Final Report of the Select Committee on Efficiency in Government

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September 2012

Final Report of the Select Committee on Efficiency in Government

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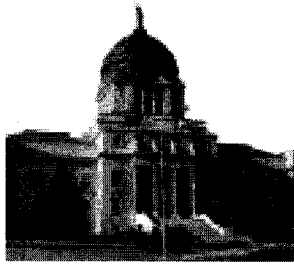
HB 642 - Efficiency in Government
Final Report of the Select Committee on Efficiency in Government

David D. Bohyer, LSD Research Director, Ed.;
Sue O'Connell, LSD Analyst; Jason Mohr, LSD Analyst;
and Barbara Smith, LFD Fiscal Specialist

August 2012

Part 1 - Introduction and Overview

Purpose of Report

This report summarizes the activities of and outcomes from the work of the Select Committee on Efficiency in Government, established pursuant to House Bill No. 642, 62nd Montana Legislature (2011). Under HB 642, the Committee is required to "...prepare a final report of its findings and conclusions and of its recommendations and shall prepare draft legislation whenever appropriate."[1] The Committee fulfills the obligation by submitting this report.

Organization of Report

The Executive Summary lists only the Committee's recommendations. Background underpinning each recommendation is provided in the section of the report that addresses the subject of the recommendation.

Overview The Overview provides a bird's eye view of when, where, and how the Committee undertook it's commission during the 2011-12 legislative interim. Details of each of the Committee's meetings is provided on the Internet, at the Committee's web page: leg.mt.gov/sceg.

Section A of the report provides information and recommendations on the Committee's activities and outcomes in regard to health care and Medicaid; essentially, five draft bills affecting various elements of the state's Medicaid program.

Section B of the report provides information on the Committee's activities and outcomes in regard to information technology, and essentially, a recommendation for three draft bills: (1) clarifying the authority of local governments to store electronic data off site; (2) eliminating or

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[1] Sec.2(5)(b), Ch. 380, Laws of Montana, 2011. (HB 642)

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clarifying notarization requirements for certain documents; and (3) requesting an interim study of electronic records management.

Section C provides information and recommendations on the Committee's activities and outcomes in regard to natural resources. Here, the Committee engaged primarily in self-education about where and how state agencies and natural resource-based business interact in regard to communications, reporting, and regulation.

Section D provides an overview of "priority budgeting" and presents a synopsis of what priority budgeting is, how it compares and contrasts with Montana's current state budgeting processes and procedures, and the pros and cons of it from the perspectives of advocates and opponents.

Overview

The Select Committee on Efficiency in Government, hereafter SCEG or Committee, was created by the enactment of House Bill No. 642, 62nd Montana Legislature (2011).[2] It was comprised of 12 legislative members, divided evenly by house and party. Senate members of the majority party and the SCEG's presiding officer were appointed by the Senate President. Senate members of the minority party were appointed by the Senate Minority Leader. House members of the majority party were appointed by the Speaker and members of the minority party were appointed by the House Minority Leader.

House Bill No. 642 directed the Committee to investigate four very broad policy areas: Priority Budgeting; Health Care; Technology; and Natural Resources. Further, the underlying purpose of the Committee's investigation and activities was to ascertain "the efficiency and effectiveness of state activities" in the latter three areas. To conduct the investigation the legislature appropriated $100,000 and required the Legislative Services Division to provide staff assistance. The legislation also allowed the SCEG to contract for services and to request assistance from the staffs of the Legislative Fiscal Division and the Legislative Audit Division.

The Committee members, in their earliest discussion of the direction provided in HB 642, concluded that the scope of inquiry described in the bill exceeded the Committee's resources and the amount of time available. Therefore, the members decided to establish three subcommittees, one each for the respective broad topical areas of Health Care/Medicaid, Information

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[2] Chapter 380, Laws of Montana, 2011.

Technology, and Natural Resources.[3] The full Committee also authorized each subcommittee to establish its own priorities and focus within the assigned subject area and guided each subcommittee to undertake and complete it work in consecutive, overlapping 3-to-4-month periods.

The Health Care/Medicaid Subcommittee was the first to be appointed and convene, holding its first meeting in October 2011. Subsequently, the Subcommittee met again in November 2011 and January 2012, providing oral updates to the full Committee at the October and November 2011 and January and February 2012 meetings. The Subcommittee made its final oral report to the Committee at the February 2012 meeting in Bozeman and presented draft legislation at the May 2012 meeting. The Subcommittee's draft legislation proposals were:

- LCSC01: Revise 72-Hour Presumptive Eligibility Program for Crisis Stabilization
- LCSC02: Measure Outcomes for Children's Mental Health Services
- LCSC03: Pay-for-Performance Pilot Project for Children's Mental Health Services
- LCSC10: Penalty for Transfer of Assets
- LCSC11: Eliminate Unit Billing for Certain Mental Health Services
- LCSC12: Revise Medicaid Application Process

The Subcommittee also made three nonlegislation recommendations to the full Committee:

- a funding recommendation to the 63rd Legislature that the appropriation to DPHHS for utilization review of certain Medicaid services be reduced from $1.7 million per year to $185,000 per year to pay for only the utilization review required by federal law.
- ask DPHHS to put together a stakeholder group to start planning for the expansion of the Medicaid program under the Patient Protection and Affordable Care Act, approved by Congress in 2010 and slated to go into effect in January 2014; and
- ask DPHHS to work with Medicaid providers toward an outcomes-based system of services and to articulate in a measurable form what the services would accomplish in three specific areas.

The full Committee recommends to the 63rd Legislature five of the Subcommittee's six proposals and the funding recommendation; it does not recommend LCSD11 (eliminate unit billing).

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[3] A Work Plan Subcommittee was also established, but it focused on procedure and timelines rather than the substance of government efficiencies.

