resource worker and learned their home was listed as unavailable for foster care placements because the CACD investigation had not been completed

- Todd called the investigator on January 11, 12, and 13. January 13, the CACD investigator called to apologize for the delay

A regional supervisor with DHS contacted Todd to advise that the CACD case had been closed and a report would be sent. Todd said he discussed the investigation process with the supervisor regarding the length of time and delays. He was told legislation would be required to decrease the amount of time it takes to close an unsubstantiated case. Todd asked the legislators to consider policy changes to allow CACD investigators the ability to make immediate determinations in cases where there are not true findings. Todd said he forwarded the CACD report of No Findings to the DHS resource worker as soon as it was received, only to learn that the case had been sent to a DHS Central Office committee for approval prior to their home being reopened for foster care placements. He and his wife continued to try to have their names cleared, only to learn that their case had been submitted to the Resource Family Review Committee on January 26. He was told that the committee only meets once a month, with next meeting being scheduled for February 10, 2016. He believes the foster care crisis is exacerbated by a slow moving bureaucracy and the possible abuse of the Child Abuse Hotline.

Major Ron Stayton, Division Commander, Crimes Against Children Division, Arkansas State Police, was sworn in under oath by Senator Clark. Major Stayton was asked about the length of time involved in an investigation and whether or not he believes an investigator should have the authority to immediately close cases when no evidence of maltreatment is found. Mayor Stayton discussed the efforts to pass legislation during the 89<sup>th</sup> legislative session for a No Merit closure. He said there was such a great amount of opposition that the final amended legislation was of little or no help to the CACD.

Senator Clark announced upcoming JPR Committee meetings scheduled for Wednesday, March 16, 2016 and Thursday, Marcy 17, 2016. He also announced that a news feature on grandparents and foster parents rights would appear on KATV Chanel 7 that evening.

With no further business, the meeting adjourned at 3:20 p.m.

**JOINT PERFORMANCE REVIEW COMMITTEE**  
**MARCH 16, 2016**  
**MINUTES**

The Joint Performance Review Committee met at 1:00 p.m. on Wednesday, March 16, 2016 in Room A, MAC Building, Little Rock, Arkansas.

Committee members present: Senators Alan Clark, Co-Chair, Linda Collins-Smith, Jane English, Missy Irvin, Terry Rice, and Greg Standridge. Representatives Kim Hammer, Co-Chair, Jana Della Rosa, Lance Eads, Jon Eubanks, Kenneth Ferguson, Charlene Fite, Mickey Gates, Mary "Prissy" Hickerson, Milton Nicks, Jr., Dan Sullivan, Dwight Tosh, Clarke Tucker, and David Whitaker.

Other legislators present: Senators Scott Flippo and Eddie Joe Williams. Representatives Mike Holcomb, Sheilla Lampkin, Reginald Murdock, and Betty Overbey.

**Call to Order**

Representative Hammer called the meeting to order.

**Opening Remarks – Representative Hammer and Senator Alan Clark, JPR Co-Chairs**

Representative Hammer recognized Representative Julie Mayberry who introduced Dr. Alette Coble-Temple, Ms. Wheelchair America, from Walnut Creek, California, and Karen Rivera, Ms. Wheelchair Arkansas, from Jacksonville, Arkansas.

**Approval of Minutes – February 25, 2016 [Exhibit C]**

A motion to approve the minutes of the February 25, 2016 JPR committee meeting was made by Senator Irvin and seconded by Representative Hickerson. The motion carried.

**Discussion of the Procurement Process and Vendor Contracts for the Employee Benefits Division (EBD), Arkansas Department of Finance and Administration (DF&A) [Exhibit D, Da, Db]**

Representative Hammer told legislators that representatives of WageWorks will participate in the meeting via conference call. Robert "Bob" Alexander, Former Director, Janis Harrison, Interim Director, EBD, DF&A, and Mark Meadors, Vice President-Employee Benefits, BancorpSOUTH, Little Rock, and Ed Armstrong, Administrator, Office of State Procurement (OSP), DF&A, were sworn in under oath by Representative Hammer.

Ms. Harrison gave an overview of the EBD contract with WageWorks, which went into effect on January 1, 2016. She said two aspects of the WageWorks contract are the enrollment of school and state employees and the transfer of assets from the former vendor, Data Path, to WageWorks. Currently, there have been 13,000 enrollments in WageWorks and 5,500 asset transfers.

Representative Hammer recognized Bob Alexander, the former EBD Director. Mr. Alexander said there had been a duplication of service with the previous products. By combining HSA and FSA, EBD projects an annual savings of \$500,000 in file transfers, money transfers, and ease of accounting being able to work with just one company. In

2014, EBD executed a Request for Proposal (RFP) to find a vendor who could handle both accounts. Seven companies responded to the RFP. However, six of the seven respondents were disqualified. EBD rebid the RFP in December 2015.

**Review of the Recent Contract Between WageWorks and the Arkansas Employee Benefits Division, Arkansas Department of Finance and Administration (DF&A)**

Ms. Harrison discussed the Health Savings Accounts (HSA) and the Flexible Spending Accounts (FSA) and said that currently approximately fifty employees have not yet had their assets transferred from DataPath to WageWorks. The delay in the transfer is a result of two issues:

- Employees have not yet requested a transfer
- Some HSA accounts require assets to be liquidated for a dividend payment

Kim Wilford, General Counsel, and Barbara Gonzales, Vice President of Public Sector Sales, WageWorks, were sworn in under oath via telephone by Representative Hammer. Ms. Gonzales said a batch enrollment process was used to assist in the transfer of assets. Each employee enrolled in an HSA account was sent an e-mail, which contained a link for participants to provide an automated authorization. The authorization allows the employee to approve a transfer of their assets. Ms. Gonzales said the e-mail also provided participants with the option of requesting the transfer by paper documents. Ms. Gonzales said the participant's e-mail addresses were provided to WageWorks by Mainstream, Inc., a third party vendor used by the state.

Ms. Wilford discussed a letter dated February 26, 2016 from Bank of New York (BNY) Mellon that was sent to participants informing them of a monthly fee of \$2.00 that will be charged to each HSA account holder. BNY Mellon is the custodian bank for the HSA accounts. Ms. Wilford said that WageWorks was unaware that BNY Mellon planned to levy this fee until recently. WageWorks plans to absorb the fee until the end of 2016.

Janis Harrison said that EBD sent an alert to HSA account participants regarding the \$2.00 fee. EBD has also sent the WageWorks contract and all relative information to the Revenue Legal Counsel, Arkansas Department of Finance Administration (DF&A) for review and determination on behalf of EBD.

Bob Alexander told legislators that in the past EBD had two contracts with American Health Holding, Inc. for case management and disease and utilization management. When one of the two contracts was nearing expiration, EBD developed an RFP to combine the two contracts. Mr. Alexander said the EBD Board directed his office to seek vendors with similar products which could serve all of the management components. EBD hired BancorpSOUTH as a consultant to develop the RFP.

Mark Meadors, Vice President-Employee Benefits, BancorpSOUTH, was sworn in under oath by Representative Hammer. Mr. Meadors told legislators he began development of the Population Health Management RFP for EBD in late 2014. He said the primary goal of the RFP was to help find a vendor to service the entire population for the health management components. He believes EBD has two options regarding this contract:

- Assign a new evaluation committee to rescore each of the ten responses originally received by EBD
- Reissue the RFP

Ms. Harrison told legislators that EBD is currently in the process of reviewing and updating the original RFP and hopes to complete its work by Friday, March 18, 2016, at which time they will forward the information to the Office of State Procurement (OSP) for review.

Ed Armstrong, Administrator, Office of State Procurement (OSP), was sworn in under oath by Representative Hammer. Mr. Armstrong discussed the issue with sole source contracts and said some states passed legislation to allow a state agency to temporarily extend contracts when warranted. He said that OSP currently has a mechanism for emergency procurements when a critical service is needed by an agency and the contract is about to expire. Mr. Armstrong said that OSP has developed a “tickler” notice to be incorporated into the Arkansas Administrative Statewide Information System (ASSIS). This file will remind state agencies on a daily basis that a contract is nearing expiration. This should provide additional time for an agency to develop an RFP when a deadline looms.

**Overview of the Training Program Provided by MidSOUTH, University of Arkansas at Little Rock (UALR) for the Employees with the Division of Children and Family Services (DCFS), Arkansas Department of Human Services (DHS) [Exhibit F]**

Gigi Peters, Executive Director, MidSOUTH, School of Social Work, UALR, Cecile Blucker, Director, and Kristen Harper, Local Policy and Training, DCFS, Rodney Crownover, Training Director, and Carole Griffin, Communication and Development Director, MidSOUTH, were sworn in under oath by Representative Hammer.

Mr. Crownover gave an overview of MidSOUTH, the Community Service Unit of the School of Social Work at the University of Arkansas at Little Rock (UALR). He provided details and said a nine-member university partnership was formed in 1991 for University-Agency training partnerships under Title IV-E, required through a federal mandate. Universities provide a state match through in-kind expenditures to supplement federal funding. He discussed the in-kind expenditures universities provide through university participation with the inclusion of a child welfare curriculum. Plus, a portion of the teacher’s salaries in the child welfare curriculum are a part of the state’s in-kind match. The university has a multi-disciplinary team from different majors that meets quarterly to discuss how to insert more child welfare information into courses. Mr. Crownover highlighted MidSOUTH training programs:

- University Preparation – the infusion of child welfare curriculum, with degrees that meet DCFS minimum requirements, and placement in DCFS
- Title IV-E Training – federal mandates
- Training for new DCFS staff, supervisors, family service workers, program assistants, and provide continuing education for all DCFS staff
- Nurturing Families of Arkansas – trains DCFS staff to train parent coaches

Representative Hammer told Committee members agenda Item G will be moved to the upcoming JPR Committee meeting scheduled for Thursday, March 17, 2016.

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



**JOINT PERFORMANCE REVIEW COMMITTEE**  
**MARCH 17, 2016**  
**MINUTES**

The Joint Performance Review Committee met at 10:00 .m. on Thursday, March 17, 2016 in Room A, MAC Building, Little Rock, Arkansas.

Committee members present: Senators Alan Clark, Co-Chair, Linda Collins-Smith, Jane English, Jeremy Hutchinson, Missy Irvin, and Terry Rice. Representatives Kim Hammer, Co-Chair, Scott Baltz, Jana Della Rosa, Lance Eads, Kenneth Ferguson, Charlene Fite, Mickey Gates, Mary "Prissy" Hickerson, Josh Miller, Micah Neal, Dwight Tosh, and David Whitaker.

Other legislators present: Senators Scott Flipppo and Stephanie Flowers. Representatives Jack Ladyman, David Meeks, Mathew Pitsch, Sue Scott, and Marshall Wright.

**Call to Order**

Senator Clark called the meeting to order.

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

Senator Clark said the JPR Committee began reviewing child maltreatment and dependency-negligence cases in July 2015 and have discovered a number of issues with the process.

**Overview of the Structure, Services, and Training Programs for DCFS/DHS Employees Provided by Hornby Zeller Associates (HZA)**

Greg Moore, Arkansas Quality Assurance Unit, Hornby Zeller Associates (HZA), was sworn in under oath by Senator Clark. Mr. Moore highlighted two contracts HZA has with the Arkansas Division of Children and Family Services (DCFS), DHS, for performance monitoring, training, and evaluation. The Federal Administration for Children and Families initiated a federal review process in 2000 to distribute funding to states to be budgeted for child welfare systems. Federal funding requires that a monitoring process be performed in each state every five to seven years. Arkansas's most recent review occurred in 2008. Arkansas is currently in its third review process. DCFS contracted with HZA to conduct the federal review process, which includes components for training and mentoring of DCFS staff.

Mr. Moore told legislators he and his staff travel yearly throughout the state to ten geographic areas where they review a random selection of cases. These case reviews include interviews with DCFS staff and supervisors, families, children, foster families, and service providers. Cases are rated based on federal guidelines. Mr. Moore then described the review process HZA performs through a separate contract with DCFS involving child protective services:

- Review random samples of child welfare cases, foster care, and children who do not enter the foster care system
- Fifty closed investigations are reviewed in each service area
- A report of findings and recommendations for each area is provided to Area Directors, the Assistant Director of Community Services, and the DCFS Director

Mr. Moore said components of the child protective services contract include a training model for structured decision making, which was developed in 2008 after a federal review

was performed in Arkansas. The 2008 federal review rated Arkansas second highest in the U.S. for placing children into the foster care system. A determination was made that Arkansas lacked consistent decision making for risk and safety assessments, plus what constitutes a threat to a child. Mr. Moore discussed the training HZA provides to DCFS staff. This training helps them to identify the difference between risk and safety that are consistent with federal standards. Training includes identification of a threat of immediate danger. Two options are provided to DCFS caseworkers when a threat is identified:

- Implement a protection plan consistent with legal advice provided by the DCFS Office of Chief Counsel
- Removal of the child/children from the home

Mr. Moore provided details of their HZA two-day training course where DCFS staff learn to differentiate between risk and safety, and what are the appropriate responses. DCFS staff have told HZA staff that after taking the training they have experienced difficulties from within DCFS when implementing the structured decision making process learned in training. There are cases where they are not being allowed to follow the guidelines recommended by the training.

Senator Jeremy Hutchinson was sworn in under oath by Senator Clark. Senator Hutchinson discussed Child Dependency-Neglect cases. He told legislators there is an inherent conflict in having the Parent Counsel Office under the Administrative Office of the Courts (AOC), which also administers the Attorney Ad Litem program. He has heard privately from parent counsel attorneys expressing their concerns with the current system. Senator Hutchinson said the Parent Counsel program has no funding to hire expert witnesses as opposed to the Attorney Ad Litem Program and DHS, both which have funding to hire social workers, psychiatrists, and child treatment experts. Senator Hutchinson said that without the ability to present expert witnesses, Parent Counsel attorneys cannot win dependency-neglect cases for their clients. He stressed that in every case all avenues should be considered before children are removed from their homes.

Senator Hutchinson asked the JPR Committee to consider recommending increased funding to the Parent Counsel Program, which would allow them to hire expert witnesses. He said it is his opinion that the Parent Counsel program should be moved out from under the administration of the AOC and be given to another agency.

Senator Clark recognized Greg Moore with HZA to continue his presentation. Mr. Moore discussed the necessity of obtaining reliable data and information from within the child welfare system. He does not believe sufficient data is provided to the courts in child welfare cases. Mr. Moore told legislators that through his experience and the interviews he has conducted in Arkansas, indications are that too many children are being removed from their families due to fundamental disagreements between stakeholder groups as to what constitutes the best interest of the child/children.

Senator Clark announced the upcoming JPR Committee meeting scheduled for Wednesday, March 30, 2016. He explained that the JPR Committee will take up consideration of its use of its subpoena power at that meeting.

