

SJ 26 PERFORMANCE MEASUREMENT

A Report Prepared for the
Legislative Finance Committee

By
Taryn Purdy

September 19, 2011

Legislative Fiscal Division



www.leg.mt.gov/css/fiscal

The purpose of this report is to outline the procedure for continuing the performance measurement initiative of the Legislative Finance Committee (LFC). The report lays out staff recommendations for proceeding, a proposed timeline, and a potential expansion in scope for committee discussion of a limited number of projects. The report also uses the Court Help Program, which was originally included in SJ 26, as an example of staff recommendations and as an example of the potential pilot expansion.

WHAT IS SJR 26?

The LFC has for the last two interims engaged in a review of selected programs and functions of state agencies with the goal of monitoring performance and working cooperatively when necessary to address performance.

SJR 26 is a resolution that was intended to make a formal statement by the entire legislature in support of the performance measurement project. It was also intended to make a legislative record of the recommendations of the various joint appropriations subcommittees on those issues identified during the budgeting process as important to follow and/or receive reports on during the interim, and to provide a more formal way for interim committees to receive an introduction to and potentially undertake performance measurement in the context of their own work.

The introduction of SJR 26 was also intended in some measure to address issues identified from prior work:

- 1) Executive lack of interest in partnering (with willingness to provide data)
- 2) Integration of the interim work with legislative budgeting during the session
- 3) Expansion of participation in the process to more legislators and committees

Relation to LFC Work

As stated, SJR 26 came directly from the performance measurement work undertaken by the LFC in prior interims. It was intended as a continuation and potential expansion of the project to interim committees. At its June meeting, the LFC decided to continue the program, but to reduce the number of functions reviewed and no longer have this review conducted through subcommittees. The entire committee will now review a limited number of programs. The committee used functions specifically mentioned in SJ 26, and added several others to the review list (Appendix A).

Issues for Discussion

An issue for consideration in examining the schedule, is does the committee want to review everything on the list? There are a couple of considerations:

- 1) Not all subcommittees voted to include items in the list. Therefore, the subcommittees that did vote for inclusion, specifically human services and Judicial Branch, law enforcement, and corrections, are a significant part of the total.
- 2) Subcommittees may have voted to include items on the assumption that review would follow the same pattern as in prior biennia – several subcommittees that reviewed multiple issues each LFC meeting – rather than the limited number reviewed by the entire committee adopted by the LFC in June.
- 3) The items included in SJ 26 were recommendations for review, and the committee may decide it has other priorities, especially since the entire committee would provide the review. In some instances, the committee may want to recommend that staff collect the information and provide any issues to the committee, and/or provide the issues directly to the relevant legislative subcommittee for the 2015 biennium.

This was complicated a bit when the individual interim committees that may have had a specific interest in some of the issues chose not to pursue a review.

During the interim, the committee may have some opportunities to add items to the list. However, timing issues on any items that require extensive research, time to determine and compile data, or other factors may be limiting.

Discussion Points

- *Are there topics that the committee does not wish to hear/discuss? Does the committee wish to add issues to the list?*
- *Are there any topics where the committee may just wish to have a written review, and individual committee members may pursue further if they desire?*

KNOWN ISSUES FROM PREVIOUS PM PROJECTS

The prior reviews conducted by the LFC have been predicated on two basic starting points:

- The reviews should be a collaborative effort between the committee and the agency/branch
- The reviews should focus on acknowledging success when appropriate, as well as identifying and working collaboratively to address how the program results could be improved, if necessary

The committee established a subcommittee for each budget section, which spent several hours reviewing the information provided, and determining whether to continue the review or release the topic from further review.

The primary tool used by the committee has been a two page document that outlines a number of pieces of information, including measures and results. The initial intent was that the form would be filled out by the agency, with LFD comments added. In practice, the form was initially filled out by the agencies, and conveyed to the Office of Budget and Program Planning (OBPP), where it was reviewed, adjusted, and put into an executive form. This form was then transmitted to the LFD where it was put back into the original form.