The Information Technology Subcommittee was appointed at the Committee's October 2011 meeting and held meetings in conjunction with the full Committee's meetings in January, February, March, April, and May 2012. During the Subcommittee's meetings, members identified some two dozen ideas to affect or affected by state information technology. Through the end of the Subcommittee's meetings in May 2012, which included briefing panels, stakeholder testimony, and member discussions, the members eventually reduced the ideas to three recommendations:

- LCSC20   Clarify the term "at the office" for local governments in the context of accessability to electronic records
- LCSC21   Study electronic records management
- LCSC22   Revising certain requirements regarding the notarization of documents

Draft legislation was prepared for the full Committee for consideration at the June 2012 meeting in Havre and the members voted to recommend all three draft bills to the 63rd Legislature.[4]

The Natural Resources Subcommittee was the last to be appointed and met initially in conjunction with the Committee's February 2012 meeting in Bozeman. The Subcommittee also met in conjunction with the Committee's March and April 2012 meetings. Not unsurprisingly, the Subcommittee heard from a few witnesses from various natural resource developers/producers that "regulations" were inefficient and costly. Upon questions from Subcommittee members, some witnesses allowed that the inefficiencies affecting them were, in fact, federal--not state--regulations. In particular, a spokesperson for the coal industry was invited to work with representatives of the state's Departments of Environmental Quality and Natural Resources and Conservation to identify and propose options for onerous laws and, following those meetings, to provide the Subcommittee with a list of specific state statutes and regulations of particular concern. At the end of the Subcommittee's work sessions in April 2012, the Subcommittee had not received notification from the spokesperson of any state statute or regulation causing or resulting in efficiency.

In addition to sanctioning several panels on different natural resource topics, the Subcommittee enlisted the full Committee in a variety of educational activities, touring the REC silane/silicon

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[4] Although the Subcommittee completed its work and recommendations in May 2012, the full Committee decided to continue its own examination of information technology efficiencies at the September 2012 meeting. The outcome of the Committee's discussions in that regard are not contained in this report, but may be included later as an addendum.

plant[5] near Rocker and, in Butte, the Fracture Stimulation Lab at Montana Tech, the Ab SeaCast foundry

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[5] REC Silicon, a subsidiary of Renewable Energy Corporation ASA, is the operating division for the silicon production and produces solar grade polysilicon, electronic grade polysilicon and silane gas at plants in Moses Lake, Washington and in Butte, Montana. These products are raw materials for the international solar and electronic industries. For example, polysilicon and silane gas are used in technologies to create MP3 players, flat panel displays, laptops, hybrid electric vehicles, plus ubiquitous solar panels. (From the REC web site: http://www.recgroup.com/en/media/, August 2012.)

Executive Summary of Committee Recommendations

Section A - Health Care/Medicaid

LC 123 LCSC01 – 72-Hour Presumptive Eligibility Program
LC 124 LCSC02 – Outcomes-Based Planning
LC 125 LCSC03 – Pay for Performance
LC 150 LCSC10 – Transfer of Assets (Recommended)
LC 151 LCSC12 – Medicaid Application.

Section B - Information Technology

LCSC20   Clarify the term "at the office" for local governments in the context of accessability to electronic records
LCSC21   Study electronic records management
LCSC22   Revising certain requirements regarding the notarization of documents

Section C - Natural Resources
No legislation recommendations
- Subcommittee actions led to the formation of an agency-industry working group, which may result in the development of additional electronic forms.
- Staff from the two agencies involved with mining records and databases agreed to present any ideas to the legislature in the future.

Section D - Priority Budgeting
No recommendations at this time

Part 2 - Committee Activities, Findings, and Actions

SECTION A - HEALTH CARE/MEDICAID

The Committee decided at its first meeting, in August 2011, to establish a Health Care/Medicaid Subcommittee to gather more information and ideas for efficiencies in the Medicaid program. The Subcommittee met four times to:

1. review health care and Medicaid laws, administrative rules, and programs; and

2. identify potential ways to increase efficiencies within the Medicaid program or health care system.

Rep. Pat Noonan, D-Ramsay, served as presiding officer. Other Subcommittee members were Rep. Mark Blasdel, R-Somers; Sen. Mary Caferro, D-Helena; and Sen. Ed Walker, R-Billings.

The Subcommittee solicited comment from Medicaid providers at two meetings, in October and November 2011. The Subcommittee then asked interested parties to identify specific laws or administrative rules that they considered unnecessary or overly burdensome, as well as ideas for changing the laws or rules.

The Medicaid suggestions were forwarded to the Department of Public Health and Human Services (DPHHS) in December 2011. At a January 2012 Subcommittee meeting, DPHHS Medicaid and Health Services Branch Manager Mary Dalton responded to each of the 23 suggestions compiled from ideas proposed at public meetings, in written public comment, and through the Committee's online public input tool.

At the same meeting, the Subcommittee also reviewed suggestions relating to non-Medicaid health care matters.

The Subcommittee met a last time on Feb. 1, 2012, to act on the suggestions. Members forwarded eight recommendations to the full Committee. The Committee subsequently adopted seven of the eight recommendations, setting in motion a process to:

- draft legislation for further consideration;
- make a funding recommendation to the 2013 Legislature;
- ask DPHHS to put together a stakeholder group to start planning for the expansion of the Medicaid program under the Patient Protection and Affordable Care Act, approved by Congress in 2010 and slated to go into effect in January 2014; and
- ask DPHHS to work with Medicaid providers toward an outcomes-based system of services and to articulate in a measurable form what the services would accomplish in three specific areas.

The full Committee also authorized the drafting of a bill to create a pilot project for a pay-for-performance system for children's mental health services. Stakeholders had brought that suggestion to the full Committee, rather than the Subcommittee.

By the Committee's March 2012 meeting, DPHHS had indicated that it would not convene stakeholders to discuss the Medicaid expansion because the federal government had not yet provided clear guidance on how the expansion would be carried out. DPHHS also told the Committee that it could not commit to following all of the suggestions related to developing an outcomes-based model for children's mental health services. The department noted that it was in the midst of the budget-planning process and did not have details on all the elements that would be presented to Gov. Brian Schweitzer for consideration. However, DPHHS did note that, with involvement from providers, the agency had selected a validated tool to measure the severity of the needs of children in the mental health system.

After receiving the responses from DPHHS, the Committee authorized drafting of legislation to require DPHHS to develop and put into effect an outcomes-based model for children's mental health services.

In May 2012, the Committee reviewed six bill drafts and approved five of them for introduction as committee bills in the 2013 Legislature. This section of the report details each proposal, the reasons it came before the committee, and the items that went into consideration of action on the topic.