There no being further business, the meeting adjourned at 12:20 p.m.

**JOINT PERFORMANCE REVIEW COMMITTEE  
MARCH 30, 2016  
MINUTES**

The Joint Performance Review Committee met at 9:30 a.m. on Wednesday, March 30, 2016 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, Jana Della Rosa, Lance Eads, Kenneth Ferguson, Mickey Gates, Michelle Gray, Josh Miller, Micah Neal, Milton Nicks, Jr., Chris Richey, Dan Sullivan, Dwight Tosh, Clarke Tucker, and David Whitaker.

Other legislators present: Senators Scott Flippo and Greg Standridge. Representatives Charles Armstrong, Vivian Flowers, Michael John Gray, Sheilla Lampkin, Mark McElroy, Betty Overbey, James Ratliff, Sue Scott, James Sorvillo, and Jeff Wardlaw.

**Call to Order**

Representative Hammer called the meeting to order.

**Approval of Minutes – March 16 and 17, 2016 [Exhibit C]**

A motion to approve the minutes of the March 16 and 17, 2016 JPR Committee meetings were made by Senator Cooper and seconded by Representative Nicks, Jr. The motion carried.

**Consideration of the Joint Performance Review Committee's Exercise of Subpoena Power. Members of the JPR Committee will Consider Whether Subpoenas for Persons, Documents, and Records are Appropriate as Part of Its Ongoing Review of the Arkansas Department of Human Services and the Division of Children and Family Services (DCFS), (DHS)**

A motion to issue a subpoena to Leah Lanford, Appellate Attorney, Dependency-Neglect Division, Arkansas Public Defender Commission, to appear before a meeting of the JPR Committee scheduled for Thursday, April 14, 2016 was made by Representative Gates and seconded by Senator Stubblefield. The motion carried.

**Update on the Implementation of the Universal Assessment Tool Software Developed by CoCENTRIX**

Kenneth Robinson, President, and Pam Cooney, Services Coordinator, Pine Bluff Psychological Associates (PBPA), were sworn in under oath by Representative Hammer. Mr. Robinson gave an overview of contracts his organization has with the Division of Developmental Disabilities Services (DDS), Arkansas Department of Human Services (DHS). He told committee members that PBPA entered into a contract with DDS in 2012 to conduct assessments of the DDS population. The contract set 5,000 as the maximum number of assessments. PBPA completed 4,400 assessments in the timeframe established by the contract. DDS discontinued the 2012 contract and entered into a second contract with PBPA for a different DDS population, with a maximum number of assessments at 5,000.

To date, PBPA has completed 3,600 assessments with 2,100 scheduled. Mr. Robinson said that part of the assessment involves assessors coding DDS clients' responses. Once an assessment is completed, the assessors enter their case notes into the system where an algorithm determines the tier of service needed for the DDS client. Pam Cooney, Services Coordinator, PBPA, told legislators the assessments are conducted based on a list of DDS names provided by DDS.

Craig Cloud, Director, Aging and Adult Services, DHS, and Melissa Stone, Director, Division of Developmental Disabilities Services, (DDS) DHS, were sworn in under oath by Representative Hammer. Ms. Stone told legislators she began working on the PBPA contracts in January 2015, prior to assuming the position as DDS Director in January 2016. During that time period, DDS was moving forward with the Medicaid Community First Choice Option (CFCO) using the interRAI assessment tool normed for the elderly and nursing home population. The University of Michigan, the owner of the assessment tool, developed a version of the assessment tool capable of assessing the entire disabled population. Ms. Stone conducted a mass assessment of the entire Arkansas disabled population in 2012 using the assessment tool developed by the University of Michigan. The maximum number of assessments was set at 5,000. DDS then learned the CFCO would not be moving forward. However, the data had already been collected and provided to the University of Michigan. In 2015, DDS chose to continue assessing the DDS waiver population and retained the maximum number of assessments at 5,000 in its contract with PBPA.

Representative Hammer recognized Mr. Cloud for an overview of the assessments conducted by the Division of Aging and Adult Services DHS, population. Mr. Cloud said the interRAI assessment tool used to assess the aging population and included a specific tier level of payment attached to the assessment results. It also generated an allocation of resources and developed a plan of care. Mr. Cloud was asked why the assessment tool his agency used could not be used for the DDS population. Mr. Cloud explained that the interRAI assessment tool was normed for use in the elderly and nursing home population. Additionally, adjustments to the assessment tool were made for its use to assess the physically disabled population.

Ms. Stone addressed her concerns regarding the use of the interRAI assessment tool for the DDS population. She said its use would have to be reported in DDS waiver documents sent to the Centers for Medicare and Medicaid Services (CMS). She also said there are a number of states that are being sued for having used the interRAI tool to assess the disabled populations in their states. Ms. Stone was asked to prepare a report with the amount of monies originally projected as savings compared to the actual amount of money spent by the Department for the assessments. She was also asked to prepare a cost analysis of the DDS wait list population through either a capped or tiered waiver.

**Continued Discussion of the Policies and Procedures, Goals and Direction of the Division of Children and Family Services (DCFS), Arkansas Department of Human Services (DHS)**

Cecile Blucker, Departing Director, DCFS, and Mischa Martin, Incoming Interim Director, DCFS, DHS, were sworn in under oath by Senator Clark. Senator Clark thanked Ms. Blucker for her service to the state during her tenure as director. Ms. Blucker gave a presentation reflecting on her tenure with DCFS. She said within the entire child welfare system there are perceptions and realities. A perception many believe is that the majority of caseloads DCFS investigates involve physical or sexual abuse. But, in reality the majority of the DCFS investigations involve dependency-neglect cases. Ms. Blucker said another perception was her failure to hold judges accountable. The perception is she should have filed judicial complaints against judges who were known to not follow state laws. One issue is judges who do not provide notification to DCFS in cases involving Families in Need of Services (FINS) as is statutorily required. Another issue concerns Pulaski County Juvenile Court Judge Patricia James who has issued a standing order prohibiting DCFS to present testimony that includes recommendations to place child/children with relatives. Ms. Blucker said DCFS staff has been subjected to repercussions, retaliation, and jail time should they disobey Judge James' order. Ms. Blucker told legislators it is her belief the DCFS workers should be allowed to perform their jobs based on their training, keep families together, and allow the placement of children with relatives when it is deemed appropriate. Ms. Blucker told legislators she has met with Judge James and discussed the Structured Decision Making training and other evidence based programs used by DCFS.

Ms. Blucker then addressed the perception that she has not held DCFS staff accountable. She said the reality shows in the number of disciplinary actions implemented by the agency. DCFS personnel records indicate 112 disciplinary actions filed from March 2007 to March 2010. 126 disciplinary actions were filed from March 2010 to March 2013, and 396 disciplinary actions were filed from March 2013 to March 2016. She then gave the example of one case where an employee falsified records. Disciplinary action was taken and the employee chose to pursue all processes and appeals allowed, which extended this case for three years. Ms. Blucker suggests the state's personnel policies be reviewed because of the obstacles agencies face when they attempt to terminate an employee. She also suggests DCFS be allowed some flexibility in its hiring practices and salary structure. Ms. Blucker gave recommendations regarding funding and best use of resources for the child welfare system. There is an option called Differential Response, which provides an alternative method in responding to priority-two investigations. Priority-two investigations include findings of inadequate food, clothing or shelter, and environmental neglect. Ms. Blucker said a Differential Response is a more strength-based approach. Another suggestion concerns removing the acceptance of educational neglect, which many states do not have.

Senator Clark recognized Mischa Martin, Incoming Interim Director, DCFS. Ms. Martin spoke about her vision for DCFS and referenced a consultant's report, the Paul Vincent Report on child welfare and policy including a review of DCFS. She told legislators this is a perfect time to make changes in the system. She suggests increasing child placements in non-profit faith-based organizations, such as The Call and others. Ms. Martin was asked to prepare a list of possible placement options.

Legislators discussed possible legislative oversight of the child welfare system allowing legislators to meet with DCFS in a format similar to an executive session. Discussion was also held regarding the possible creation of an Ombudsman Office to oversee quality assurance for the child welfare system.

Senator Clark recessed the meeting at 12:30 p.m.

Representative Hammer reconvened the meeting at 1:30 p.m.

**Continued Overview of the Structure, Services, and Training Programs for DCFS/DHS Employees Provided by Hornby, Zeller Associates (HZA)**

Greg Moore and Chantel Barber, Arkansas Quality Assurance Unit, HZA, were sworn in under oath by Representative Hammer. Ms. Barber gave an overview of the training programs HZA provides to the Division of Children and Family Services (DCFS), DHS:

- A training model for Structured Decision Making was developed following a federal review performed in Arkansas in 2008
- The focus of the training is identifying safety concerns and immediate dangers to children
- Beginning February 2015, DCFS employees in New Worker Training classes were automatically registered to attend HZA Structured Decision Making training
- A 19-page document with guidance on what constitutes immediate danger is given to DCFS workers at the training classes

Ms. Barber said a major component of the training is how to determine situations of immediate danger to a child. Two options are provided to DCFS caseworkers when a threat is identified:

- Implement a protection plan consistent with legal advice provided by the DCFS Office of Chief Counsel
- Removal of the child/children from the home

Representative Hammer recognized Greg Moore. Mr. Moore discussed the types of training HZA provides to DCFS employees in comparison to the New Worker Training programs performed by MidSOUTH, University of Arkansas at Little Rock (UALR). He said Title IV-E, the federal funding source for the child welfare workforce is solely focused on foster care and its administration. MidSOUTH cannot provide training in investigations due to funding restrictions in Title IV-E. These restrictions prevent MidSOUTH from offering investigative training in its New Worker Training program.

Mr. Moore then discussed a meeting with Cecile Blucker and Juvenile Court Judge Patricia James to address concerns by DCFS staff. Mr. Moore said that Structured Decision Making training and other interventions that Arkansas is implementing for the protection of children were specifically discussed during the meeting.

**Practicing Parent Counsel Representing 150-250 Parents Per Year Whose Children Have Been Taken into Custody, Provide Testimony Explaining the Process from the Prospect of the Parents and Their Attorneys, Discuss Improvements to the System and Offer Proposals that Should Result in the Maintenance and Reunification of Arkansas Families [Exhibit H]**

Senator Clark told committee members that Mr. Glenn Hoggard will give a brief review at today's meeting and present a more in-depth review at the JPR Committee meeting scheduled for Thursday, April 14, 2016.

Glenn Hoggard, Parent Counsel attorney, was sworn in under oath by Representative Hammer. Mr. Hoggard told the legislators that as a Parent Counsel attorney he is appointed to represent parents in dependency-neglect cases whose child/children have been removed from their home and cannot afford to hire an attorney. Mr. Hoggard's practice covers four counties and two judicial districts. He said that in a typical work week he presents six cases each day in different courts. His current caseload includes 80 families whose children are in the foster care system. Mr. Hoggard referenced testimony presented during the JPR Committee meeting held on Thursday, March 17, 2016 by Senator Jeremy Hutchinson. He agrees with statements made by Senator Hutchinson concerning the need for structural changes to the Parent Counsel program. Mr. Hoggard said the Parent Counsel attorneys have begun work on a legislative packet to be presented during the 2017 legislative Session. He believes the proposed legislation will provide solutions to remedy situations that hinder the Parent Counsel attorneys in their representation of parents and families.

Senator Clark announced the upcoming JPR Committee meeting scheduled for Thursday, April 14, 2016.

There being no further business the meeting adjourned at 2:45 p.m.



**JOINT PERFORMANCE REVIEW COMMITTEE**  
**APRIL 14, 2016**  
**MINUTES**

The Joint Performance Review Committee met at 10:30 a.m. on Thursday, April 14, 2016 in Room 151, State Capitol, Little Rock, Arkansas.

Committee members present: Senators Alan Clark, Co-Chair, Jane English, Linda Collins-Smith, Terry Rice, and Gary Stubblefield. Representatives Kim Hammer, Co-Chair, Lance Eads, Kenneth Ferguson, Charlene Fite, Mickey Gates, Milton Nicks, Jr., Dwight Tosh, Dan Sullivan, John Walker, and Dave Wallace.

Other legislators present: Senators Scott Flippo and Eddie Joe Williams. Representatives David Fielding and George McGill.

**Call to Order**

Senator Clark called the meeting to order.

**Approval of Minutes – March 30, 2016 [Exhibit C]**

A motion to approve the minutes of the March 30, 2016 JPR Committee meeting was made by Representative Hammer and seconded by Senator Rice. The motion carried.

**Discussion of Non-DHS Focused Testimony on Issues That Have Contributed to the Child Welfare Crisis as Seen by Attorneys Who Handle a Majority of the Child Welfare Appeals Statewide, and Offer Solutions to Fix Systemic Problems With the System [Exhibit D]**

Glen Hoggard, Parent Counsel attorney, and Leah Lanford, Managing Attorney, Dependency-Neglect Division, Arkansas Public Defender Commission, were sworn in under oath by Senator Clark. Mr. Hoggard told legislators that as a Parent Counsel attorney he is appointed to represent parents in dependency-neglect cases whose child/children have been removed from their home and cannot afford to hire an attorney. Mr. Hoggard's practice covers four counties and two judicial districts. His practice is conducted through a personal services contract with the Administrative Office of the Courts (AOC). He said there are 64 Parent Counsel attorneys throughout state, all of whom have personal services contracts with the AOC. Mr. Hoggard told committee members he believes that housing the Parent Counsel Program with the AOC presents a conflict. This issue was taken up by the Arkansas Supreme Court when it created a committee to consider removing the Parent Counsel Program from within the AOC. Committee members included a former director of the Parent Counsel Program, Parent Counsel attorneys, Attorney Ad Litem, representatives from the Arkansas Department of Human Services (DHS), AOC personnel, and representatives from the Arkansas Public Defender Commission. The Committee considered three options, which were submitted to the Court:

- Keep the Parent Counsel Program within the AOC
- Have the Parent Counsel Program become a stand-alone agency with a minimal budget

- Have the Parent Counsel Program become a stand-alone agency with a substantial budget

Mr. Hoggard said he voted against all three of the recommendations made by this committee. He said one reason the Parent Counsel Program should not remain housed within the AOC is because several of the stakeholders involved in dependency-neglect cases are part of AOC. In every dependency-neglect case there are up to four parties involved and part of the AOC: they are a Parent Counsel attorney, an Ad Litem attorney, a Judge, and a Court Appointed Special Advocate (CASA) volunteer, if needed. The only participant in these cases that is not housed within the AOC is the Arkansas Department of Human Services (DHS). Mr. Hoggard said because four of the five parties are affiliated with the AOC, it gives the appearance of a conflict. Another illustration of a conflict concerns the funding mechanism used by the AOC for the Parent Counsel program. He said the Dependency-Neglect Division of the AOC has an annual appropriation of \$9.6 million. AOC distributes the funds to each program it administers. An appropriation of \$2.5 million is spent to pay the personal services contracts between the AOC and the 64 Parent Counsel attorneys. The appropriation for the Attorney Ad Litem program is \$5.5 million. Mr. Hoggard feels the appropriation amounts are not equitable. The Parent Counsel Program funding has remained stagnant, but the number of cases requiring representation continues to grow. He then discussed a legislative packet the Parent Counsel Program is developing to be presented during the 2017 legislative Session. Proposed legislation in the packet will provide solutions to remedy situations that hinder the Parent Counsel attorneys in their representation of parents and families. He summarized the proposed legislation:

- Keep parental rights intact as a first priority
- Provide limited open adoption options
- Require DHS to inform parents of their rights regarding entry into their homes by investigators
- Change the preferential order – remove adoption as the first choice for placement

Senator Clark told committee members that Leah Lanford's testimony is the result of a subpoena issued by the Committee compelling her to appear. Ms. Lanford described her background and said she has practiced law for seventeen years. Twelve years of her practice was exclusive to child welfare. She served as an Attorney Ad Litem for five years before accepting a position with the Arkansas Public Defenders Commission in 2009. She told legislators her testimony would concern the conflicts that exist within the AOC. Ethical standards which govern the proceedings in the child welfare system are set by the American Bar Association (ABA) and the ABA Model Rules of Professional Conduct. The ABA standards of practice for attorneys, Section G1, states that attorneys representing children in child welfare proceedings should be independent from the court, court services, and other parties in a state.