A number of issues were identified with both the process and the review tool.

- Inconsistency of agency timeliness and investment in the process
- Inefficiency of the form used to collect information
- Inconsistency of follow-through in session

Staff recommends several changes to address these issues.

Staff Recommendations

For all three staff recommendations, the approach would reduce the fully cooperative nature of the project as originally envisioned by the LFC when it began this project in the 2007 interim, and would put it more in the traditional LFC topic-LFD report-LFC action dynamic. However, full Executive and Judicial Branch participation continues to be imperative to successful review.

Issue: While most agencies provided information in a timely manner, not all provided information in a way that allowed for LFD staff review, and some information provided was more valuable than others. The executive branch through the Governor's Office was not invested in the project but has repeatedly pledged to provide information as requested.

- 1) To ensure the executive knows the committee's intentions and a timeline of when information must be available, ask Chair Sesso to make an announcement of intentions and expectations at the first meeting, along with the schedule of when certain topics will be reviewed by the committee. A proposed schedule is listed in Appendix B.
- 2) Rather than having the agency fill in the information form with the addition of issues/comments by LFD staff, have LFD staff fill in larger portions of the form, with measurement and other information contributed by the agency and reviewed, augmented (if warranted), and commented on by staff. Staff time spent on this project will expand as a result. We do not anticipate that this change will eliminate issues of timeliness of information from the executive.

Issue: The LFC had a standard form that was sent to agencies, which would fill it out and send it to the budget office, which would change and put the information in another form and send it to the LFD, who would put it back into the LFC's form.

- 1) Have the LFD staff fill out one form with information that is a combination of staff research and information contributed by agencies and reviewed by staff. This will not result in the elimination of issues associated with the provision of timely information by the executive.

Issue: There was inconsistency of subcommittee use of results of the LFC's review.

- 1) Have specific options for LFC action, including potential legislation, with inclusion of all options in the budget analysis and how they relate to the subcommittee's work. Reviews that do not lend themselves to LFC action could be considered for presentation in written form, only.
- 2) Expand subcommittee training on performance measurement and how the information can be used in legislative budget decisions.

Discussion Point – Does the committee have any concerns/comments about any of the above recommendations?

Form

In addition, staff recommends a general overhaul of the form, which is included as Appendix C, along with clarification of content under each heading. Given that the committee is reducing the number of functions reviewed with full committee review of each, the form has been both streamlined and given the capability of adding background and other information that may be pertinent to the committee's review. Therefore, when necessary the form may exceed the previous limit of two pages.

The Court Help Program review function has been used to show how the form will look and the general content. It is included as Appendix D.

There are several changes that signal a change in the way the committee would review the functions and in the information that agencies would be asked to contribute.

- 1) Milestones would not be included, although many if not all measurements would inherently require milestones and they would essentially be behind the scenes.
- 2) Options for LFC action replace whether the project is "on-track", etc. The options presented will be specific to the issues, but could include recommendations to the agency, and/or budget or other recommendations to the next legislature, including statutory or funding expansion, contraction, or elimination.
- 3) Appropriation/expenditure/source would no longer be a separate item in the form, but any relevant information would be included in the "History or Purpose" section. In some instances, this information was hard to gather with precision. The form allows for the inclusion of this information but does not require it.
- 4) The form was made flexible for the different types of monitoring included in SJ 26 and that the committee has or may wish to add. For example, the SJ 26 item to monitor the impacts of the economy on various human services programs does not have "goals" that might be articulated that the department or the state is attempting to meet. Therefore, a goals statement would not be a part of any report on monitoring caseload growth in various DPHHS program. However, goals would definitely be a part of the monitoring of items such as improving student performance goals in education. As with the previously discussed section, the form allows for the inclusion of goals but does not require it.