Issue 1 Summary:

The Medicaid program currently pays providers for the type and amount of service they provide to Medicaid enrollees, using a so-called "fee-for-service" model. Some states are experimenting with a pay-for-performance model for certain services, particularly mental health services provided to children. In this model, providers are paid according to how well they meet certain established standards, including how well children respond to treatment.

Action or Recommendation: The Committee recommends that the 63rd Legislature enact LC 123 to create a pay-for-performance pilot project in order to test the use of this model for Medicaid mental health services provided to children.

Discussion: Some children's mental health providers approached the Committee at its first meeting in August 2011, asking members to explore the pay-for-performance approach. In October 2011, representatives of two psychiatric residential treatment facilities -- the Yellowstone Boys & Girls Ranch and Intermountain -- gave an overview of performance-based contracting, which links reimbursement for providers to established outcomes and improvements for their clients. In general, providers who achieve certain standards of performance receive higher levels of reimbursement than other providers.

Advocates said this payment model ensures better results for children. They also noted that several states, ranging from Connecticut to Florida, Kansas, and Tennessee, have instituted performance-based contracting for children's mental health and child welfare services. They emphasized that Montana could build on models already developed elsewhere.

Stakeholders presented a proposal for draft legislation at the Committee's March 2012 meeting. The committee authorized staff to draft the legislation and subsequently reviewed and approved the legislation in May 2012.

Findings and Conclusions: Testimony to the committee indicated that a pay-for-performance approach to Medicaid services for children would allow the state to establish standards for a provider's services and for outcomes that children should experience. The higher payment levels associated with meeting the standards would give providers an incentive to make sure their services meet the state-established standards.

The Committee concluded that the pay-for-performance model holds potential for making children's mental health services more effective. The Committee also concluded that the state should test the model through a pilot project, which would allow the state to determine whether performance-based contracting should be used more widely.

Action or Recommendation: The Committee recommends that the 63rd Legislature enact LC 123.

Issue 2 Summary:

The Medicaid program currently pays providers for the type and amount of service they provide to Medicaid enrollees, using a so-called "fee-for-service" model. The program doesn't measure the effectiveness of the mental health services provided to Medicaid enrollees.

Action or Recommendation: The Committee recommends that the 63rd Legislature enact LC 124 to require DPHHS to measure outcomes for mental health services paid for by the Medicaid program, beginning with services administered by the Children's Mental Health Bureau. The bill also would require DPHHS to report on the results of its measurement.

Discussion: A number of mental health providers supported the idea of measuring the outcomes of children who receive mental health services, in order to determine the effectiveness of the services being provided. They suggested that DPHHS could use tools that have been validated through research to effectively assess the acuity of children's mental health needs and then measure how well those needs have been met through treatment. They also said DPHHS should report on how well providers meet the identified outcomes, in order to provide the public with information to help them make informed choices.

In February, the Subcommittee recommended that the full Committee send DPHHS a letter to ask the agency to work with providers to articulate, in a measurable form, what it would accomplish in three areas:

1. the use of validated tools to assess and measure the fidelity of Medicaid state plan services to a wraparound philosophy of care;

2. the use of validated measures to evaluate the acuity of the children served, to assess family functioning and family skill strengths and deficits, and to measure what, if any, improvements the services that are provided make in the areas of acuity, family functioning, and family skill strengths and deficits; and

3. the tracking of a child's placement, in order to create incentives for providing community-based treatment and reducing the use and expense of out-of-state, psychiatric residential treatment facility, and group home placements.

DPHHS in March declined to undertake that project, noting that it had selected a validated tool to measure acuity and that it was just beginning the Executive Planning Process to develop its budget proposals.

As a result the Committee authorized the drafting of legislation in March to accomplish the goals stated in its request to DPHHS. The Committee reviewed and took public comment on the draft legislation in May 2012.

Findings and Conclusions: Testimony showed that DPHHS is putting in place a new tool to measure the needs of children receiving mental health services. Testimony also indicated that Medicaid providers believe the department can and should measure the outcomes of children who receive Medicaid mental health services. Consequently, the Committee concluded that measurement of outcomes for children receiving Medicaid mental health services would result in more effective treatment and better use of state resources.

Action or Recommendation: The Committee recommends that the 63rd Legislature enact LC 124 requiring DPHHS to measure and report on the outcomes of children receiving Medicaid mental health services.

Issue 3 Summary:

The 2007 Legislature appropriated money to create the 72-hour presumptive eligibility program, which pays for mental health services provided for a three-day period to stabilize a person who is in psychiatric crisis. Participating mental health practitioners may provide care without verifying a person's insurance coverage. If a person is insured or covered by Medicaid, the provider bills the insurer. The presumptive eligibility program pays for individuals who are uninsured or underinsured. Among other things, the program pays for one psychiatric diagnostic interview and does not allow for payment of crisis stabilization services that are provided within seven days of a person's previous discharge from such services.

Action or Recommendation: The Committee recommends that the 63rd Legislature enact LC 125 to revise the presumptive eligibility program in order to allow for payment of two psychiatric diagnostic interviews and for payment of services provided within seven days of a person's previous discharge from crisis stabilization services. LC 125 also establishes the 72-hour presumptive eligibility program in statute, rather than administrative rule.

Discussion: The Subcommittee solicited suggestions from the public in hopes of obtaining ideas for ways to make the Medicaid program more efficient. Some of the suggestions touched on non-Medicaid matters, as well, including the suggestions to revise the 72-hour presumptive eligibility program. The program is funded entirely by general fund.

Stakeholders told the Subcommittee about the ways in which a person's condition may change within the first 72 hours of treatment. They said that a psychiatric diagnostic interview conducted at the outset of the 72-hour period may be influenced by factors such as alcohol and drug use. As a result, it may not provide the best picture of the services a person may need to remain stabilized after the 72-hour period has ended. They suggested that payment of a second diagnostic interview at the end of the three-day period may better reflect the person's status and continued treatment needs.

Stakeholders also said that providers don't want to turn away a person in need of crisis stabilization services, so they often provide services within seven days of a person's previous discharge. However, current administrative rules prevent them from being reimbursed for providing the treatment they believe is needed.