The ABA Model Rules of Professional Conduct prescribes judicial canons and a mandatory set of standards for judges and attorneys to adhere to. Violations of the canons and/or rules can adversely impact judges and attorneys before the Arkansas Supreme Court and the ABA Standing Committee on Ethics and Professional Responsibility. Attorneys found to

be chronic violators of the canons and/or rules may be disbarred from the practice of law. Judges found to be chronic violators may be removed from the bench. Ms. Lanford referenced specific language found in the judicial canons and the ABA Model Rules of Professional Conduct:

- Canon One states that a judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, shall avoid an impropriety and the appearance of an impropriety
- Rule 1.7 in the ABA Model Rules of Professional Conduct states that attorneys must not engage in representation in a conflict of interest
- Comment 37 in the ABA Model Rules of Professional Conduct states that an integral part of an attorney's duty is to prevent conflicts of interest and avoid appearances of impropriety

Ms. Lanford referenced a consultant's report, "A Review of the Arkansas Division of Children and Family Services – July 6, 2015" known as the Paul Vincent Report on child welfare and policy. This was an independent investigation of the child welfare system commissioned by the Governor. This report produced eleven recommendations, all of which the Governor adopted. A subset of one of the recommendations was to move the Parent Counsel Program from the AOC to an independent setting. The Paul Vincent Report concluded that the current structure of the AOC does not lend itself to programs being independent from one another. The Paul Vincent Report specifically found that "having Parent Counsel attorneys under the judicial system raised questions about the independence of this crucial attorney/client relationship, in form, if not in substance", and recommends the program be moved.

Ms. Lanford discussed statutory problems that exist in the Juvenile Code. Language in the code impedes reunification of children with their families, contributes to the breakdown of the family, and the child welfare crisis in general. She cited the following statutory provisions:

- Arkansas Juvenile Code § 9-27-335 states that a relative placement of a juvenile placed in the custody of the Arkansas Department of Human Services shall be given preferential consideration for placement, if the relative caregiver meets all relevant child protection standards

Ms. Lanford believes the Courts have misinterpreted this statute with regard to preferential consideration for relative placement. She gave specific examples of court cases. In 2010, Davis vs. DHS, and in 2012, Henderson vs. DHS, the Public Defender Commission argued for relative placement. Ms. Lanford believes the Court of Appeals misinterpreted the statute in its ruling in these cases. The Court ruled the statute for preferential consideration in relative placement is only relevant in the initial phase of the case and at no other time. Ms. Lanford said the statute does not state this. She told the legislators she is aware of the position of an Arkansas Supreme Court judge who has stated publicly that there is no problem with this statute, and the issue of the interpretation by the judiciary can be addressed through training. Ms. Lanford then discussed the Juvenile Code and said no mechanism in the Code allows for a challenge to a Court's ruling in placement. She then addressed legislation passed during the 2015 legislative Session, which allows Attorney Ad

Litems to file an emergency petition for the removal of a child/children in dependency-neglect cases. She feels this was an egregious error because the Attorney Ad Litem program has no investigative authority nor training comparable to DHS case workers. Ms. Lanford believes the legislation infringes on parent's rights. She also said this legislation is being used by the Fayetteville School District regarding educational neglect cases. She told legislators she has seen a letter written by the school district to its staff directing them to contact an Attorney Ad Litem to file a petition with the court and open an emergency neglect case in the event that DHS has not done so. Ms. Lanford said the direction the school district is taking will cause federally protected information of students to be divulged to the Attorney Ad Litem. Should an Attorney Ad Litem use this information to file an emergency petition on behalf of the school district it would appear to violate the law. She ended her testimony by saying that the current AOC structure does not give parents a standing in cases. She thinks the solutions to many of the child welfare system problems should be to strengthen parental rights through legislation.

Mr. Hoggard and Ms. Lanford were asked to provide copies of their recommendations to the JPR Committee.

There being no further business, the meeting adjourned at 11:50 a.m.

**JOINT PERFORMANCE REVIEW COMMITTEE**  
**JUNE 14, 2016**

The Joint Performance Review Committee met at 10:00 a.m. on Tuesday, June 14, 2016 in Room 130, State Capitol, Little Rock, Arkansas.

Committee members present: Senators Alan Clark, Co-Chair, Jane English, Vice-Chair, Missy Irvin, Linda Collins-Smith, Terry Rice, and Gary Stubblefield. Representatives Kim Hammer, Co-Chair, Micah Neal, Vice-Chair, Lance Eads, Kenneth Ferguson, Mary Hickerson, Josh Miller, Milton Nicks, Jr., Dwight Tosh, and John Walker.

Other legislators present: Senator Bruce Maloch. Representatives Bob Ballinger, Mark Lowery, and James Sorvillo.

**Call to Order**

Representative Hammer called the meeting to order.

**Approval of Minutes – April 14, 2016 [Exhibit C]**

A motion to approve the minutes of the March 30, 2016, JPR Committee meeting was made by Representative Hickerson and seconded by Senator Irvin. The motion carried.

**Discussion of Grandparent's Rights and Also the Psychological Impact on Children and Their Families When Grandparents or Other Family Members Are Not Allowed to Foster or Adopt the Children [Exhibits D, D-1, D-2]**

**Mr. Dale and Mrs. Tammy Bridges, Grandparents**, were sworn in under oath by Representative Hammer. Mr. and Mrs. Bridges shared their compelling testimony regarding their lives as grandparents and their lack of access to their grandchildren. They are hoping that Arkansas's current laws regarding grandparents rights are changed to be more inclusive of grandparents.

**Mr. Joe Heard, Licensed Professional Counselor and Psychotherapist**, was sworn in under oath by Representative Hammer. Mr. Heard stated he has 45 years of experience working as a private and public sector counselor. In 2000, the laws in Arkansas regarding grandparents visitation rights came to a drastic change when the United States Supreme Court made a decision in the case of *Troxel v. Granville*. As a result of *Troxel*, and the cases that followed, Arkansas re-drafted its grandparent visitation statutes to allow a grandparent to seek visitation under certain circumstances when they establish a significant and viable relationship with their grandchild and when harm would result to the child if visitation is denied. When considering amending legislation, Mr. Heard encouraged the JPR Committee to review the definitions in the current law to redefine the terms "harmful" and "reasonable visitation" or create some more clearly defined parameters. Representative Walker asked the following questions:

1. Should the legislature impose a duty of care and financial support upon a non-parent of a child?
2. Should the legislature better define the concept of "what is in the best interest of the children" ?
3. Is there a legislative need to put some constrictions upon judicial decision making when addressing this subject matter so far as to extend grandparents rights?

Mr. Heard replied, I believe that all of these terms need to be more specifically defined.

Regarding allegations of abuse in custody cases, Senator Clark asked what has been done to change the policy since last July. Ms. Keesa Smith, Interim Director, Division of Youth Services (DYS), DHS, replied, at this time the statutes do not allow DHS the ability to treat those cases differently than any other cases. DHS county administrators will attend a training session in July to address concerns involving issues that are raised in custody battles and divorce cases when the child abuse hotline has been called and false allegations made. Ms. Smith concluded by stating that DHS may have to investigate how the child welfare process interfaces with custody and divorce proceedings.

#### **Brief Update on the Department of Human Services Licensing Agreement with CoCENTRIX**

Mr. Craig Cloud, Director, Division of Aging and Adult Services, DHS, was sworn in under oath by Representative Hammer. Mr. Cloud gave a brief update on the DHS licensing agreement with CoCENTRIX. He stated that within the last several weeks, DHS negotiated a maintenance and operation (M&O) agreement to pay the vendor for maintenance and operation costs to cover this calendar year. Within this agreement, DHS has the option of exiting this agreement, which would reduce its liability after the end of the fiscal year, and any new or additional work performed on this project would follow a competitive procurement that matched the direction for traditional Medicaid moving forward. DHS has completed its review of the licensing agreement and approval must be given by the Governor, the Department of Finance and Administration, and the Department of Information Systems before it is presented to the JPR Committee. In response to a question by Representative Sorvillo regarding the M&O cost, Mr. Cloud replied the price tag is approximately \$1.2 million.

#### **Brief Update on the Rite of Passage Company Recently Contracted by DHS to Operate and Manage the DYS Juvenile Treatment Centers**

Ms. Keesa Smith, Interim Director, Division of Youth Services (DYS), DHS, was sworn in under oath by Representative Hammer. Ms. Smith gave a brief update regarding the transition from the G4S contract to the Rite of Passage contract. She stated DHS has re-procured the Alexander facility. In May, DHS reviewed the submitted applications for the Request For Proposal (RFP), and without any challenges the Rite of Passage was awarded the contract and will start as the new vendor/provider for the Alexander facility on August 1, 2016. At the request of Representative Hammer, DHS and the Rite of Passage staff will update the Committee regarding the transition progress at a later date.

#### **Brief Discussion of Various Divisions at the Arkansas Department of Human Services**

Mr. Cloud, Director, Division of Aging and Adult Services, DHS, Mr. Charlie Green, Director, Division of Behavioral Health Services (DBHS), DHS, Ms. Mischa Martin, Director, Division of Children and Family Services (DCFS), DHS, Ms. Melissa Stone, Director, Division of Developmental Disabilities Services (DDS), DHS, and Ms. Keesa Smith, Interim Director, Division of Youth Services (DYS), DHS, and Mr. Kelley Linck, Chief, Office of Legislative and Intergovernmental Affairs, DHS, were recognized by Representative Hammer. He charged the agency directors with providing responses to a list of questions that Committee Staff will send to them via email. Committee members were encouraged to forward their questions to add to the list.

Representative Hammer announced two judges will be invited to attend the next committee meeting to discuss issues regarding grandparents rights and grandchildren custody in DHS settings and non-DHS settings.

There being no further business, the meeting adjourned at 11:53 a.m.

**JOINT PERFORMANCE REVIEW COMMITTEE**  
**JULY 26, 2016**  
**MINUTES**

The Joint Performance Review Committee met at 9:00 a.m. on Tuesday, July 26, 2016 in Room 171, State Capitol, Little Rock, Arkansas.

Committee members present: Senators Alan Clark, Co-Chair, Jane English, Linda Collins-Smith, Terry Rice, and Gary Stubblefield. Representatives Kim Hammer, Co-Chair, Jana Della Rosa, Lance Eads, Kenneth Ferguson, , Mickey Gates, Mary "Prissy" Hickerson, Micah Neal, Milton Nicks, Jr., Chris Richey, Dan Sullivan, John Walker, and Dave Wallace.

Other legislators present: Senators Jimmy Hickey, Eddie Joe Williams , and Jon Woods. Representatives David Branscum, David Hillman, Mark McElroy, Stephen Meeks, Sue Scott, and Marshall Wright.

**Call to Order**

Representative Hammer called the meeting to order.

**Consideration to Approve Minutes – June 14, 2016 [Exhibit C]**

A motion to approve the minutes of the June 14, 2016 JPR Committee meeting was made by Representative Della Rosa and seconded by Representative Gates. The motion carried.

**Review of the interRAI Assessment Instrument System for Evaluating Persons Who Are Disabled, Elderly, or Medically Complex [Exhibit D]**

Brant Fries, President, and Mary James, Fellow, interRAI, University of Michigan Institute of Gerontology, were sworn in under oath by Representative Hammer. Mr. Fries gave a PowerPoint presentation and overview of the interRAI instrument:

- The instrument is a science-driven implementation support with a mission to provide an accurate measurement of a person's health and social characteristics
- Data collected is used to make clinical and policy decisions
- The instrument is compatible with the Centers for Medicare and Medicaid Services (CMS), a nationally mandated tool for implementing standardized nursing home assessments

Mr. Fries described interRAI as a research collaborative with one hundred members in thirty seven nations, a non-profit corporation with interests in science, instrument development, and support implementation. The interRAI holds copyrights on assessment instruments and provides royalty-free licenses to governments and care providers in exchange for de-identified data. Mr. Fries explained the types of information interRAI data provides:

- Benchmarking of programs
- Comparison of programs
- Best practices illustrating a service approach to determine improvements in the health and well-being of participants

Mr. Fries said that Arkansas adopted two of interRAI's assessment instruments, one for the aging population and a second for behavioral health. He referenced a handout with a list of projects performed in Arkansas by interRAI. He highlighted support tools interRAI was contracted to develop for use by Arkansas to screen and identify whether or not individuals receives an appropriate level of care. He said the interRAI instrument provides a database of characteristics of individuals in a program, which can be used for a variety of purposes, such as quality measures of a program and whether or not an individual is receiving enough services. Mr. Fries was asked to prepare a report with the cost associated with each of the items listed on the interRAI handout targeting the projects performed in Arkansas.

Ms. James continued the PowerPoint presentation describing the Arkansas Healthcare system. She said that traditionally government entities utilize a series of systems where individuals travel from one form of care to another. She gave the example of an aging person who receives rehabilitation in a nursing home, home health care, frequent hospitalizations, and primary health care. Ms. James said that interRAI has been researching how to incorporate all of the separate systems into one system. When programs are not coordinated, individuals receive multiple assessments and their individual data does not follow them to their primary care physician or other programs. Ms. James said that interRAI is trying to find measures that are portable across all of the systems to support integrated care.