Discussion Point - Does the form meet the committee's needs? Should any elements be added or removed?

PROPOSAL FOR PILOT

Staff proposes to use a portion of the committee's SJ 26 time to examine one or more programs using a more in-depth process that would review the program's effectiveness in meeting broad state goals. Examining how well programs meet goals, rather than simply how well they are doing what they are now doing, can aid legislators to make decisions that help ensure those goals are met, including appropriate levels of funding for efficient programs.

On the advice of the Management Advisory Group, staff recommends that the Court Help Program in the Judicial Branch be the program used in the pilot. Staff has been in contact with the Judicial Branch, who has expressed their interest and agreed to partner with the LFD in identifying the most appropriate and enlightening measurements and ensuring that the measurement information is gathered, if the LFC gives the go-ahead.

Potential Value to the Legislature

Of course, a pilot program can only go so far, and would primarily serve to help give the legislature the information it needs to determine if and how it wishes to expand the scope. Therefore, the potential value to the legislature in establishing a pilot program that looks at program contribution to state goals includes:

- Developing the means of examining and analyzing functions for effectiveness in a more systematic way
- Gaining legislative and staff expertise
- Paving the way to broader application of the concept to other programs/functions/core mission delivery of the state if desired

While this project would be small and very limited in scope, the committee and/or the legislature could use the process and expertise gained to expand as it wished, from examining other programs to potentially eventually a systematic examination of multiple programs across agency lines that all serve to further a state goal(s).

In addition to the commitment of LFD resources, it is important to keep in mind that, even on this very limited scale, a commitment on the part of the agency is essential, as a true determination of effectiveness requires agency time and expertise. As stated, staff of the Supreme Court has expressed an interest in partnering to examine the Court Help Program. While the executive has pledged to provide information as requested, this approach goes beyond the simple provision of information. The agency must be involved in helping to determine functions to examine, the mission and goals of the program and how they relate to broad goals, the appropriate ways to measure effectiveness, and the collection and interpretation of the data that results. Therefore, there may be limited opportunities in this interim for expansion of the project to include executive branch agencies unless the executive changes its level of commitment.

APPENDIX A

LIST OF SJ 26 AND LFC ITEMS TO INCLUDE IN PERFORMANCE MEASUREMENT REVIEW

General Govt	Human Services	Natural Resources*	Judicial Branch Law Enforcement	Education
None	<ul style="list-style-type: none"> • <i>Medicaid model/HMK</i> • <i>Waiver services – kids in DD</i> • Implementation of broad-based budget reductions and impact on workload and programs • Implementation of elements of federal health insurance reform, including: • Integration of Medicaid eligibility determination in exchange design • Evaluation of the potential for a single system to determine Medicaid eligibility • Outlining components and costs of Medicaid eligibility expansion for the 2013 Legislature • Monitoring caseload growth in SNAP, Medicaid, TANF, LIEAP, and child care and the number of children entering/exiting foster care • Impact on Technology Division of federal health care reform 	<p>*All projects will be reviewed by the EQC</p> <ul style="list-style-type: none"> • Migratory Bird Program • Upland Game Bird Program • Brucellosis in elk • Cleanup progress on KRY - petroleum tank site closures 	<ul style="list-style-type: none"> • <i>Corrections - Additional funding</i> • <i>Public Defender – Additional funding</i> • <i>Public Defender – Death penalty costs</i> • Corrections - ADP of secure assisted living beds • Public Defender – general review • Justice – vehicle insurance verification system and Motor Vehicle Division • Judiciary – Court Help • Judiciary – Water Court • Preservation Review Board – monitor status and maintenance needs of agency heritage properties 	<ul style="list-style-type: none"> • Progress on: <ol style="list-style-type: none"> 1) Implementing state actions to create a culture of effective data use, and 2) improving student performance goals on K-12, higher ed, and P-20, including the role and mission of the ELGC