The Subcommittee recommended in February 2012 that the Committee make the two suggested changes to the 72-hour presumptive eligibility program. The Committee authorized drafting of the legislation in February and reviewed and took public comment on the draft legislation in May 2012.

Findings and Conclusions: Testimony pointed out that mental health providers believed the current 72-hour presumptive eligibility program may not provide appropriate treatment because of the limit on the number of psychiatric diagnostic interviews and the inability of providers to be reimbursed for treating a patient in crisis if the patient had just received services. Testimony also

indicated that changes to the program would increase costs to the general fund, but may have unknown benefits by resulting in better crisis stabilization services and a reduced need for more intensive and costly services. Consequently, the Committee concluded that legislative changes would improve the efficiency and effectiveness of the program.

Action or Recommendation: The Committee recommends that the 63rd Legislature enact LC 125 to revise the state's 72-hour presumptive eligibility program.

Issue 4 Summary:

To obtain Medicaid coverage, Montanans must submit an application to determine if they meet the criteria set out in state and federal law. Individuals may apply online, fill out a form and mail it to a county Office of Public Assistance, or fill out the form at a county office. They may be asked to provide proof of citizenship, residence, income, assets, and certain claimed expenses if proof isn't available through one of several electronic databases. Montana requires verification of an applicant's income and, if applicable, assets. Applicants may not simply attest to the fact that their income or assets meet the eligibility requirements.

Action or Recommendation: The Committee recommends that the 63rd Legislature enact LC 150 to revise the Medicaid application and application process. LC 150, if adopted, would require that the application process be changed to ask for only the information required under federal laws and regulation; match an applicant's Social Security number against existing electronic databases to verify as much of the information as possible; use a central intake model to the extent possible; and use technology to the greatest extent possible, including the use of online applications, electronic data matches, document imaging, and electronic signatures.

Discussion: Sen. Caferro asked the Subcommittee to look at the Medicaid application process to see if it could be made more efficient. DPHHS officials provided a demonstration of the current online application process at the Subcommittee's November 2011 meeting and subsequently explained why the application contains certain questions and how DPHHS verifies income and other required information.

The Subcommittee recommended in February 2012 that the full Committee approve legislation to revise the Medicaid application process. The Committee authorized the drafting of legislation in February and reviewed and took public comment on the draft legislation in May 2012.

Findings and Conclusions: Based on the demonstration and testimony, the Committee determined that use of the current online application process is relatively low and that the current process requires applicants to submit documentation of information that may be verified electronically through other sources. Consequently, the Committee concluded that changing the Medicaid application and application process may result in efficiencies to the state and to applicants.

Action or Recommendation: The Committee recommends that the 63rd Legislature enact LC 150 to change the state's Medicaid application process.

Issue 5 Summary:

With some exceptions, Medicaid applicants for long-term care may not transfer assets in the 5-year period before they apply for Medicaid if the transfer is designed to allow them to qualify for Medicaid coverage. Medicaid applicants may be penalized with a loss of eligibility if they are found to have improperly transferred assets. At least one state has taken steps to also penalize the people who receive improperly transferred assets.

Action or Recommendation: The Committee recommends that the 63rd Legislature enact LC 151 to allow imposition of a civil penalty against someone who receives assets that were transferred in order to allow another person to qualify for Medicaid coverage of long-term care costs.

Discussion: The matter of improperly transferred assets arose at the Subcommittee's October 2011 meeting, when stakeholders brought a Washington state law to the Subcommittee's attention. That law, passed in 1995, allows a court to impose a civil penalty against the recipient of the assets. The fine can be up to 150% of the value of the improperly transferred asset. The fine may be imposed if the asset transfer resulted in a period of ineligibility for the Medicaid applicant, but the state still provided Medicaid during that time because denial of coverage would have created an undue hardship for the applicant.

The Subcommittee received information from Washington state indicating that the state hasn't compiled specific data about the use or effects of the law. However, officials there believe it has served as a deterrent. They say that when they notify people about the law and the potential penalty, individuals who have received assets in a questionable manner often return the asset. The asset then is available to pay for long-term care.

Findings and Conclusions: Testimony indicated the state would benefit from stronger efforts to prevent people from transferring assets because people can use their assets, rather than Medicaid, to pay for the costs of their long-term care. Testimony also indicated that a law creating a penalty for people who receive improperly transferred assets may serve as a deterrent for such transfers. Consequently, the committee concluded that adopting a law similar to the Washington state law could create savings for Montana's Medicaid program.

Action or Recommendation: The Committee recommends that the 63rd Legislature enact LC 151 to create a civil penalty for individuals who receive improperly transferred assets from individuals who apply for Medicaid coverage of long-term care costs.

Issue 6 Summary:

The Medicaid program currently requires pre-authorization of certain services before the program pays for the services. This is accomplished through what is known as "utilization review." The state currently contracts with a private company to provide utilization review services. It also requires review of more mental health services than required by federal regulation.

Action or Recommendation: The Committee recommends that the 63rd Legislature reduce the appropriation for utilization review of certain Medicaid services from $1.7 million per year to $185,000 per year to pay for only the utilization review required by federal law.

Discussion: Throughout the interim, the Committee heard presentations related to the DPHHS contract with a private company for prior authorization of certain mental health services. DPHHS Medicaid and Health Services Branch Manager Mary Dalton provided information about why the state conducts utilization review and why it contracts for the services, rather than hiring staff to conduct the review. A representative of Magellan Health Services, the utilization review contractor, discussed how the company handles requests for authorization of services. Mental health providers testified that the utilization review process makes it difficult for them to provide services they believe are necessary at the time the services are necessary.

The Committee also discussed the current contract with Magellan, as well as the issuance of a new contract in 2012.

Findings and Conclusions: Testimony indicated that the state pays for utilization review of services that do not, under federal law or regulation, require pre-authorization. Testimony also indicated that mental health providers believe utilization review can prevent them from providing needed services in a timely fashion. Consequently, the Committee concluded that the state could save money and improve children's mental health services by reducing the utilization review appropriation.