Kenneth Robinson, President, Pine Bluff Psychological Associates (PAPB), Charlie Green, Director, Behavioral Health Services, DHS, Melissa Stone, Director, Division of Developmental Services, DHS, and Craig Cloud, Director, Division of Aging and Adult Services, DHS, were sworn in under oath by Representative Hammer.

Representative Hammer referenced the interRAI handout listing the history and timeline of all of the Arkansas projects interRAI has been involved in dating back to 2004. He asked that they each discuss what is driving policies and decisions in the state's healthcare system.

Mr. Green said his involvement began in 2011 when he worked for the Arkansas Department of Human Services, Division of Developmental Disabilities (DDS). At that time, DDS was involved in a Medicaid payment improvement initiative for all Medicaid populations when they learned that the Division of Aging and Adult Services had been using interRAI. DHS and DDS believed the interRAI instrument could be used for all of the special needs populations. interRAI was selected to be used to move forward with the Medicaid payment improvement initiatives. Mr. Green said that two years ago, DDS was working on an algorithm to utilize data from the PAPB assessments to assign levels of needs for individuals in home health care or community based services. Subsequently, the Health Reform Legislative Task Force consultants suggested that DHS use different instruments other than interRAI. Mr. Green said the Behavioral Health Services is following the recommendations of the Task Force consultants and are now using different assessment instruments.

Kenneth Robinson was asked to describe the field experience his organization has had using the interRAI tool. Mr. Robinson introduced Renee Harper, Director of Supervision and Training with PAPB. Ms. Harper was sworn in under oath by Representative Hammer. Ms. Harper said the assessors have had good experiences with the assessment tool because the design of the tool allows their staff in the field to assess weaknesses, strengths, preferences, and self-sufficiency of the individuals being assessed. She said there have been good results in the interview process. Ms. Harper believes the assessments have proven successful using an interview style, which makes a person more comfortable during the process. One drawback she observed is maintaining a personal interaction with individuals when entering data into a laptop.

Melissa Stone and Craig Cloud were asked to describe Medicaid payment improvement efforts in their divisions. Ms. Stone explained that a CMS rule adopted in 2008 requires Conflict Free Case Management. One element of the requirement is use of an independent standardized assessment. She said DDS is currently in the process of complying with the requirement and has initiated a Request for Information (RFI).

Legislators asked questions and discussed the healthcare waiver and assessment tools.

- Question- with an assessment tool as a requirement in the healthcare waiver, will DDS have assessments performed at a provider level, or will they be done by an independent third-party vendor, similar to PAPB?
- Answer- Ms. Stone said she recently met with Ken Robinson with PAPB and encouraged him to respond to the RFI, along with other vendors.
- Comment- Craig Cloud told legislators a waiver for the Division of Aging and Adult Services populations was approved on January 1, 2016. The waiver renewal includes independent assessments of the populations served by that waiver with interRAI included to be used to determine level of care needs.
- Question- Does the interRAI have assessment tools for each of the populations served by DHS.
- Answer- Mr. Freis said that interRAI does have the tools to serve all of the populations.
- Question- is DDS seeking one entity or one assessment tool for all of the populations that allows the information to be intermingled together to produce treatment plans?
- Answer- Ms. Stone said that DDS is following the recommendations made by The Stephen Group to the Health Reform Legislative Task Force regarding the use of different tools for behavioral health and developmental disability populations. The focus will be a standardized independent assessment appropriate for each of the populations. Not necessarily one assessment tool.
- Question- will this be administered by a third-party and not the provider rendering the services?
- Answer- Ms. Stone said yes it will be administered by a third-party.
- Question- will DDS continue to work with interRAI?
- Answer- Ms. Stone said not necessarily. DDS has asked through the RFI for a set of tools that has been normed for the specific special needs populations.

## **Brief Review of the Procurement Process for State Agencies in Arkansas**

Ed Armstrong, Administrator, Office of State Procurement (OSP), DF&A was sworn in under oath by Representative Hammer. Mr. Armstrong discussed Act 557 of 2105, which requires state agencies to file Vendor Performance Reports (VPRs) on current contracts. The reports are required to be submitted within three months of the initiation of the contract and every three months thereafter for ongoing contracts. He said that a large number of agencies have been filing the reports but, some agencies have not. Mr. Armstrong told legislators he is unable to give a percentage of the total number of agencies submitting VPRs because the format the data is received in cannot be calculated without each report being reviewed manually. OSP does not have an E-procurement system that can integrate the reports. An integrated system would allow data entry into a portal developed to create a dashboard and allow legislators and citizens to have access to the reports. Legislators discussed penalties, which can be imposed on agencies who fail to comply with the law. Mr. Armstrong believes criminalizing agencies is so harsh it may prove difficult to impose. He suggests the legislature consider authorizing OSP to impose fines on non-compliant agencies.

Representative Hammer recognized Darlene Hicks, Manager, OSP, who told legislators that state agencies, in particular the large agencies, find the VPR reporting process to be extremely cumbersome. She said that agencies have to maintain a large number of contracts and it is extremely time-consuming to manually process the information into two different systems.

Mr. Armstrong was asked if OSP would initiate the development of an E-procurement system to resolve the reporting issues required of the state agencies. Mr. Armstrong said that he and Larry Walther, Director, DF&A have been in discussions and are collecting information related to a E-procurement system and its associated cost.

Larry Walther, Director, DF&A was sworn in under oath. Representative Stephen Meeks asked Mr. Walther if he was aware of the Open Transparency and Data Task Force that has been reviewing these same issues and researching a statewide data warehouse. Representative Meeks noted the focus of the Task Force is to put all data collected into one system, which could be linked for data sharing. Mr. Walther said he has not been involved, but looks forward to working with the Task Force to coordinate the efforts of DF&A. Legislators continued discussion of the VPR reporting process and determined to address the issue again at a future committee meeting. Mr. Armstrong was asked to provide a list of agencies that have and have not produced the VPR reports.

## **Overview of the Project Management Program, Integrated Data System, and Research Services Provided by the Arkansas Research Center (ARC) [Exhibit E]**

Sarah Argue, Deputy Director, and Greg Holland, Director, Arkansas Research Center, were sworn in under oath. Ms. Argue gave a PowerPoint presentation which included an overview of the Arkansas Research Center (ARC) housed at the University of Central Arkansas (UCA) in Conway, Arkansas. Ms. Argue highlighted aspects of the ARC program:

- The program was founded in 2006 through grants provided by the U.S. Department of Education

- The program expanded using grants provided by the U.S. Department of Labor
- The program currently maintains a nationally recognized State Longitudinal Data System (SLDS)
- SLDS data dates back to 2001 and links together pre-K data from DHS, Arkansas Career Education (ACE), and the Arkansas Department of Higher Education (ADHE)
- The SLDS program is nationally recognized by the U.S. Department of Education, Institute of Education Sciences
- The ARC system collects data from two different systems, an education record and a workforce record
- The system splits the records into two different parts
- A knowledge-based identity system takes personally identifiable information and provides research identification
- The data collected is used to maintain an identity management component
- The workforce and education data are never mingled together
- The program is able to use the knowledge-based management identity to link the records together allowing agencies access between the two

Ms. Argue discussed a recommendation made by The Stephen Group to the Health Reform Legislative Task Force suggesting Arkansas replicate a system similar to the National Strategic Planning and Analysis Research Center (nSPARC) housed at Mississippi State University. She compared the two systems and said that ARC has much of the same capacity as nSPARC with differences, which include:

- The nSPARC system was developed ten years ago compared to the ARC system developed in 2009
- The nSPARC system has had \$100 million in contributions and the ARC system has had \$6 million in funding
- The nSPARC system spending exceeds \$15 million annually and the ARC system spending is \$1 million annually

Ms. Argue told legislators the ARC program changed its focus towards workforce data collection when the Arkansas Department of Education (ADE) ended its relationship with the ARC system in 2013. Legislators discussed the decision by ADE and the Arkansas Department of Higher Education (ADHE) to end their work with the ARC. Ms. Argue believes that ADE and the ADHE chose not to participate with ARC based on concerns surrounding the Federal Education Rights and Privacy Act (FERPA). The federal privacy act protects education data outlined in specific language in the Act concerning evaluation and accountability of publicly funded programs.

Shane Broadway, Vice-President for Governmental Relations, Arkansas State University (ASU) was sworn in under oath by Representative Hammer. Mr. Broadway discussed the nSPARC system. He told legislators that he went to Mississippi State University with some of the members of the Health Reform Legislative Task Force to look at the NSPARC system. The review of nSPARC was the result of a report by The Stephen Group to the Health Reform Legislative Task Force. He said the premise of The Stephen's report was the importance of the research program's proximity to a state capitol. Mr. Broadway said the system was developed through federal grants, similar to the ARC system. Software developed by

nSPARC has to be shared without cost because it was developed through federal grants. Mr. Broadway was asked why Arkansas would choose to utilize the ARC system because the nSPARC system has no cost associated with it and it is further ahead in its development. Mr. Broadway said that Arkansas can add additional components to the ARC system. He also said a major part of the design of nSPARC is where it is housed and that it is accessible to state agencies and legislators. The theory is to create a board of all of a state's institutions to utilize the expertise of the faculty from all of the state's universities. Mr. Broadway described how nSPARC works in Mississippi

- State agencies present a problem or make a request for information
- nSPARC sends out a query to all institutions in the state asking their staff, who have expertise in a particular area, to provide an analysis and data

**Discussions of Regulations and Policies – Enforcement of Entertainment Taxes Levied on Gaming Machines by the Alcoholic Beverage Control (ABC) Division, Department of Finance and Administration**

Janet Moore, Chair, Alcohol Beverage Control (ABC) Board, Department of Finance and Administration was sworn in under oath by Senator Clark. Senator Stubblefield discussed an issue that arose several months ago during an appeal hearing by the ABC Board concerning one of his constituents. During the ABC hearing, Senator Stubblefield was denied his request to ask questions. At the request of Senator Stubblefield, a portion of an audio recording of the ABC Board hearing was played. In the audio, Senator Stubblefield can be heard making his request to ask questions. Ms. Moore can be heard denying the request stating that he would not be allowed to do so. Senator Stubblefield said that his attendance at the hearing was based on his belief that there were discrepancies in the case. Legislators discussed the issue in detail and asked questions of Ms. Moore regarding the protocol and processes used by the ABC Board at their hearings.

Senator Clark stated that the issue will be brought back before the Committee at a future meeting, at which time Mr. Bud Roberts, Director of the ABC, and others will be asked to attend. There was continued discussion concerning jurisdiction and authority of the agents of the ABC. Representative Hammer said a request for research will be made to the staff of the Bureau of Legislative Research regarding the issue of jurisdiction of the ABC Board.

There being no further business, the meeting adjourned at 12:30 p.m.

**JOINT PERFORMANCE REVIEW COMMITTEE  
AUGUST 30, 2016  
MINUTES**

The Joint Performance Review Committee met at 9:30 a.m. on Tuesday, August 30, 2016 at the Arkansas Juvenile Assessment and Treatment Center, Woody Drive, Alexander, Arkansas.

Committee members present: Senators Alan Clark, Co-Chair, Linda Collins-Smith, John Cooper, Missy Irvin, Terry Rice, and Gary Stubblefield. Representatives Kim Hammer, Co-Chair, Lance Eads, Charlene Fite, Mickey Gates, Mary "Prissy" Hickerson, Josh Miller, Micah Neal, Milton Nicks, Jr., Dan Sullivan, Clarke Tucker

Other legislators present: Senators Linda Chesterfield and Eddie Joe Williams. Representatives Trevor Drown, and James Sorvillo.

**Call to Order**

Representative Hammer called the meeting to order.

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

Representative Hammer informed the legislators that a tour of the facility will be conducted following the vote on the subpoenas.

**Consideration to Approve Minutes – July 26, 2016 [Exhibit C]**

A motion to approve the minutes of the July 26, 2016 JPR Committee meeting was made by Representative Gates and seconded by Senator Rice. The motion carried.

**Consideration of the Joint Performance Review Committee's Exercise of Subpoena Power, Committee Members Will Consider Whether Subpoenas for Judge Patricia James, Sixth Judicial Circuit Court, and Other Persons, Documents and Records are Appropriate as Part of the Committee's Ongoing Review of the Arkansas Department of Human Services (DHS) and the Division of Children and Family Services (DCFS)**

Senator Clark told legislators a vote will be taken for the consideration of the issuance of a subpoena for Judge Patricia James. First, a portion of an audio recording was played of testimony given by Cecile Blucker, former Director, DCFS, at the March 30, 2015 JPR Committee meeting. Members then discussed the merits. A motion to issue a subpoena to Judge Patricia James was made by Representative Gates and seconded by Representative Charlene Fite. The motion passed unanimously.

A motion to issue a subpoena for documents and records as part of the JPR Committee's ongoing review of the Arkansas Department of Human Services (DHS) the Division of Children and Family Services (DCFS), and child welfare issues was made by Senator Terry Rice and seconded by Representative Josh Miller. The motion passed unanimously.

The meeting recessed to allow legislators to tour the facility.

Upon completion of the tour of the facility and grounds, the meeting reconvened.

**Overview of the Operation of the Division of Youth Services' Alexander Juvenile Assessment and Treatment Center (AJATC), Intake Procedures, and the Transition to the Heartland Region Rite of Passage Provider.**

Representative Hammer recognized Michael Cantrell, Director, Heartland Region, Rite of Passage. Mr. Cantrell recognized Mr. Ski Broman, President, Rite of Passage, to give a Power Point presentation. Mr. Broman told legislators the Mission Statement for Rite of Passage is to improve the lives of youth. Quality assurance visits are conducted to ensure clean and safe facilities. Rite of Passage works with Jeffrey Butts, John Jay College of Criminal Justice, New York City, who patented the phrase "positive youth development", of which his agency is a strong proponent. The tenant of their organization is that child care workers are to create an atmosphere where the staff feel like coaches rather than plant guards. When Rite of Passage assumed operations at the Alexander facility thirty days ago, there were 100 students and 120 employees. 75 of the employees had previously worked at the facility. An additional 50 employees have subsequently been hired.