Italicized items were added by the LFC

APPENDIX A

LIST OF SJ 26 ITEMS NOT RECOMMENDED BUT INCLUDED DUE TO COMMITTEE DISCUSSION

General Govt	Human Services	Natural Resources*	Judicial Branch Law Enforcement	Education
<p>State Auditor's Office - Insure Montana</p> <p>Department of Administration - (a) the impact of the Patient Protection and Affordable Care Act on the state employee group plan with respect to: (i) annual evaluation of whether to maintain grandfathered plan status; (ii) receipt and use of early retiree reimbursements; and (iii) constraints on benefit design and premium and cost share decisions; and (b) efforts to reduce postage, printing, and warrant costs by encouraging vendors and state employees to use electronic funds transfers and advices</p> <p>Department of Revenue - implementation and efficiencies gained from the scanning and imaging project</p>	<p>The department's activities in regard to:</p> <p>(a) House Bills No. 130, No. 131, and No. 132 from the 2009 legislative session;</p> <p>(b) children's mental health providers in the Disability Services Division;</p> <p>(c) the autism waiver in the Disability Services Division</p>	<p>Department of Agriculture - Aquatic nuisance species benchmarks and report</p>		

APPENDIX B

PROPOSED SCHEDULE FOR SJ 26 AND LFC REVIEW ITEMS

September	December	March	June	September
<ul style="list-style-type: none"> • Judiciary - Court Help • DPHHS – Combined initial review 	<ul style="list-style-type: none"> • HMK • DPHHS - Medicaid model/budget status • Justice – vehicle insurance verification • Judiciary – Water Court • Public Defender – Death penalty costs 	<ul style="list-style-type: none"> • HMK, cont • Justice – MERLIN • Judiciary – Court Help • DPHHS – Combined, cont. • DPHHS – Waiver services, kids in DD • DPHHS – Medicaid model update • DPHHS – Monitoring caseload growth in SNAP, Medicaid, TANF, LIEAP, and child care, and number of children entering/exiting foster care • Education – Progress on implementing state actions to create a culture of effective data use and to improve student performance goals on K-12, higher ed, and P-20, including role and mission of ELGC. 	<ul style="list-style-type: none"> • Corrections – Additional funding • Public Defender – Additional funding and general review* • Corrections – ADP of secure assisted living beds • DPHHS – Medicaid model • DPHHS – Impact of broad-based budget reductions and impact on workload and programs • Preservation Review Board – Monitor status and maintenance needs of agency heritage properties • Education – Progress on effective data update 	<ul style="list-style-type: none"> • DPHHS – Combined, cont • DPHHS – Monitoring caseload growth, cont • DPHHS – Medicaid model • Education – Update on data and performance progress

*March review if needed.

APPENDIX C



Performance Evaluation Fact Sheet

[TITLE OF MONITORED ITEM GOES HERE]

ISSUE STATEMENT

Brief statement describing the problem or issue that made the legislature identify this item for monitoring during the interim. We may not know exactly why this is. Although it is always desirable to know because it helps us to better use the form to answer their questions/concerns, we don't want to either speculate or spend an inordinate amount of time trying to research it.

Example:

“The LFC discussed this item at the June meeting and determined it wished to have an update and opportunities for committee review.” This is probably enough of a statement if it's all we really have to go on.

The Joint Appropriations Subcommittee on Law...voted to request monitoring of this item. The Court Help program has received one-time funding from the legislature since its creation in the 2007 Legislative Session.

HISTORY AND PURPOSE OF PROGRAM OR ITEM

Briefly describe:

- If relevant, when the program came into existence, or some other history that would be relevant to the committee's review or its reason for putting the item on the review list. For example, if the legislature is trying to determine the effectiveness of a fairly new program, this is very relevant. If they are trying to see the impact of the economic downturn on social services programs, it is not relevant when any of the various programs came into existence.
- Funding for the program and any special fees or funding arrangements or issues, including any significant changes in source or level over time (this may be a “history” that is very relevant, such as a steady and/or major increase in costs, a shift to more state funding, etc.).
- When the legislature funded the program, did they specify any expectations, such as number served or impact on costs or other services?