Action or Recommendation: The Committee prepared a letter to the members of the House Appropriations Committee and Senate Finance and Claims Committee of the 63rd Legislature to recommend that they reduce the utilization review budget from $1.7 million per year to $185,000 per year.

SECTION B - INFORMATION TECHNOLOGY

The Committee decided at its August 2011 meeting to establish an Information Technology Subcommittee to gather information and ideas for efficiencies in state information technology (IT) services, software, hardware, processes, and so on. The Subcommittee met four times to determine how the state could more efficiently and effectively provide IT services within state government, between state agencies and other governmental agencies, and between the state and the private sector, both nonprofit and for profit.

Rep. Galen Hollenbaugh, D-Helena, served as the presiding officer. Other Subcommittee members were: Sen. Jon Sonju, R-Kalispell; Sen. Ed Buttrey, R-Great Falls; ???.

The Subcommittee solicited comments and ideas from all quarters regarding how the state could "improve" information technology. The members heard from the state Chief Information Officer, Dick Clark, at each of its meetings. The Subcommittee also heard from various individuals and company representatives that have some relationship with state information technology, either as current or potential users or as current or potential vendors of IT software, hardware, or services.

The Information Technology Subcommittee of the SCEG focused on solicited ideas for increased efficiency and twenty five suggestions were provided. The subcommittee categorized the ideas into four areas: connectivity, consolidation, budget/funding and the Montana Information and Technology Act and determined which items to examine further. Fourteen items were examined further of which eight items were addressed for action. Those items are summarized below by category.

CONNECTIVITY

Connectivity can be defined as the "measure of the extent to which components of a network are connected to one another and the ease of speed with which they can converse. This category would include items that would increase the ability for state government to be inter-connected, capacity for citizens to be interconnected and the availability of bandwidth capacity to support such connectives. Connectivity can also relate to the ability to access information based on accessibility to reliable internet access.

Issue 1 Summary: Long Term Strategy for Mobile Computing

As technology advances, there are increased opportunities for state government to utilize mobile computing to enhance state government operations. The key is to identify workable opportunities to implement mobile computing, which cannot be done without a policy framework, plan and potentially funding.

Actions or Recommendations:

The Committee recommends that the Montana State CIO work with the Information Technology Managers Council, the Computer Systems Planning Council and Montana Interactive to create a policy or plan for future mobile computing needs.

Discussion: Mobile applications provide additional opportunities to deploy e-government services, including land ownership, public safety, remote and field work support, travel information and document dissemination. Improved access could result in increased productivity of state employees and increased access to information to support citizen engagement. On the risk side, infrastructure to support the delivery of mobile applications is still maturing, as are the devices. The rate of technology change is a risk as applications may require frequent updating to remain viable on future devices.

Findings and Conclusions: The testimony of interested parties provided insight that mobile computing is a highly regarded and valuable tool for the public employee and the citizenry. The state e-government contractor, Montana Interactive, plays a key role in aiding the identification of potential e-services and mobile computing applications. Inside state government examination of web based services should be completed to determine if mobile applications can meet a business need and whether work can be done at the field level to eliminate duplicative entry, (i.e. record on paper and someone else enters into the system). Outside state government, again citizen e-services should considered for application development if there is an added value and the cost benefit is there.

Actions or Recommendations: Request the Montana State CIO work with the Information Technology Managers Council, the Computer Systems Planning Council and Montana Interactive to create a policy or plan for future mobile computing needs. Included in the plan, it is suggested that they develop five governmental functions, including one in the Legislative Branch as demonstrations projects to prove-out the technology and infrastructure support.

While a formal report has not been received, the topic of mobile computing is currently under discussion within each of the above mentioned groups. Within the Legislative Branch, the video web stream has been updated through contracting with Granicus which will allow smart phones and tablets to receive video streaming of committees and floor sessions. It also completes backup and archival services to preserve the electronic record.

Issue 2 Summary: Cloudy in Montana

The State of Montana Data Center (SMDC) provides services to state agencies that are similar to services available through the cloud. Confusion exists regarding the difference between the services of STDC and private cloud corporations. There needs to be a clear understanding about how the SMDC and procured cloud services can work together to provide optimal storage and retrieval services to state government.

Action or Recommendation: The IT Subcommittee asked for further clarification regarding the jurisdictional issue related to cloud contracting. Because of the nature of the cloud, legal venues and processes are not clearly defined. Further discussion of this is scheduled for the Sept. 2012 meeting.

Discussion: The cloud services hosting market is maturing but not yet fully in meeting the expectations and the hype of media. There are still issues to be resolved to assure that cloud hosting solutions provide the greatest benefit to the state. Montana currently uses a select number of cloud hosting services including; spam filtering services for the email system. The issue is to maximize the advantages of cloud hosting within the current resources structure of the state and minimize risk exposure.

Findings and Conclusions: The Information Technology Services Division (ITSD) of the department of Administration (DOA) provided a briefing titled "Montana Cloud Hosting Framework" which defined the drivers/benefits and drawbacks of cloud services. Highlights of that brief include:

Drivers/Benefits:
- Public and private cloud hosting can deliver significant economies of scale.
- The purchasing power of a multi-state cloud contract will add to cost savings.
- Cloud hosting moves IT purchasing away from irregular capital expenditures towards more predictable operational budget based on purchasing services.

Drawbacks:
- The impact of public cloud services to the state network could potentially increase bandwidth usage and costs.
- Certification of Federal security standards are under development by public cloud providers. There are no universally accepted standards within the public cloud for data interchange, data recovery or data extraction.
- Cloud services can be procured via credit card. Care needs to be taken that normal procure procedures are followed.

Actions or Recommendations: As per the ITSD brief, the subcommittee considered the following recommendation:

Montana should consider the deployment of a coordinated, hybrid cloud hosting environment across agency IT resources, vendor provided public cloud and our own state private cloud.

Additionally DOA and SITSD should develop policies and processes that allow DOA to monitor and manage overall departmental, state enterprise and public cloud usage by state agencies.

To implement the framework and address the three main areas of concern, DOA should
1. Develop a standard public cloud hosting contract template with required terms and conditions.
2. Develop a checklist/template for evaluating potential cloud services for:
   a. Business, security and technical requirements
   b. Procurement methodology
   c. State infrastructure impact including network resources.