Mr. Broman highlighted issues and changes the organization is developing:

- The biggest issue is an antiquated locking system which poses a serious safety risk and needs to be replaced as soon as possible with a modern system
- A general decline in the facility, due to deferred maintenance, was found; including old mattresses, unsanitary conditions, and inadequate clothing
- Rite of Passage follows a patented cognitive academic model, which focuses on facilities being a school house not a jail house
- The initial focus is to establish safe and caring relationships
- A comprehensive assessment is being conducted to determine the appropriate placement, length of care, and development of treatment programs
- The student population has been divided into distinct areas: young children with typical conduct disorders, a specific female program, and a sex offender program for level three and level four sex offenders
- Drug and alcohol programs are being developed with a nationally recognized curriculum through the University of Cincinnati
- Individual prescriptive tracks for each specific group is being developed to institute programs for each group of children
- Food services have been upgraded to family style meals three times a day
- Students and staff have been issued new uniforms
- Future plans include three types of school uniforms and dress for students:
  - Alpha, professional type of dress for high status students
  - Bravo, regular school uniforms
  - Charlie, uniforms worn for special events

Mr. Broman told legislators that Rite of Passage has added two class periods to the school program, increasing the number of classes from five to seven each day. Each class period is fifty-five minutes, which follows a more normal school program. The vocational training program has been re-launched. Currently, there are two vocational training programs with plans to expand to four. A chapel is being reopened for religious services. Sports have been introduced through the Boys and Girls Club. The students recently participated in a practice

soccer game and are excited to participate in future games. Mr. Broman said the changes Rite of Passage has instituted focus on changing the facility and programs into a school house atmosphere and not a jail house.

Legislators asked questions and discussed programs that Rite of Passage will incorporate into the Alexander facility:

- Question- Mr. Broman was asked about the implementation of a program to allow students to obtain a drivers license when they become eighteen years of age and are leaving the facility
- Answer- Mr. Broman said the agency is aware of the availability of some online course work and programs for students. However, one barrier pertaining to liability involves when students are actually driving vehicles.

Mr. Broman was asked to provide an update in sixty days on the organization's progress to allow students to obtain a drivers license.

Betty Guhman, Interim Director, Division of Youth Services (DYS), Arkansas Department of Human Services (DHS), was recognized. She told legislators that the DHS Community Services program is working on the drivers license issue with community-based providers as part of its aftercare and transition plans:

- Mr. Broman was asked to provided details about the programs for level three and level four sex offenders
- Answer- Mr. Broman said that Rite of Passage partners with the University of Cincinnati, who are leaders in the development of evidence-based strategies. These strategies will be incorporated into programs designed for students who are identified as sex offenders. The organization will reevaluate and perform additional assessments before focusing on the development of the programs
- Question- regarding the locking system at the facility, what is the liability to the state in the event of a disaster
- Answer- Keesa Smith, Deputy Director, DHS, responded and said that DHS was aware of the locking system issue before Rite of Passage became the provider. Ms. Smith said the state has a significant amount of liability due to the outdated locks and DHS is going to make the necessary improvements as soon as possible.
- Question- Has a cost been established for replacement of the locking system, and is it the responsibility of the provider or the state
- Answer- Ms. Smith said the state is responsible for the buildings and any associated cost. An exact amount has not been established. But, it will be in excess of \$1 million

Representative Hammer recognized Ms. Tracy Bennett-Joseph to discuss the educational components of the programs at the facility. She provided an overview and said that when a student arrives at the facility, an academic assessment is conducted within the first ten days. The assessment creates the baseline data for each student. Assessments are also performed every quarter to determine if any intervention is needed to ensure students receive a comprehensive education to meet the state's graduation requirements. Legislators asked questions and discussed staffing of the educational components:

- Question- Is there adequate teaching staff and administrative staff

- Answer- Ms. Joseph said that there are four vacant teaching positions, one of which is a special education coordinator. But they do have the appropriate staff to meet the current needs of the students
- Question- is data available regarding recidivism rates of the students identified as sex offenders when they are released from the facility
- Answer- Keesa Smith said the information is based on a child's specific aftercare plan and identified level of offense. DHS does not have a classification for juvenile sex offenders.

#### **Brief Review of Driver's License Reinstatement Fees (Act 1193 of 2015) [Exhibit F]**

Representative Hammer explained why a sunset clause was attached to Act 1193 when he sponsored the legislation in 2015. At that time, the Arkansas Department of Finance and Administration (DF&A) did not have a mechanism to track the potential financial impact of the program. The funding issue of the driver's license reinstatement fees refers to the waiver of fees and the amounts of monies that may not reach state agency retirement accounts. Representative Hammer said a discussion of the issue will be presented at a future committee meeting.

#### **Brief Discussion of the Freedom of Information act (FOIA) Policies and Procedures**

Representative Hammer told the legislators a discussion concerning the Arkansas Freedom of Information Act will be presented at a future committee meeting.

There being no further business, the meeting adjourned at 11:50 a.m.

**JOINT PERFORMANCE REVIEW COMMITTEE  
SEPTEMBER 14, 2016  
MINUTES**

The Joint Performance Review Committee met at 2:00 p.m. on Wednesday, September 14, 2016 in Room A, MAC Building, Little Rock, Arkansas.

Committee members present: Senators Alan Clark, Co-Chair, Linda Collins-Smith, John Cooper, and Missy Irvin. Representatives Kim Hammer, Co-Chair, Jana Della Rosa, Charlene Fite, Mary "Prissy" Hickerson, Josh Miller, Dwight Tosh, and Dave Wallace.

Other legislators present: Representatives Trevor Drown, Grant Hodges, Jack Ladyman, Sue Scott, and James Sorvillo.

**Call to Order**

Representative Hammer called the meeting to order.

**Opening Remarks by JPR Co-Chairs**

Representative Hammer told committee members that Act 1193 of 2015 "An Act to Amend the Law Concerning Driver's License Reinstatement Fees" was in effect from January 1, 2016 until June 30, 2016 as a pilot program. It was to assess issues, collect benchmark data, and determine any financial impact.

**Approval of Minutes – August 30, 2016 [Exhibit C]**

A motion to approve the minutes of the August 30, 2016 JPR Committee meeting was made by Senator Cooper and seconded by Representative Miller. The motion carried.

**Review of the Driver's License Reinstatement Fees Pilot Program (Act 1193 of 2015) [Exhibit D]**

Walter Anger, Assistant Commissioner for Operations/Administrations, and Toni Shields, Office of Driver Services, Arkansas Department of Finance and Administration, The Honorable Bobby McCallister, Circuit Court Judge, Division One, Colonel Bill Bryant, Director, and Elaine Lee, Attorney, Arkansas State Police, and Robert Brech, Chief Financial Officer, Office of Finance, Arkansas Department of Health (ADH) were each sworn in under oath by Representative Hammer.

Representative Hammer recognized Circuit Judge McCallister. Judge McCallister gave an overview of the pilot program created by Act 1193 of 2015. As a Saline County Judge, he oversees the Adult and Juvenile Drug Courts. When hearing cases, he verifies that a person is eligible for the driver's license reinstatement fee program if that person has paid all court costs, fines, and fees, and has successfully completed one of the following:

- a court-ordered diversion program;
- a drug court program;
- a diversion program for veterans;
- a preadjudication probation; or
- any other court-ordered program designed to rehabilitate the person.

Judge McCallister said that he has seen drivers license fines increase from \$25.00 up to \$100.00. The increased fees and fines and the stacking of fees presents an obstacle to people in the drug court program who have limited financial resources to pay their fines and fees. The stacking of fees occurs when a person incurs additional fines. People are often kept in the drug court program for extended periods of time because of their inability to pay the fees and fines.

Representative Hammer recognized Colonel Bill Bryant. Colonel Bryant referenced Act 1001 of 2003, which allocates funds from the drivers license reinstatement fees to the Arkansas State Police. He said that 25% of the funding is directed to the Arkansas State Police Retirement Fund and 75% is directed to the State Police operating budget. Colonel Bryant said the funds are important to the operation of the State Police. The funding also helps pay for training. Training cost \$121,000.00 for each state trooper and an entire troop training school cost is \$2.3 million.

Representative Hammer recognized Toni Shields, Office of Driver Services, Arkansas Department of Finance and Administration (DF&A). He asked that she discuss the handout provided by DF&A that includes a list of reinstatement fee waivers that have been issued. Ms. Shields said that a total of 388 individuals took advantage of the reinstatement fee waiver program, with a total of \$264,130.00 reinstatement fees being written off. As directed in Act 1193 of 2015, each eligible individual was required to only pay \$100.00. A total of \$38,725.00 in waivers was collected.

Representative Hammer recognized Elaine Lee, Attorney, Arkansas State Police. Ms. Lee discussed a sample review performed by the Arkansas State Police of 23 individuals taken from the list of 388 provided by DF&A. Ms. Lee said that she found a number of issues when reviewing the 23 individuals, which included;

- 5 of the 23 individuals currently have a suspended driver's license
- 4 of the 5 individuals have committed new offenses, either failure to pay a fine, or failure to appear in court, which resulted in drivers license reinstatement fees being assessed multiple times

Ms. Lee said she also found that individuals who took advantage of the reinstatement fee waiver program were able to obtain more than one waiver at a time because they reoffended during the six month time period, or committed new offenses, or had contempt charges filed against them in another court. Ms. Lee believes that making the program permanent has potential problems.

Legislators asked questions regarding the driver's license reinstatement fees:

- Question- What are the number of drivers license reinstatement fees that were paid during the six-month period that Act 1193 of 2015 was in effect and how do the numbers compare to the same six-month period in previous years?
- Answer- Ms. Shields said the agency does not have a six month comparison. She said the agency can provide the total amount of collections for a fiscal year.
- Question- Are the stacked driver's license fees caused by individuals who reoffend and commit additional criminal offenses?
- Answer- Judge McCallister gave the example of a person missing a court appearance and had their drivers license suspended. A fee of \$100.00 is

charged. That same person can be charged with a fine for driving on a suspended driver's license, so an additional \$100.00 fee is charged. Any additional fines or charges continue to stack the drivers license reinstatement fees.

- Question- What mechanism is used to determine the amount of uncollected fees and the length of time the fees have been uncollected?
- Answer- Ms. Shields said that a conviction date is on each court order transmitted to the Office of Driver Services and a reinstatement fee is automatically assessed.
- Question- Can the Office of Driver Services prepare a report with a cost versus benefit comparison regarding the collection of monies under the drivers license reinstatement fee waiver program.
- Answer- Ms. Shields said that as of January 1, 2016 there were 240,891 records with some type of reinstatement fee owed. To conduct an accurate report would require a more narrow scope of time. She said that a search for the oldest uncollected reinstatement fee was done and shows the oldest recorded uncollected fee was reported June 1968.

Representative Hammer recognized Robert Brech with the Arkansas Department of Health who said that the portion of the reinstatement fees directed to the Blood Alcohol Testing Program administered by the Health Department is exempt, so there is no impact to the Department.

**Discussion of the Decision by the Division of Developmental Disabilities Services (DDS), Department of Human Services to Decertify Support Solutions [Exhibit E]**

Melissa Stone, DDS Division Director, DHS, Forest Hill, Assistant Director, DDS, and David Sterling, Chief Counsel, DHS, were sworn in under oath by Representative Hammer. Representative Hammer recognized Melissa Stone. Ms. Stone gave an overview of the home and community-based waiver provider, Support Solutions, which has been decertified by DDS to operate in Arkansas. She described the DDS Licensure Certification Unit process:

- Provider organizations make a request to provide services under the DDS home and community-based waiver program
- Providers choose which services they will offer
- Providers are allowed to choose which counties it will serve
- Once specific criteria is met by the provider, approval is given by the DDS Licensure Certification Unit
- Providers that receive approval are allowed to serve the DDS population throughout the state, which is a total of 4,200 clients

Ms. Stone said that the Support Solutions provider was certified in 2010 to provide all the DDS services offered under the home and community based waiver. Support Solutions was certified and approved at the same time that the Alexander Human Development Center was closing. The closing of the Alexander Human Development Center created a need for additional providers for the hard to place DDS clients. Ms. Stone said that Support Solutions provided services to sixty clients who had been receiving services at the Alexander Human Development Center. In 2016, a series of problems occurred with clients being served by Support Solutions. DDS tried to remedy the problems by

providing technical assistance and putting corrective action plans in place. However, by the end of July, 2016, based on a systematic pattern of non-compliance and the frequency of incidents, DDS determined the problems could not be remedied. On August 11, 2016 DDS notified Support Solutions that its certification was being revoked. Support Solutions had ten days to appeal the decertification, but chose not to do so. On August 18, 2016, DDS received notification from Support Solutions that it would be closing its operations in Arkansas. Ms. Stone then referenced the list in Exhibit E which shows the certified providers in Arkansas from which the Support Solutions DDS clients or their guardians could choose as their new provider. Currently, thirteen Support Solutions clients have chosen Central Arkansas Disability as their new provider. DDS is in the process of transitioning clients out of the care of Support Solutions, with the goal of completing the transition of all of the clients no later than September 30, 2016.

Legislators asked questions concerning the decertification of Support Solutions:

- Question- Is Support Solutions a non-profit organization?
- Answer- Ms. Stone said that Support Solutions is a for-profit organization.
- Question- Are all the providers listed in Exhibit E non-profit organizations?
- Answer- Ms. Stone believes they are but will verify their status.
- Question- Is DDS having difficulty locating providers for the Support Solutions clients?
- Answer- Ms. Stone said the provider network has been very responsive to the need for placement of these clients. With the exception of three clients, all of the West Memphis population have chosen new providers and are moving towards completing the transition.
- Question- Are any of the clients going into a Human Development Center?
- Answer- Ms. Stone said one client will be returning to a Human Development Center.
- Question- Subsequent to Support Solutions being decertified as a provider, who is responsible for the care of the clients during the transition period?
- Answer- Ms. Stone said that Support Solutions is continuing to provide service to clients. During the transition, weekly visits are being conducted by the DDS staff.

Ms. Stone was asked to describe the adjustment clients have to make when going into a community-based setting from a Human Development Center. She said there are clients who transition many times between a Human Development Center and a community-based setting. The DDS client population experiences periods when placement in a Human Development Center is necessary to stabilize the client.

Legislators asked questions and continued discussion regarding Support Solutions:

- Question- Is DDS the agency responsible for investigating allegations of abuse, or does the Department of Human Services Division of Adult Protective Services (APS) investigate, and what steps are taken during an investigation?
- Answer- Ms. Stone said that in the investigation involving Support Solutions, there was a joint effort between the APS and DDS divisions. When an allegation is made that an adult has been abused or neglected, it triggers a call to the APS hotline. In this particular case, the West Memphis Police Department voiced its concerns and is also investigating.

- Question- Why did DDS wait so long to revoke Support Solutions license considering the level of severity of the allegations of abuse?
- Answer- Ms. Stone said that her review of the allegations cited in 2015 did not compare to those cited in 2016 in terms of frequency or severity. In April 2016, Support Solutions was placed under a provisional status, corrective action plans were immediately put in place, including frequent monitoring. Under the DDS policy, Support Solutions was given sixty days to monitor and adhere to the corrective action plan. At the end of the sixty days, when the problems were not corrected, their license was revoked. Ms. Stone said it is her opinion that the DDS staff worked very appropriately to follow the DDS policy while ensuring that the clients' health and safety was intact.

Ms. Stone was asked to provide a report to the Joint Performance Review Committee legislative staff when all the former Support Solutions clients have been placed with new providers.