MEASURES FOR DETERMINING OUTCOMES AND EFFECTIVENESS

How might the legislature define and measure desired outcomes?

CURRENT STATUS

What do the measures show? Are there any successes or risks to make the legislature aware of? If the information is not yet available, when will it be? What challenges are there for getting the information necessary to adequately measure?

POTENTIAL OPTIONS OR DECISION POINTS

What are the next steps for the legislature to take with this program? What options are available in the immediate, near, and long-term?

APPENDIX D



Performance Evaluation Fact Sheet

COURT HELP PROGRAM – JUDICIAL BRANCH

ISSUE STATEMENT

The Joint Appropriations Subcommittee on Judicial Branch, Law Enforcement, and Justice voted to request monitoring of this item. The legislature appropriated funding for the Court Help Program in the 2009, 2011, and 2013 biennia with one-time funding. With this funding, has the program achieved its intended purpose, as stated below by assumption from a bill that failed to be enacted by the legislature?

HISTORY AND PURPOSE OF PROGRAM OR ITEM

SJ 6 of the 2005 Legislature requested a study of access by low-income Montanans to the Montana civil legal system. The Law and Justice Interim Committee requested HB 60 during the 2007 Legislature, which would have established the “Montana Access to Civil Justice Act” to be administered by the Supreme Court; identified the duties of the program, then identified as the self-help law program; and appropriated \$505,000 general fund for each year of the 2009 biennium. HB 60 also stated the purpose for the program was to “make Montana’s court system more accessible by:

- Providing Montanans with user-friendly information about Montanan’s civil law, courts, and legal system
- Providing state-level, self-help legal resources, tools, information, and training materials on a statewide basis in a cost effective manner emphasizing technology and volunteer services
- Facilitating the efficient use of judicial resources in civil court proceedings that involve self-represented litigants”

HB 60 failed to pass the legislature having died in the House Appropriations Committee. Instead, the legislature appropriated general fund to the Supreme Court Program of the Judicial Branch in the amount of \$252,500 in each of the 2009 biennium, and specified in language the various uses of the funds.

The 2009 Legislature funded the program in HB 645 for the 2011 biennium, a bill that implemented the American Recovery and Reinvestment Act of 2009, with \$250,000 general fund year. For the 2013 biennium, the legislature funded the program with nearly \$296,000 of restricted, biennial, and one-time-only general fund per year but without the restricted language that was included for the 2009 biennium.

The current program includes the following:

- Two full-time staffed centers have now been established in Flathead and Yellowstone counties
- Three part-time centers have been established in Missoula, Great Falls, and Bozeman and the State Law Library in Helena is staffed by Carroll College students
- Leveraged funds provide five AmeriCorps members who travel and provide services to 17 rural counties
- Includes a program coordinator and a legal resources developer positions

MEASURES FOR DETERMINING EFFECTIVENESS

To measure if the program is facilitating the efficient use of judicial resources in civil court proceedings that involve self-represented litigants a comparison that represents court time involvement for common civil proceedings where self representation has caused court inefficiencies from just prior to the and after the program was implemented should be used.

APPENDIX D

More Access to Courts

A survey of judges or court administrators in courts around where the program has been implemented would also show if efficiencies are being gained. The survey should be structured around a comparison from before and after program implementation.

Court Efficiencies

A survey of clients of the program to show customer satisfaction of the program would show citizens satisfaction with the program.

CURRENT STATUS

The Judicial Branch is currently investigating the availability of data to use in developing and reporting on measures to show effectiveness of the program.

POTENTIAL OPTIONS OR DECISION POINTS

Depending on the outcomes shown for the program, LFC may want to consider program funding recommendations to a subsequent legislature