After considering recommendations of SITSD, the subcommittee asked for further clarification regarding the jurisdictional issue related to cloud contracting. Because of the nature of the cloud, legal venues and processes are not clearly defined. This is scheduled for the Sept. meeting.

Issue 3 Summary: Enterprise Content Management

Enterprise Content Management (ECM) is the strategies, methods and tools used to capture, manage, store, preserve, and deliver content and documents related to organizational processes. ECM tools and strategies allow the management of an organization's unstructured information, wherever that information exists. Currently Montana has an "Electronic Records Initiative" that was completed in September of 2008. It was not fully implemented or funded.

Action or Recommendation: The Committee recommends that the 63rd legislature enact legislation to study and create a records management collection, preservation and management process while maintaining security and cost controls. The Committee also encouraged the use of the Montana Electronic Records Initiative prepared by the Electronic Records and Information Management Committee in September of 2008 as a starting point for the study.

Discussion: The Information Technology Services Division (ITSD) of the department of Administration (DOA) provided a briefing titled "Electronic Records Management which defined the complexity of the issue, including the potential increased and one-time costs of such a system.

To illustrate complexity, the brief outlines a few questions. Each of these, and more, need to be fully identified documented and understood to ensure that the features and function of any records system meets state requirements.
- What is and is not considered a record?
- What types of records will be required to manage?
- Will the entire lifecycle of a record be managed within a solution?
- How will the system ensure that records can be viewed with changes in technology?
- How will the system interface with other systems such as email, websites, etc?
- What costs, such as scanning and storage, need to be budgeted across state government to support ECM?

Consolidation

Consolidation is a term used in relation state government IT shops to describe combining one or more IT functions for the purpose of efficiency and effectiveness. This can range from a particular application such as state e-mail to consolidation of all IT functions within state government into one single administrative agency. In reviewing recent legislation of Colorado, Iowa, Indiana, Florida, Minnesota, Oklahoma, Oklahoma, Texas, and Utah; proposals for consolidation are varied, states are or have considered the realm between consolidation of a

function, such as data center participation to a whole reorganization of the function into a single unit complete with schedules to transfer budgets and FTE.

Consolidation issues addressed by the committee directly relate to the capacity, utilization and cost of the State of Montana Data Center (SMDC).

<u>Action or Recommendations:</u> The brief recommended a study bill to ensure the state identifies the best solution based on the requirements within the scope of the records and content management program. The committee expanded the scope of that recommendation.

The Committee recommends that the 63rd legislature enact LC### to study and create a records management collection, preservation and management process while maintaining security and cost controls. The committee further encouraged the use of the Montana Electronic Records Initiative prepared by the Electronic Records and Information Management Committee in September of 2008 as a starting point for the study.

Issue 4 Summary: Transition to SMDC

The SMDC has made considerable progress in transition state agencies to SMDC services. However, if an agency does not utilize SMDC, the cost to operate and secure services is much higher.

Action or Recommendations: The Committee recommended that the LFD provide a cost comparison of agency in-house data center service to SMDC costs at the September 2011 meeting. This cost comparison could be utilized in the budgeting process to assure agencies are funded appropriately to transition to SMDC.

Discussion: The Chief Information Officer does not have the statutory authority to require agency participation in the data center. Instead agencies have the opportunity to opt in. In this model, the agencies have sole discretion compelling SITSD to market the services of the datacenter. Issues raised in this process include:
* Transition costs are real and may not have been accounted for in the budgeting process.
* Incentive payments come with strings attached that need to be monitored.
* Agencies do not realize the cash value of energy savings.
* Reduction in costs spans state government; budgeted costs do not.
* Cost avoidance should be considered.
* Non-monetary incentives need to be emphasized.

Findings and Conclusions: Through examination of the center, its services and limitations, incentives were identified. When an agency utilizes the data center benefits include reduced energy costs to the state, reduced server maintenance, less downtime and reduced costs of monitoring, inspecting and maintaining equipment. Non- monetary incentives include increased security, earthquake protection, uninterrupted power supply and redundant data circuits. As time progressed, the committee heard from agencies who transitioned to the center and those that were considering transition. Issues of importance to the agencies was assurance that the cost to transition (i.e. move servers, etc.) was recoverable and actual cost savings were attributed to the agency, specifically energy savings.

Action or Recommendations: The Committee recommended that the LFD provide a cost comparison of agency in-house data center service to SMDC costs at the September 2011 meeting. This cost comparison could be utilized in the budgeting process to assure agencies are funded appropriately to transition to SMDC.

Issue 5 Summary: Encourage and Incentivize use of SMDC for local governments and public schools.

Local governments and school districts believe that 7-5-2131; MCA currently limits the ability to use electronic records. This statute requires the county clerk to keep records at the office.

Action or Recommendations: The Committee recommends that the 63rd Legislature enact legislation to clarify authority of local government to store electronic documents off-site.

Discussion: It was discovered that some entities were interpreting "records" as paper records, not electronic records.

Findings and Conclusions: Both local governments and school associations testified that clarification as needed to equalize records at the office to electronically available. If this was accomplished, both the groups and SMDC agreed discussions regarding SMDC utilization could begin.

Action or Recommendations: The Committee recommends that the 63rd Legislature enact LC 260 to clarify authority of local government to store electronic documents off-site.

Issue 6 Summary: Address energy savings at agency level

Rent and utility costs are charged on a square foot basis to each agency by the General Services Division. The rate is based on a state wide average, not actual utilization. When an agency transitions to the SMDC, there is an overall decrease in energy utilization, however the agency does not see a decrease in utility charges.

Action or Recommendations: Initially, the IT Subcommittee recommended a global motion be applied to the appropriation sub committees to examine rental rates and separate out utilities. After research, the determination was made that this was a labor intensive project that could require the legislature to set utility rates by agency by building.

Discussion: Currently, rent and utility costs are charged to agencies in a blended rate. The utility costs are not specific to the agency. When an agency impacts the actual cost of utilities, the savings is recovered by the General Services Division (GSD) of the Department of Administration, but the agency rate remains the same. If GSD collects too much, then there is either a "rent holiday" or the rent rate is reduced.