**Discussion of the Procedures and Guidelines Used by the Department of Human Services (DHS) Consulting Team (formerly known as the Qualifications Review Committee) When Evaluating Job Applications for Hiring or Promotion**

Larry Stricklen, Human Resources Administrator, DHS, Herb Scott, Deputy Personnel Administrator, and Mike Bonds, Statewide Program Manager, Office of Personnel Management (OPM), Department of Finance and Administration, and Tarek Bahloul Personnel Manager, DHS, were sworn in under oath by Representative Hammer. Mr. Bahloul gave an overview of the DHS hiring procedures. He said the majority of applications are transmitted electronically through the Arkansas State Jobs website and the process for DHS applicants is:

- DHS applications are downloaded two times each day
- The DHS Recruitment and Placement Unit receives the applications
- Three teams review the applications to determine if minimum qualifications are met
- Each team consists of two full time personnel, one processor, and one manager
- The Consulting Team reviews requests for reconsideration
- Approximately 200,000 applications were received for fiscal year 2015-2016
- 71,508 applications met minimum qualifications
- 125,506 applications did not meet minimum qualifications
- 1% of the applicants requested reconsideration

Legislators asked questions and discussed the job application process:

- Question- How do applicants know they can request reconsideration?
- Answer- Mr. Bahloul said that each applicant receives an e-mail indicating their application has been successfully submitted. Following a review of the application, an e-mail is automatically sent informing the applicant of their status. Applications that do not meet minimum qualifications receive information in the e-mail with instructions on how to request reconsideration.
- Question- What are the components of minimum qualifications?
- Answer- The Office of Personnel Management (OPM) provides all state agencies with the minimum qualifications established by legislation, which include

education, training, experience, or a combination of both. Some classifications require a specific license and/or certifications.

- Question- What is the process for reconsideration?
- Answer- A further review of the application is performed by a reviewer. Should the first reviewer be uncertain of his/her decision, the application is sent to Mr. Bahloul for his review. Should Mr. Bahloul also be uncertain of a decision, the application is sent to Mr. Stricklin. Following the reviews, if the Consulting Team believes it is warranted, the application is then sent to OPM for further review.
- Question- What authority does OPM have regarding applications that are appealed and sent to the agency?
- Answer- Mr. Bonds said that the OPM Qualification Review Committee was authorized by Arkansas Code 21-5-207 to establish substitution capabilities for an applicant's education and experience. The policy making authority, OPM policy 10.03, details the process used in reviewing applications.
- Question- What is the process for background investigations of DHS employees?
- Answer- Mr. Bahloul said that a DHS hiring supervisor initiates a background investigation depending on the type of job. The information is then forwarded to the DHS Human Resources Processing Unit to be entered into the ASSIS system to ensure that all the required documentation is in the hiring packet.
- Question- What new name was given to the DHS Qualifications Review Committee?
- Answer- Mr. Bahloul said the name of the Committee changed to DHS Consulting Team.
- Question- What agency oversees the DHS Consulting Team?
- Answer- Mr. Bahloul said that OPM has oversight and can conduct audits, as well as the Division of Legislative Audit. Two audits have been conducted with no findings.

Mr. Bahloul was asked to provide copies of the most recent audits to the Joint Performance Review Committee legislative staff. He was also asked to work with legislative staff to prepare and provide a flow chart showing the job application process.

Representative Hammer announced that the JPR Committee will meet Thursday, September 15, 2016 at 9:30 a.m. Room A, MAC Building.

There being no further business, the meeting adjourned at 3:40 p.m.

JOINT PERFORMANCE REVIEW COMMITTEE

SEPTEMBER 15, 2016

MINUTES

The Joint Performance Review Committee met Thursday, September 15, 2016 at 9:30 a.m. in Room A, Mac Building, Little Rock, Arkansas.

Committee members present were Senators Alan Clark, Co-Chair, Linda Collins-Smith, John Cooper, Missy Irvin, and Terry Rice. Representatives Kim Hammer, Co-Chair, Kenneth Ferguson, Charlene Fite, Mickey Gates, Mary "Prissy" Hickerson, Josh Miller, Micah Neal, and Dwight Tosh.

Other legislators present were Senator Jonathan Dismang. Representatives Michael John Gray, Monte Hodges, Mathew Pitsch, Laurie Rushing, and Sue Scott.

**Call to Order**

Senator Clark called the meeting to order.

**Opening Remarks by JPR Co-Chairs**

Senator Clark explained to committee members that he may have to limit questions because Legislative Audit is meeting that afternoon. Because of the time constraint, he plans to end the JPR meeting at noon.

**Review of the General Education Development Test (GED) Program and Discussion of Test Score Levels [Exhibit C]**

Dr. Trenia Miles, Deputy Director of Adult Education, and Janice Hanlon, GED Administrator, Arkansas Department of Career Education, were sworn in under oath by Senator Clark. Ms. Hanlon gave an overview of the General Educational Development Test (GED). She said the National GED Testing Service revised the GED test in 2014, eliminating the paper and pencil test. The revised test consists of four parts; reasoning through language arts, science, social studies, and math. The National GED Testing Service used standards currently being taught in high schools. Scores by individuals who complete the GED test indicate that their knowledge and skills compared to high school students. Each of the four defined test areas can be taken separately. Test scores range between 100 to 200 points:

- 145 points is a passing score
- 145 to 165 points is comparable to a high school graduate
- 165 to 174 points is a college ready score
- 175 to 200 points is a college ready score, plus a college credit

Ms. Hanlon provided data from Arkansas GED tests that were taken in 2015:

- 2,503 individuals passed the GED test in 2015

- 3% of the individuals scored college ready, which includes the college credit
- 21% of the individuals scored in the college ready range
- 76% of the individuals scored a high school equivalency

Ms. Hanlon said that the revised version of the GED test was normed with high school students who are graduating or have graduated. The GED test was normed with 2,013 high school graduates. The test scores indicated that 70% of the high school graduates would be able to pass the test when taking it for the first time and 30% would not be able to pass the test the first time it was taken. Ms. Hanlon told the legislators that there are thirty-six adult education centers across the state who assist individuals interested in taking the GED test. Arkansas requires individuals to first pass an official GED practice test called "The Ready Test" before taking the GED test.

Legislators discussed homeschoolers who choose to take the GED test and how Arkansas compares to the national standard. Ms. Hanlon said that a number of homeschoolers take the GED test to obtain a high school diploma or high school equivalency certificate when seeking financial aid to enter college. Ms. Hanlon said the Department of Career Education does not have the ability to determine a standard for Arkansas because the test is normed on a national level.

Legislators discussed Exhibit C, a document from the Department of Career Education GED Testing Office, that included a sample of GED test scores from two Arkansas homeschoolers that ranged from high school level, to one score that was college ready level in one area. Ms. Hanlon responded to questions concerning the GED test scores shown in the exhibit. She said the Department of Career Education does not have statistics used by the Arkansas Department of Education and has no way to compare test scores of high school students to individuals who take the GED test.

Senator Clark recognized Jerry Cox, Executive Director, Arkansas Family Council. Mr. Cox reviewed reasons why homeschoolers take the GED test. He said there are approximately 20,000 homeschoolers in Arkansas. Many of the homeschoolers take the test in order to enroll in a community college before their eighteenth birthday.

**Discussion of the Need for Legislative Oversight of the Crimes Against Children Division, Arkansas State Police, the Division of Children and Family Services, Department of Human Services (DHS), and Child Maltreatment Procedures**

Major Ron Stayton, Commander, Crimes Against Children Division (CACD), Arkansas State Police, Mischa Martin, Director, Division of Children and Family Services (DCFS), DHS, David Sterling, Office of Policy and Legal Services, DHS, and Jerald Sharum, Supervisor, County Legal Operations, DHS, were sworn in by Senator Clark.

Senator Clark recognized Mischa Martin, Director, DCFS, DHS. Ms. Martin said that DCFS staff asked their federal partners for an opinion regarding the release of information in a public meeting pertaining to a child welfare case. She said DCFS was advised that it cannot disclose information in a public meeting or to a closed legislative body. Ms. Martin said she makes legislator's inquiries a priority and reports back to them promptly. She believes this is one form of legislative oversight. She then said that DCFS follows

Arkansas statutes regarding the release of information in child welfare cases. Major Stayton said that he agreed with comments made by Ms. Martin and that CACD also follows state statutes when investigating a child welfare case. Legislators discussed in detail legislative oversight of the Department of Human Services, DCFS, and CACD and the ability of a DCFS employee to report wrongdoing, or voice a concern in a child welfare case. Ms. Martin said DCFS employees can seek guidance through the DHS Employee Grievance Department. Mr. Sterling commented on federal and state law constraints and referenced the Whistleblower Act, which provides reprisal protection to employees.

Senator Clark recognized Keesa Smith, Deputy Director, Arkansas Department of Human Services (DHS). Ms. Smith gave the DHS perspective regarding the confidentiality and privacy of individuals within the child welfare system. She said that Arkansas is one of only a few states with the ability to discuss specific cases with individual legislators. She said that there are 20,000 foster care and protective service cases currently active in the state. She also said that the Department understands the concerns raised by the legislators regarding specific cases and work is being done to make improvements within the Department. Responding to questions concerning proposed legislation, Ms. Smith said that the Department is working with the Governor's office to compile a legislative packet. She further stated that the Department is open to talking with anyone who wants to propose child welfare legislation.

Legislators debated the question of legislative oversight and whether or not the Committee is overreaching in questioning DHS staff when referencing specific child welfare cases.

#### **Discussion of Family Members Being Denied Temporary Custody, Foster Care, or Adoption of Related Children**

Jeanne Henderson, private citizen, was sworn in under oath by Senator Clark. Ms. Henderson was then advised by DHS attorneys that due to the case specific nature of her testimony, it would be in the best interest of she and her family members that the Committee should not hear the specific details of her case in a public meeting. The committee opted not to proceed any further in questioning Mrs. Henderson.

There being no further business, the meeting adjourned at 12:20 p.m.



**JOINT PERFORMANCE REVIEW COMMITTEE  
OCTOBER 20, 2016  
MINUTES**

The Joint Performance Review Committee met upon adjournment of the Senate and House State Agencies and Governmental Affairs Committees on Thursday, October 20, 2016 in Room B, MAC Building, Little Rock, Arkansas.

Committee members present: Senators Alan Clark, Co-Chair, John Cooper, Terry Rice, and Gary Stubblefield. Representatives Kim Hammer, Co-Chair, Lance Eads, Michelle Gray, Milton Nicks, Jr., Dan Sullivan, and Clarke Tucker.

Other legislator present: Representative John Payton.

**Call to Order**

Representative Hammer called the meeting to order.

**Opening Remarks by Co-Chairs**

Representative Hammer told committee members the purpose of the meeting is to hear from state agencies concerning the financial impact to their agencies should one or both of the medical marijuana ballot measures pass in the November election.

He recognized Matthew Miller, staff attorney, Bureau of Legislative Research to provide legal guidance on the parameters of the Committee's discussion. Mr. Miller referenced Act 312 passed in the 2013 legislative session regarding the use of public funds to support or oppose ballot measures. Provisions of Act 312 include:

- It is unlawful for a public servant or a governmental body to expend or permit the use of public funds to support or oppose a ballot measure
- The term governmental body is defined and specifically includes committees of the legislative branch
- The term public servant is defined and exempts elected officials, but there is no exemption for governmental bodies made up of elected officials
- The statute prohibits a legislative committee from expending funds to support or oppose a ballot measure including expenses associated with a committee meeting if the purpose of the meeting is to support or oppose a measure

Mr. Miller said there are exceptions in Act 312 which give latitude to public servants within the scope of their official duties. He also said the meeting's agenda statement is clear regarding the Committee's review of the impact to state agencies should one or both of the ballot measures for the sale of medical marijuana pass in the November 2016 election.

Paul Gehring, Assistant Commissioner, Policy and Legal Division, Arkansas Department of Finance and Administration (DF&A), Boyce Hamlet, Director, Alcohol and Beverage Control (ABC) Enforcement, Bud Roberts, Director, ABC Administration, Ann Purvis, Deputy Director, Arkansas Department of Health, and Bill Bryant, Director, Arkansas State Police, were each sworn in under oath by Representative Hammer. Mr. Gehring gave an overview of the report prepared by DF&A, (Handout 1) pertaining to the Arkansas Medical Marijuana

Amendment (AMMA) Administrative Implementation. He said for the purpose of the report DF&A separated the implementation requirements into three areas:

Administrative Analysis – DF&A analyzed the impact to administrative agencies responsible for implementing the new regulations. Data was obtained from states who have existing medical marijuana available for sale in their state. One issue found in each of the states is the businesses are cash-based. Federal banking laws prevent cash-based businesses access to the federal banking system. DF&A will have to increase the level of auditing to ensure that appropriate records are kept by individuals in the medical marijuana industry.

Tax Administration Analysis – Mr. Gehring said sales taxes and sales tax reporting is usually done electronically. DF&A will be responsible for the development of the process for receipt of sales tax cash payments, which are accepted only at the DF&A Offices located in the Ledbetter Building in Little Rock, Arkansas. Sales tax reports are required to be submitted on a monthly basis and will also have to be filed at the DF&A office location in Little Rock. Mr. Gehring noted that the amendment ballot measure for the medical marijuana sales designates the Arkansas Beverage Control Board (ABC) as the regulatory authority. The ABC will be responsible for the development of rules, procedures, regulations, and the enforcement of the provisions within the amendment.

Budget Analysis – DF&A determined that the costs for administrative compliance to the state agencies is based on revenue estimates shown on page one of the handout, with an estimate of \$2.4 million in sales tax collections. Revenue distributions designated in the medical marijuana amendment included:

- 5% to the Department of Health
- 2% to the ABC Administration Division
- 2% to the ABC Enforcement Division
- 1% to the Medical Marijuana Commission

Mr. Gehring then reviewed page three of the DF&A report (Handout 1) regarding revenue projections for net sales of medical marijuana. The DF&A Excise Tax Office performed an analysis of six states where medical marijuana is available; Maine, New Jersey, Nevada, Rhode Island, Illinois, and New Mexico. He said that DF&A was able to obtain actual revenue amounts collected in each state. Mr. Gehring said an important aspect of the findings in the analysis is based on the fact that all the comparison states have mature markets of medical marijuana sales.

The DF&A analysis includes:

- A comparison of revenue collections based on each state's population
- An average per capita sale of medical marijuana in each state
- An average per capita sale, based on all six states, was \$12.85 million
- The per capita sale amount was multiplied by Arkansas's state population with a projected revenue in the amount of \$38.2 million
- State and local sales taxes to be applied to sales is estimated in the amount of \$2.4 million

Mr. Gehring stated that DF&A does not believe that the \$2.4 million in state and local sales tax will be generated within its first year of medical marijuana sales because of the amount of time it will take to establish the systems needed. DF&A estimates that the estimate of

\$2.4 million in state revenue from possible collection of sales taxes would not be obtained until fiscal year 2019.