Findings and Conclusions: Testimony by agencies who had transitioned to the SMDC indicated that a statewide decrease in utilities would result in an overall rent decrease. Subsequently, GSD enacted a temporary rent holiday to offset for over collection in the months of November and December 2011. Whether a discounted rate will be applied in the future is at the discretion of the legislature when the rate is set during the 2013 session.

Action or Recommendations: Initially, the subcommittee recommended a global motion be applied to the appropriation sub committees to examine rental rates and separate out utilities. After research, the determination was made that this was a labor intensive project that could require the legislature to set utility rates by agency by building.

BUDGET AND FUNDING ISSUES

While policy and finance are inter-related, a number of recommendations were provided to make changes to the way IT is funded. These recommendations could require changes to the budgeting process or require statutory changes to implement financial policy related to information technology.

Issue 7 Summary: Network Plans

The state does not have a long-term strategy to provide a stable, predictable and affordable statewide network. The plan presented to the SCEG includes the utilization of the northern tier network, improvements to the middle mile and local loop connections. The improvements are to be funded with a combination of a reduction in contract services and rate recovery.

Action or Recommendations: The Committee recommends that an update on this issue be provide to the SCEG prior to the 63rd legislative session.

Discussion: The State's network and Internet bandwidth capacity stand as one of the great efficiency enablers in government. The available network capacity is the foundation for a multitude of technologies and services that directly relate to increasing the efficiency and effectiveness of state government. Network capacity must increase to meet Montana's demand for information technology.

Findings and Conclusions: This additional network traffic is caused by increasing consumer demands around mobile computing, access to government services, and increasing use of interactive media like video. State government needs for disaster recovery services, centralization of program services, and ever increasing use of applications to deliver services to the State taxpayer have also increased the requirements for network capacity. Without expansion of the network "highway" there is not enough available capacity to meet the demands, traffic grinds to a halt, cars stall out, and there is gridlock.

In addition to ensuring capacity, the state must also ensure that the state network complies with legal, regulatory, and contractual requirements for the protection of information that traverses the network. This protected information includes, but is not limited to, personal information and federally protected tax and criminal justice information. Any increased capacity of the State network has to be done in a manner so that protected information can continue to be transmitted securely across the network.

There are four major cost drivers to the state network. As described in a brief to the SCEG from SITSD, they are:

1. The first is the cost of the State's Internet connection which was recently awarded to CenturyLink (Qwest) for $12.75Mega Bytes (MB)/month for a 200Mbps connection in Helena and to VisionNet $18 MB/month for a 100Mbps connection in Billings. Just

looking at increasing the Internet connection for the State network to 1Gbps even at today's lowest rates would cost an additional $633,600 per biennium.

2. The second area of costs is the "core" network or the "Interstate highway" that connects Missoula, Helena, Bozeman and Billings. That connection currently consists of two 1Gbps connections and two remote office aggregation sites (e.g. "off ramps") of 1.5 Gbps (gigabytes per second) capacity each. The State obtains the core network connection from Bresnan (Optimum/CableVision) for approximately $58,500 / month.

3. The third major cost factor is what is called the "middle mile". This is the cost of getting a circuit from the two network hubs (Helena and Billings) to the location (town/city) of the remote state office. The costs for the middle mile or the "secondary roads" are comprised of a couple of different models. One carrier includes these as an explicit cost for mileage from Helena/Billings to the location in question in addition to the local loop costs. With a different carrier those costs are included the total end-to-end circuit charge which also includes the local loop circuit.

4. The forth cost driver is what is known as the "local loop" charge. That is the cost of connecting the State office to the in-town/city network carrier location. As noted above that cost can be seen as an explicit charge in the circuit cost or included in the overall circuit cost.

Currently the network is funded through a cost recovery model via SITSD. Agencies pay for circuits and capacity to connect to the state network from office located throughout the state. SITSD uses this revenue to pay the various commercial network providers.

Action or Recommendations: The Committee recommends that an update on this issue be provide to the SCEG prior to the 63rd legislative session. During the committee tenure, testimony was provided that this transition to the northern tier and an improvement to the state network was a work in progress.

Issue 8 Summary: Multi-State Purchasing to Shared Services

Could multi state purchasing provide Montana better services at a more affordable rate?

Discussion: In procurement, buying power allows the customer greater flexibility to negotiate a good price point. In the world of information technology, buying power comes in the forms of terabytes of data that require security and storage. In collaborating with other states, the ability to "bulk buy" could allow the state to procure services, such as the cloud, at a lower rate.

Findings and Conclusions: The CIO has the capacity to utilize the Western States Contracting Alliance (WSCA) to participate in multi-state purchasing efforts. Current efforts are focused on procuring cloud services for four western states (MT, UT, OR and CO) for a more cost effective solution of Geographic Information System (GIS) programs. The four states shared in completing the governance documents, the requests for information and the request for proposal processes under the WSCA umbrella. As of this writing, the contract has not been released as non-disclosure and due diligence work had yet to be completed.

Action or Recommendations: The Committee recommends that the outcome of this project be followed through the next biennium. There are lessons to be learned and applied to other information technology projects, or other parts of state government. The Committee sent a memo to the Legislative Finance Committee (LFC) requesting that the LFC request this project be included in the CIO report delivered at each LFC meeting on the status of IT in state government.

MONTANA INFORMATION TECHNOLOGY ACT

Early in the process, the Information Technology Subcommittee discussed the applicability of the Montana Information Technology ACT (MITA) given that the act was over 10 years old. The subcommittee did not pursue this item as a performance audit by the Legislative Audit Division was underway. The findings of the audit include:
1. The need to improve the agency information technology strategic plan template and review process to ensure completeness and continuity.
2. Expand project management policy guidance and reporting procedures for state agencies to increase oversight.
3. Delineate information technology polices from standards and guidelines, and formalize a systemic policy development process whereby agencies know when updates are to be released.

SECTION C - NATURAL RESOURCES

The Committee decided at its September 2011 meeting to establish a Natural Resources Subcommittee to gather information and ideas for natural resource efficiencies. The Subcommittee met twice to hear how the state could more efficiently and effectively interact with individuals and businesses involved with natural resources in Montana.