Representative Hammer recognized Bud Roberts, Director, ABC. Mr. Roberts discussed the additional personnel his agency will need to oversee the regulation of the sale of medical marijuana in Arkansas. The ABC proposes hiring one additional attorney and two assistants who will be responsible for the promulgation of rules, responses to inquiries, licensing of cultivation and dispensary facilities, and the registration of persons employed in the industry. Mr. Roberts said the ABC will also be responsible for the regulation of medical marijuana sales and the development of the Medical Marijuana Commission, which is required by the amendment ballot measure.

Representative Hammer recognized Boyce Hamlett, Director, ABC Enforcement Division. Mr. Hamlett said he has had discussions with the U.S. Drug Enforcement Administration (DEA) and the Arkansas State Police regarding enforcement issues. The ABC Enforcement Division proposes hiring six additional enforcement agents.

Representative Hammer recognized Ann Purvis, Deputy Director for Administration, Arkansas Department of Health (ADH). Ms. Purvis reviewed responsibilities of the ADH listed in the medical marijuana amendment ballot measure:

- Creation and registration of identification cards for patients and designated caregivers
- Development of a tracking system of individuals
- Development of a tracking system for dispensaries
- Development of a tracking system for amounts of medical marijuana dispensed

Representative Hammer recognized Colonel Bill Bryant, Director, Arkansas State Police. Colonel Bryant discussed the additional personnel and equipment needed by the Arkansas State Police if either or both measures pass. He reviewed his handout that he provided to the committee that gives a detailed list of personnel and equipment cost including:

- Increase Drug Recognition Experts (DRE) officers from 39 up to 150
- Expand the DRE program by adding both a lieutenant and sergeant position
- A total of eighteen additional criminal investigators will be needed for the six Criminal Investigation Departments (CID) throughout the state, which is an increase of three investigators for each of the CID departments
- Additional vehicles, safety equipment, and office equipment will be needed
- Implementation of specialized training
- Total budget increase projected at \$2.87 million

Tom Atchley, Excise Tax Administrator, DF&A was sworn in under oath by Representative Hammer. Mr. Atchley responded to questions concerning the basis for the data used by DF&A to create their report (Handout 1) which was presented by Mr. Gehring. Legislators asked how DF&A derived the per capita medical marijuana sales projections listed in the report. Mr. Atchley said that DF&A obtained the information from all of the states that have medical marijuana available in their state and who were willing to provide their data. He said DF&A used only data provided by tax officials in those states.

There being no further business, the meeting adjourned at 5:00 p.m.



**JOINT PERFORMANCE REVIEW COMMITTEE  
NOVEMBER 29, 2016  
MINUTES**

The Joint Performance Review Committee met at 9:30 a.m. on Tuesday, November 29, 2016 in Room A, MAC Building, Little Rock, Arkansas.

Committee members present: Senators Alan Clark, Co-Chair, Linda Collins-Smith, John Cooper, Missy Irvin, Terry Rice, and Gary Stubblefield. Representatives Kim Hammer, Co-Chair, Scott Baltz, Jana Della Rosa, Lance Eads, Kenneth Ferguson, Mickey Gates, Josh Miller, Micah Neal, Dan Sullivan, and Dwight Tosh.

Other members present: Senators Jonathan Dismang and Larry Teague. Representatives Charlotte Douglas, Trevor Drown, David Meeks, Betty Overbey, Mathew Pitsch, James Ratliff, and Sue Scott.

Members-elect present: Senator-elect Trent Garner. Representative-elect Fred Allen and Jeff Williams.

**Call to Order**

Representative Hammer called the meeting to order.

**Opening Comments**

Representative Hammer thanked the members for the well attended meeting and declared a quorum.

**Consideration for Approval of Minutes – September 15, 2016 and October 20, 2016 [Exhibit C, C-1]**

A motion to approve the minutes of the September 15, 2016 and October 20, 2016 Committee meetings was made by Senator Cooper and seconded by Representative Scott. The motion carried.

**Brief Review of the Special Report – Review of Eligibility and Enrollment Framework (EEF) Project Procurement – Arkansas Department of Human Services – For the Period of May 211 through January 2016 Released October 14, 2016 by Arkansas Legislative Audit [Exhibit F, F-1]**

Representative Hammer asked committee members if there was any objection to Agenda Item G being taken out of order and presented first. As there were no objections, Misty Bowen-Eubanks, Chief Procurement Officer, Office of Procurement, was sworn in under oath by Representative Hammer. Ms. Eubanks referenced the Special Report prepared by the Legislative Audit Division (Exhibit F) as requested by the JPR Committee. She said the report outlines DHS' response to providing additional safeguards in the RFP and contract procurement process, which has been provided by OSP to state agencies. Representative Hammer said that without objection, the report is considered filed as presented.

## **Discussion of Recent Reports Pertaining to the Division of Children and Family Services (DCFS), DHS [Exhibit D and D-1]**

Mischa Martin, Director, Division of Children and Family Services (DCFS), Keesa Smith, Deputy Director, Department of Human Services (DHS), were each sworn in under oath by Senator Clark. Ms. Smith commented on the concerns expressed by legislators, Director Cindy Gillespie, and the Governor regarding the rising number of children who are in the foster care system. In May 2016, Director Gillespie created a foster care war room that began holding multiple planning sessions with DCFS and other DHS staff. These meetings focused on how to improve the foster care system. Ms. Smith said that as they move forward, DHS leadership is working to set goals with DCFS staff to improve and facilitate the foster care system.

Ms. Martin presented the DCFS report, "Moving Beyond Crisis", (Exhibit D-1). She said the report reflects the initial steps DHS is taking to improve the child welfare system by utilizing a statewide perspective. Ms. Martin said the agency has begun tracking and developing goals related to the placement of foster care children, including monthly reports submitted to the Central Office by the 15<sup>th</sup> of each month. Assistance with tracking related to placements was provided by Hornby Zeller Associates, Inc. The tracking includes data on the number of foster children, the number of foster home relative placements, and the number of foster homes opened. Ms. Martin said DCFS has begun working on adding statewide training with designated personnel in the Central Office who will work directly with foster parents to increase communication and provide support. She then described a proposal DCFS has presented to the Centers for Medicare and Medicaid (CMS) which will provide intensive home and community based services for children moving from an institution into a lower-level setting. DCFS has received approval from CMS and has obtained federal funding, which will allow them to work with the Division of Behavioral Health Services (DBHS) to move the children removed from their homes to more appropriate settings.

She then highlighted three project categories with suggested improvements; with the goal to strengthen the foster care system. The first phase was initiated by using resources DCFS already has including;

- Restructuring the central office and requiring greater accountability and oversight
- Direct reporting by all personnel involved in the placement of foster care children to Beki Dunagan, Assistant Director, Placement Support and Community Outreach
- Focus on increasing the number of foster parents
- Focus on increasing the placement of the foster care special-needs population by partnering with therapeutic foster care providers
- Provide additional services for families

Continuing objectives to strengthening families- DCFS has begun working with Medicaid on a proposal to create a home visiting program for the over 6,000 children in the child welfare system residing in homes where a True Finding of abuse or neglect was found, but there was no immediate danger to the child that would require removal. A DCFS Prevention Unit has been created, with additional caseworkers who will be hired. An Assistant Director will also be hired to supervise investigations and protective services cases. The Assistant Director will be responsible for tracking and monitoring the progress of the in-home cases.

Continue to strengthen workforce numbers and increase capacity- In its review of how best to support and enhance the DCFS workforce, DCFS reviewed the need for additional family service workers and finding the best way to support the workers. The agency plans to hire program assistants who will perform clerical duties, provide transportation, and prepare case files to assist the family service workers. DCFS is also reviewing better methods of hiring and retaining staff, plus strengthening supervisor level personnel.

Dennis Zeller, President, Hornby Zeller Associations, Inc. (HZA), was sworn in under oath by Senator Clark. Mr. Zeller presented a special report, "Moving Beyond Crisis" Phase One: Plan to Stabilize the Arkansas Child Welfare System (Exhibit D) dated June, 2016. Mr. Zeller summarized his report and said when reviewing increases to the foster care population, there are only two things that have to occur. One is an increase in the population where the child welfare system decision making process has stayed the same. The second is when decision making processes have changed and the population has not changed. Mr. Zeller said he did not find a substantial increase in the number of child abuse reports with substantiated findings to support the increase in the percentage of foster care children entering the child welfare system. He then said the focus of the HZA report then looked at the specific to decision making processes to see if the decisions were made by the child welfare system or the Arkansas court system. His research did not find a change in the population of families in Arkansas, with a very little increase in reports of child abuse or neglect. Mr. Zeller said the background used in the HZA report is based on the differences found in the decision making processes.

Legislators asked questions regarding the findings and recommendations in the HZA report:

- Question- Does your report conclude that DCFS is responsible for the problems identified, which caused an increase in the foster child care population?
- Answer- Mr. Zeller said no, because the child welfare system is not one single agency's responsibility.
- Question- Is it your conclusion the responsibility lies with multiple entities, DCFS, the court system, and any agency or entity connected to the entire system?
- Answer- Mr. Zeller said yes, that is the belief drawn from the review performed by HZA.
- Based on the findings in your report and contingent upon the implementation of changes recommended in the report, can Arkansas expect measurable improvements given the proposed additional resources dedicated to the child welfare system.
- Answer- Mr. Zeller said that he believes the state will see improvements based on the changes proposed by DCFS and the increased in resources proposed by the Governor.

Mr. Zeller said the improvements are absolutely necessary to address the crisis in the state's foster care population, but he does not believe it will be enough. He said the reason it will not be enough is based on the decisions made in the court system, specifically related to a state statute requiring DCFS to appear in court and prove that a child could be kept continually safe in their home through a protection plan. Mr. Zeller said the statute he referenced allows judges to order children be removed against recommendations made by DCFS in certain cases.

- Question- Can a report be developed using a two-year timeframe with projections for measurable results?
- Answer- Ms. Martin said the goal set by DCFS in creating a project plan includes monitoring and implementing mechanisms to track progress and incorporating recommendations in the HZA report. She believes changes and improvements will be seen within one year, once all the structured plans are put in place.
- Question- Mr. Zeller was asked what differences he has seen in other states pertaining to persons being placed on a registry when found to have a True Finding of abuse or neglect.
- Answer- Mr. Zeller said he has seen variances throughout the 35 states where he has worked. He said DCFS has already implemented differential responses in certain cases, which means some individual's names will not be placed on a registry. Mr. Zeller said this has been one of the biggest changes across the country.

Mr. Zeller was asked to comment on specific recommendations in the HZA report:

- The recommendation to change statutes to allow parents to designate an appropriate caregiver with approval by DCFS of the caregiver's home.

Mr. Zeller said that a repeal of current statutes would help reduce the population of foster care children and increase the number of relative placements. He said this is what is typically being done in other states.

- The recommendation is to repeal or modify protection plans presented to judges for approval. The reported indicated this to be the most important change.

Mr. Zeller said it his belief this is the most important measure in what was found in the review performed by HZA regarding the impact to the foster child population.

- The recommendation for a dual approval process for all removals based on investigations by DCFS caseworkers.

Mr. Zeller believes DCFS plans to incorporate the recommendations by hiring additional personnel to provide oversight when there are recommendations for the removal of children by caseworkers.

**Department of Human Services Contract with Deloitte Consulting, LLP (Contract #46000038911) (Exhibit E)**

Mary Franklin, Director, Division of County Operations, Misty Bowen-Eubanks, Chief Procurement Officer, Office of Procurement, DHS, and Ed Armstrong, Administrator, Office of State Procurement (OSP), Department of Finance and Administration (DFA), were each sworn in under oath by Representative Hammer. Ms. Eubanks gave a history of the contract with Deloitte Consulting, LLP to provide Medicaid 1095b forms to anyone who received minimal essential coverage under state Medicaid. Individuals used the form in their tax filings. Legislators discussed the number of forms that were undeliverable due to incorrect addresses or persons living out of state. Ms. Franklin responded to questions regarding Medicaid funds and whether or not funding is a 50/50 or a 75/25 match with state funds. Ms. Franklin said she would confirm the amounts and report back to the committee. Mr. Armstrong responded to a question of whether or not the contract with Deloitte Consulting, LLP was a sole source contract. He said the contract was entered into before he assumed his position with DF&A. Contracts are now being done using a

competitive procurement process when circumstances allow. But, this particular contract was a special procurement as an extension of an existing contract and was not a sole source.

### **Review of the Developmental Disability Services Providers Contracted with the Department of Human Services**

Keith Vire, Chief Executive Officer, Arkansas Support Network (ASN), Springdale, Arkansas, Leah Henderson, Executive Director, Civitan Services, Bryant, Arkansas, and Melissa Stone, Director, Division of Developmental Disability Services, DHS were each sworn in under oath by Representative Hammer.

Mr. Vire gave a brief history of his organization, which originated in 1988. Its offices are located in Springdale, Camden, Fort Smith, and Jonesboro, Arkansas. Mr. Vire said he has 850 employees. The entire population of individuals supported by ASN is between 1,500 and 1,700 throughout the state. Not all the individuals are identified as waiver eligible. Mr. Vire responded to questions concerning the individuals ASN serves in foster homes in Arkansas. He said ASN has a contract with DCFS to support children who have significant disabilities and have been removed from their homes.

Ms. Henderson described Civitan as a non-profit organization in Saline County and provides services to pre-school age children, adult services, and waiver services for young children, plus adults with developmental disabilities. Ms. Henderson said Civitan provides services to 300 individuals on a daily basis, using 188 employees.

Ms. Stone was asked how many community providers are licensed in Arkansas. She said there are 90 licensed Adult Protective Services providers. However, there are currently only 70 community providers who provide service because individual clients or their guardians select the provider and not all have been selected. She told the legislators that community providers choose the counties they wish to serve when they receive their certification. The majority of community provider choose the entire state as their service area. But, due to the fact that clients/guardians can choose their provider, not all providers are selected.

Legislators discussed aspects of the services performed by community providers, including underserved areas of the state, transportation issues, therapeutic foster homes, training for foster care parents for children with special needs, including behavioral health issues.

Representative Hammer announced the JPR meeting scheduled for Tuesday, December 20, 2016 at 9:00 a.m. in Room A, MAC Building, Little Rock, Arkansas.

There being no further business, the meeting adjourned at 12:50 p.m.

**JOINT PERFORMANCE REVIEW COMMITTEE  
DECEMBER 20, 2016  
MINUTES**

The Joint Performance Review Committee met at 9:00 a.m. on Tuesday, December 20, 2016 in Room A, MAC Building, Little Rock, Arkansas.