Sen. Jim Keane, D-Butte, served as chairman of the Subcommittee. Other members were Sen. Ed Buttrey, R-Great Falls; Rep. Ron Ehli, R-Hamilton; Rep. Galen Hollenbaugh, D-Helena; Rep. Kathleen Williams, D-Bozeman; and; Sen. Ed Walker, R-Billings.

The Subcommittee solicited comments and ideas regarding fossil fuels and other natural resources related to "energy". The members heard from representatives of the state Department of Environmental Quality, Department of Natural Resources and Conservation, and Bureau of Mines. The Subcommittee also heard from various individuals and company representatives that have some relationship with state in the context of mining or the production of energy-related fossil fuels.

Issue 1 Summary:

Develop electronic submission forms for certain natural resource regulatory permits or other compliance documents.

Action or Recommendation: The Subcommittee took no formal action on this issue. However, Subcommittee actions led to the formation of an agency-industry working group, which may result in the development of additional electronic forms.

Discussion: During the Subcommittee's six meetings in 2012, members heard testimony about the need for development of electronic forms. Some witnesses felt the regulated community may benefit from submitting permit or licensing information online, because it could potentially save time and money for both the government and private parties. To this end, the Subcommittee:
1. Heard testimony from a two-person panel titled "Online Applications for Natural Resources Permitting."
2. Sought and received 13 public comments related to efficiency and natural resource issues. Included in these was a specific suggestion to increase use of electronic forms.

Some natural resource permits or licenses can already be submitted online. For example, asbestos remediators can obtain Asbestos Control Program accreditation on the Department of Environmental Quality (DEQ) website. And registered facilities can submit annual emission inventory information to meet their air quality permit requirements also on the DEQ website. DEQ staff said the department had successfully used online electronic forms and anticipated developing others.

The Subcommittee also heard information related to other available electronic tools. In February, the Subcommittee heard how private parties can transmit large amounts of information to state agencies via the free File Transfer Service. Some DEQ regulatory programs use the service; for example, the Environmental Management Bureau receives some large submittals for Environmental Impact Statements. This service will undergo an upgrade as use has increased, according to State Information Technology Services Department staff.

Findings and conclusions: The ability of state government to accommodate electronic forms appears to be just beginning. For example, the DEQ offers five ways that applicants can submit permit or license information online. Additionally, six agencies use the File Transfer Service to exchange information with applicants for at least some part of the regulatory process. Most permits and licenses aren't submitted electronically in any agency. As a comparison, state agencies issue 126 natural resource-related permits or licenses. Of those, the DEQ issues 28 permits.

Development of electronic submission forms may be desired, but these new systems will most likely require additional state funding. Agency staff told the Subcommittee that additional funding would be necessary to build the appropriate computer applications and provide enough data storage for any new electronic form or permit. Agency staff said most applicants weren't asking for the development of electronic forms. Additionally, DEQ officials said notary and document certification requirements may be problematic. And the federal government -- which has granted the state primacy over certain regulations, such as air quality permits -- has its own set of legal reporting standards, which may need to be accommodated.

Action or Recommendation: The Subcommittee took no formal legislative action related to this issue, but asked Department of Environmental Quality staff to meet with Montana Mining Association representatives to discuss development of electronic submission forms. These may be Small Miner Exclusions Statements, Daily Monitoring Reports for wastewater discharge permit-holders and Hard Rock Mining annual reports. In June, the parties involved agreed to form a working group to further explore this issue.

Issue 2 Summary:

The state's role related to federal regulations and natural resource projects

Action or Recommendation: The Committee took no action on this issue because federal regulations are the responsibility of Congress.

Discussion: In the sometimes complex world of natural resource permitting, it may be difficult to determine what agency or even level of government maintains primacy over a given situation. Frustrations with federal rules and regulations were expressed at times during the Subcommittee's six meetings. For example, the Subcommittee heard testimony related to permits and other regulatory requirements related to coal permits and hard rock mines.

Findings and Conclusions: Meeting participants and Subcommittee members all recognized their limitations on influencing federal rules and regulations. But there exists some overlap. For example, the DEQ issues air quality permits because they have been granted primacy by the federal government, and the Board of Oil and Gas Conservation permits wastewater injection wells because they, too have been granted primacy. In each instance, however, the federal agency reviews state statute to ensure federal mandates are followed. This limits the powers of state legislators to make changes to these programs.

Action or recommendation: Although the committee took no formal action, members acknowledged the challenges federal rules add to the natural resource regulatory landscape.

Issue 3 Summary: Creation of a mining record database

Action or Recommendations: The Subcommittee took no formal action on this issue. However, Subcommittee actions led to meetings between the personnel of the two agencies involved with mining records and databases, who agreed to present any ideas to the legislature in the future.

Discussion: The Subcommittee and the entire Select Committee on Efficiency in Government met in Butte in April. That meeting included tours of the host site, Montana Tech. During the meeting, a school official said the Bureau of Mines and Geology, which is located at the school, was digitizing records related to 8,000 Montana mines. The Subcommittee then asked the bureau to collaborate with the Hard Rock Mining Program (DEQ) to determine if the agency's records might be useful to the bureau. The bureau's records consist mostly of geologic information, while the program records consist of regulatory documents, such as site plans, site maps and other matters.

Findings and Conclusions: The Subcommittee felt a repository of mining information might be an aid to possible future mining activity or remediation efforts. After meeting this June, the Hard Rock Mining Program staff will share its database of exploration permits, which the bureau will compare to its records to determine if exploration activity can be tracked on a historic property.

Action or Recommendations: The Subcommittee took no formal action related to this issue.

SECTION D - PRIORITY BUDGETING

The Committee decided at its January 2011 meeting to complete work in the topical areas of Health Care/Medicaid, Information Technology, and Natural Resources before turning attention to priority budgeting. As a result, the Committee received information on priority budget at its final meeting, in September 2012 and, therefore, it is not possible to detail the Committee's discussion, findings, or actions at this time.

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Appendices

- Appendix A will include all of the bill drafts requested by the Committee.

- Appendix B will be a copy of House Bill No. 642

- Appendix C, if needed, will include any relevant information that is not available elsewhere, such as on the Committee's web site or by performing an online search.