Committee members present: Senators Alan Clark, Co-Chair, Linda Collins-Smith, Jane English, Bryan King, and Gary Stubblefield. Representatives Kim Hammer, Co-Chair, Scott Baltz, Jana Della Rosa, Lance Eads, Kenneth Ferguson, Charlene Fite, Milton Nicks, Jr., Dan Sullivan, Dwight Tosh, and Clarke Tucker.

Other members present: Senators Jonathan Dismang, Jimmy Hickey, Jr., Eddie Joe Williams, and Jon Woods. Representatives David Branscum, Mary Broadaway, LeAnne Burch, Jim Dotson, Trevor Drown, Justin Gonzales, Lane Jean, Bob Johnson, and George McGill.

Members-elect present: Senator-elect Trent Garner. Representatives-elect Fred Allen and Carlton Wing.

**Call to Order**

Senator Clark called the meeting to order.

**Comments by Co-Chairs**

Senator Clark welcomed and thanked the judges for participating in the meeting. He also thanked the JPR Committee members for the work they have accomplished over the past two years. Representative Hammer said he has been honored to serve as a Co-Chair of the JPR Committee.

**Consideration for Approval of Minutes – November 29, 2016 [Exhibit C]**

A motion to approve the minutes of the November 29, 2016 committee meeting was made by Senator Stubblefield and seconded by Senator Collins-Smith. The motion carried.

**Discussion of Child Welfare Procedures from the Perspective of the Courts**

The Honorable Ernest E. Brown, Jr., Circuit Court Judge, Division 6, Jefferson-Lincoln Counties, The Honorable Gary Arnold, Circuit Court Judge, Division 2, Saline County, The Honorable Joyce Williams Warren, Circuit Court Judge, Division 10, Pulaski County, The Honorable Rhonda Wood, Justice Position 7, Arkansas Supreme Court, and David J. Sachar, Executive Director, Judicial Discipline and Disability Commission (JDDC) were sworn in under oath by Representative Hammer.

Justice Wood thanked the JPR Committee for its commitment in working to improve the child welfare issues in Arkansas. She said her comments will reflect only her position as one justice and not that of the Court. She introduced the panel of judges and noted their extensive judicial experience with the child welfare system. Judge Joyce Warren has served for thirty-one years, Judge Ernest Brown has served for eighteen years, with ten years as a Parent Counsel attorney, Judge Gary Arnold has served for twenty-six years.

The judges were asked to give their perspective of major problems and solutions within the state's child welfare system.

Judge Brown said he would like to see the expansion of a program currently operating in Judge Warren's courtroom called "Safe Babies Court Teams Project". The program's approach seeks to increase the knowledge of individuals who work with maltreatment cases involving children ages zero to three years of age. Judge Brown said he has received training in this program and hopes additional resources will become available, which will allow him to implement the program in his judicial district. Judge Brown described another program, "Family Treatment Drug Court", which he has been operating in his court for five years. He said the program is designed for parents with substance abuse issues. One premise of the program allows a greater frequency of visits by the parents. After adjudication there is a follow-up visit at the end of six months. Judge Brown then discussed relative placement and said it is especially high in his district. He places foster children with their grandparents or fictive kin whenever possible. He also places foster children with their relatives using temporary custody, which gives families access to various resources.

Judge Arnold said the problem he sees more frequently than others are the large number of cases the DCFS caseworkers, judges, and attorneys must process through the child welfare system. He believes the best outcome for foster children is the ability to safely return them to their biological family. Judge Arnold responded to a question by a legislator concerning a lack of available services in Sebastian County. The legislator said that too often foster children are placed outside their home county. He said not only are additional services needed in the county, but an increased number of foster homes is needed. Responding to a question by legislators regarding the issue of substance abuse, Judge Arnold said if there was a way to curtail and/or eliminate substance abuse, his dependency neglect docket would decrease by 80% because it is most definitely the largest underlying problem in the U.S.

Judge Warren said the issue of meaningful visitation, plus transportation for foster care children, is an issue where additional resources are greatly needed. She said too often visitations occur in a DHS office, which is not the most ideal location. Judge Warren believes expansion of services and greater access to more appropriate sites for visitations is very important. She also believes caseworkers and supervisors should be available on weekends and after regular working hours for emergency situations. Judge Warren discussed the "Safe Babies Court Teams Project", a concept providing more frequent visitations for families with young children. She has implemented this program in her court and schedules visitations three times a week for a minimum of two hours per visit. Judge Warren said a more ideal schedule would allow an increase in visits from five to seven times each week. However, she recognizes that the Arkansas Department of Human Services (DHS) currently lacks the available resources and staff to increase visitations. Judge Warren commented on the extensive responsibilities of DCFS caseworkers and supervisors, which include monitoring visits, providing transportation, preparation of court reports, and testifying in court. Judge Warren thinks there is just not enough support available for the duties the caseworkers are mandated to perform. She also believes additional foster homes are needed, particularly in areas where foster children were removed from their

home counties. Judge Warren addressed legislators questions concerning relative placement of foster children when the relatives become provisional foster parents. She said there are areas throughout the state where this process is working well. Appropriate relatives are taking the responsibility to become certified foster parents. However, other areas of the state are not doing as good a job in this area. Judge Warren then addressed a concern raised by a legislator on how to hold parents more accountable when their children are removed from custody. She said the parents often need access to services for substance abuse, mental health treatment, psychiatric evaluation, and counseling. Unfortunately, these services are not available for extended periods of time. At times there is a four to five month delay in twelve-month custody cases when services are needed immediately. She believes this is one way parents can be held accountable by mandating that they pursue the services they need to correct their behavior.

Justice Wood said the obvious need is an increase in funding. She said it is her personal belief that part of the problem for the large numbers of children in foster care is the breakdown of the American family system. Justice Wood described the circumstances involving an older foster child which occurred during the time she served as a juvenile judge. A young man was moved across the state away from his family, school, and church. The young man had been on a football team in his school, but following the move he could no longer participate in this activity, which was the only thing he had to take pride in. It was devastating to the young man. Judge Wood said the older children in the foster care system are too often ignored and what some would believe to be a small thing, such as participation in extracurricular activities, are very important to the youth. Judge Wood asked Committee members to consider creating legislation in two areas: one would be to encourage the placement of foster children within the same community where they lived before being removed from their family; second is to pass legislation to protect the rights of foster children through academics and participation in extracurricular activities within the schools. Justice Wood said there is legislation in other states that protects children whose families serve in the military. This legislation protects the children when they are moved into new school settings and permits them to immediately participate in opportunities within the new school. Justice Wood believes foster children should have these same opportunities and protections.

Justice Wood responded to legislators questions concerning continuing education available to Arkansas judges. She said continuing education courses are available to judges during meetings and conferences held in June and October on an annual basis. She also said a special meeting was held in November 2016 which focused solely on cases heard in the juvenile courts. A round-table discussion took place during this meeting specifically addressing concerns about relative placement for foster children. Training is also provided to every new judge before they preside in court. Justice Wood told legislators the judiciary is working to be more receptive to concerns raised by the legislature. She encouraged the continuation of dialogue between the judiciary and the legislature. She invited legislators to attend any judiciary training sessions.

The judges were asked to give their perspective on accessing resources within the faith-based community and obstacles or limitations the courts may have in including these organizations as providers.

Judge Warren said DHS has a good relationship with "The CALL" in Pulaski and Saline Counties. This is a faith-based organization that provides transportation assistance and recruitment of foster parents and foster homes before families enter the court system. Justice Wood said statutes prohibit the court from directly ordering a parent to use a specific provider or a specific service. However, she believes the judges and DCFS should reach out to community leaders and let the faith-based organizations know the needs of the foster care population. Justice Wood said the court has a list of service providers and always includes faith-based services as an option because they often have the best substance abuse programs, such as Narcotics Anonymous (NA) and Alcoholics Anonymous (AA). Senator Eddie Joe Williams suggested a greater emphasis be given to faith-based organizations as potential providers to foster families whenever possible.

Justice Wood was asked if there is a rating system for service providers that provides the outcomes of its participants. She said this area is one of the failures in the state's system because data is not well kept and there are no measures of outcomes. Justice Wood said sharing of electronic data needs to be implemented and increased. But, DCFS and the AOC are currently working to combine data systems, which will track individuals when they enter the court system and when services are ordered by the courts. She said the work will continue to improve the data sharing.

David Sachar thanked the Committee for allowing him to participate in the discussion. He said the JDDC is a constitutionally independent agency that enforces the Code of Judicial Conduct. The JDDC can accept complaints from anyone and was the first in the nation to accept online complaints. Mr. Sachar said during his tenure with the JDDC he has reviewed over 3,000 complaints, with the majority of credible cases that are investigated are related to either child custody or child welfare. He said he has over time received ethical complaints regarding judges and faith-based providers. Mr. Sachar said as long as a faith-based provider is qualified, judges are allowed to offer it as an option. He said there are a number of very good faith-based organization providers in Garland county.

Mr. Sachar was asked to explain the process used by the JDDC regarding complaints made against judges. He said there is a three-person panel which reviews the complaint. When the panel determines that the complaint should be pursued, it has the authority to collect statements from DHS attorneys and/or Attorney Ad Litem attorneys when applicable. The judge in question is given notice to respond. Charges are brought against judges when the panel determines there is probable cause based on violations of the Code of Rules and Ethics.

The judges were asked to give their perspective on any limitations or restrictions that exist, which statutes have been placed on the courts. What changes, if any, to the current system structure do they suggest that could provide greater autonomy to the function of the court systems. Also, do they believe moving the Parent Counsel Program away from the AOC would remove conflicts and limitations to the program.

Justice Wood told legislators that an independent commission has been created to oversee the responsibilities of the director of the Parent Counsel Program and his or her decisions regarding the awarding of contracts to Parent Counsel attorneys and the functions of the program.

Judge Brown said the judiciary was consulted before the independent commission was created and he believes this is a good idea. He believes the current structure of the Attorney Ad Litem and the Court Appointed Special Advocates (CASA) programs is functioning well and should continue as it is. Judge Arnold said he too believes oversight by the independent commission of the Parent Counsel Program is good way to address any concerns regarding autonomy and conflicts.

The judges were asked to give their perspective of the best way to address the issue of grandparents custodial rights. An example was given of a grandparent taking custody of their grandchild outside of the DHS system when the parent is no longer participating in the child's life for whatever reason. The grandparent provides financial, physical, medical, and emotional support of their grandchild. Subsequently, the parent decides they want the children back and want to exclude the grandparents from the lives of the children. The question asked is how does a grandparent assert their rights to visitation and inclusion in their grandchildren's lives and are there any legal remedies.

David Sachar told legislators he has received numerous complaints with the exact circumstance described because the grandparents did not obtain legal guardianship. He believes educating the public is one answer to this problem by making individuals aware of the need to go to the courts to obtain legal guardianship. When services are needed, the grandparents can petition the court for a Family In Need of Service (FINS) guardianship.

#### **Discussion of Child Welfare Procedures from the Perspective of Associated Agencies**

J.D. Gingerich, Director, Administrative Office of the Courts (AOC), Connie Hickman Tanner, Director of Court Services, AOC, Brian Welch, Director, Parent Counsel, AOC, Renie Robinette, Director, Attorney Ad Litem Program, AOC, Debbie Roark, Investigative Administrator, Crimes Against Children Division (CACD), Arkansas State Police, and Mischa Martin, Director, Children and Family Services Division, Arkansas Department of Human Services (DHS) were each sworn in under oath by Senator Clark.

Mr. Gingerich told legislators he created a Parent Counsel Advisory Committee to be responsible for complaints, oversight and management of the Parent Counsel Program to provide more autonomy and make it easier to handle complaints. The Advisory Committee consists of two legislators, a former judge, and a former Parent Counsel attorney. Mr. Gingerich said funding for the Parent Counsel Program has been removed from the AOC budget. The reporting process by the Parent Counsel Program has been moved from the court structure division to the legal division.

Mischa Martin responded to questions by legislators regarding the caseload of DCFS attorneys. She briefly discussed the proposed DCFS budget, which seeks additional resources, with the Office of Chief Counsel (OCC) having a separate budget within DHS. Ms. Martin discussed a pilot program DCFS is conducting in Sebastian County called "Rapid Review", which provides an expedited review of foster children cases who are nearing adoption. Ms. Martin said DCFS has learned there are problems with adoption cases being delayed because of an inability to obtain timely court orders and the timeliness of the filing petitions providing legal information to the court, which is the responsibility of the OCC. Ms. Martin said the agency in Sebastian County is overwhelmed with cases involving discharging children from foster care in an appropriate timeframe. Ms. Martin responded

to a question concerning the recurrence of maltreatment of children and their reentry into the foster care system. Ms. Martin said data for fiscal year 2016 indicates:

- 44% of cases concluded with children being returned to their parents
- 28% of cases concluded with children being placed with relatives
- 9% of cases concluded with the recurrence of the removal of children and their reentry into foster care

Ms. Robinette responded to questions and summarized the Attorney Ad Litem Program. She said there are currently thirty-four full-time Attorney Ad Litem and approximately forty contract Attorney Ad Litem Attorneys. Ms. Robinette said all complaints received are reviewed, information is collected, and when warranted, attorneys are terminated and their contracts are cancelled. She then described an evaluation process which uses surveys. Surveys are provided to stakeholders, including parent counsel attorneys, foster parents, CASA advocates, and judges. Ms. Robinette said the agency has currently received 1,000 surveys for the 2016 evaluation time-period.

Ms. Connie Hickman Tanner responded to questions concerning the reporting of problems and the perception there is a conflict with AOC investigating complaints made against Parent Counsel attorneys. Ms. Tanner said judges contact the AOC directly and advise them of any concerns they have with attorneys who appear in their court. She does not believe that judges contacting the AOC is a conflict.

Ms. Debbie Roark responded to legislator's questions concerning complaints that CACD investigators are too aggressive in pursuing True Findings against parents, that they are inaccurately reporting cases, and there is no oversight of the agency. Ms. Roark said the agency has performed internal investigations when necessary and has terminated investigators when necessary.

Mr. Brian Welch responded to legislators questions concerning the Parent Counsel Program and whether or not judges influence the hiring or firing of Parent Counsel attorneys. Mr. Welch said state statutes require him as the Parent Counsel Director to notify judges when an attorney is under consideration for hire.

Nancy Emmons, private citizen was recognized to give her personal experiences with the Arkansas foster care system. She asked the committee to continue to encourage improvements in the system. Kathryn Hudson, attorney, who had signed the testimony sheet, was not in the room to make her comments at the time she was recognized.

### **Summary Report of Work Performed by the Joint Performance Review Committee During the 2015-2016 Biennium**

Senator Clark announced the JPR Committee will issue a report to be sent via e-mail to members, which summarizes the work performed by the Committee over the past two years.

There being no further business, the meeting adjourned at 12:55 p.m.