



Final Report of the Select Committee on Efficiency in Government

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September 2012

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Final Report of the Select Committee on Efficiency in Government

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2011 Montana Legislature

HOUSE BILL NO. 642

INTRODUCED BY M. BLASDEL, E. BUTTREY, J. ESSMANN, K. GILLAN, G. HOLLENBAUGH,
T. MCGILLVRAY, M. MILBURN, A. OLSON, J. SESSO, J. SONJU, C. VINCENT, C. WILLIAMS

1 AN ACT PROVIDING FOR A SELECT COMMITTEE ON EFFICIENCY IN GOVERNMENT; PROVIDING FOR
2 MEMBERSHIP AND DUTIES; PROVIDING AN APPROPRIATION; AND PROVIDING EFFECTIVE DATES
3 AND A TERMINATION DATE.

4

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

6

7 **Section 1. Select committee on efficiency in government -- membership.** (1) There is a select
8 committee on efficiency in government.

9 (2) The committee is composed of 12 members appointed as follows:

10 (a) six members of the house of representatives, three of whom must be appointed by the speaker of the
11 house and three of whom must be appointed by the minority leader; and

12 (b) six members of the senate, three of whom must be appointed by the president and three of whom must
13 be appointed by the minority leader.

14 (3) The president of the senate shall designate one of the members as the presiding officer of the
15 committee. The committee may elect any other officers it considers to be advisable.

16 (4) Committee members are entitled to receive compensation and expenses as provided in 5-2-302.

17 (5) The legislative services division shall provide staff assistance to the committee, and the committee may
18 receive staff assistance from the legislative fiscal division, the legislative audit division, and the office of budget
19 and program planning. Agencies of the executive branch, including the Montana university system, and the
20 judicial branch shall provide information upon request. The committee may contract with other entities as
21 necessary to obtain adequate and necessary information and analysis and may request specific audits from
22 the legislative audit committee.

23

24 **Section 2. Committee duties -- evaluation of priority budgeting systems -- reporting.** (1) The
25 committee shall:

26 (a) identify states that have implemented a priority budgeting system;

27 (b) analyze the approaches taken by the states identified to implement a priority budgeting system, the
28 types of performance measurement used by the states, how decision matrices are developed and
29 implemented to set priorities, and the results experienced;

30 (c) document long-term issues that will affect Montana's budget in the future, including federal mandates,
31 the potential of less federal funding, and the implications of funding public employee retirement plans and
32 other obligations owed by the state;

33 (d) in the context of anticipated, long-term pressures on the state budget, investigate and document the
34 advantages of the several states' priority budgeting systems as compared to the baseline budgeting system
35 used by Montana pursuant to Title 17, chapter 7;

1 (e) focus its attention on ascertaining the efficiency and effectiveness of state activities in three general
2 areas, as provided in subsection (2).

3 (2) The study must attempt to determine areas of efficiency and effectiveness in the following areas:

4 (a) health care, particularly matters of access, delivery, and affordability. Concepts for consideration include
5 but are not limited to:

6 (i) the objective measurement and value of the Washington, Wyoming, Alaska, Montana, and Idaho
7 (WWAMI) and the western interstate commission for higher education programs and an examination of ways
8 to increase the number of Montana medical students returning to Montana to practice medicine;

9 (ii) the identification of the core programs within the department of public health and human services that
10 need to be prioritized and funded;

11 (iii) the development of a strategy to address the financial and provider implications posed by the significant
12 increase (nearly doubling) in medicaid rolls that is projected to occur by 2017;

13 (iv) options for leveraging large information technology system replacements, such as the supplemental
14 nutritional assistance program (SNAP), temporary assistance for needy families (TANF), and the medicaid
15 management information system (MMIS), within the department of public health and human services to make
16 interaction among government agencies, providers, and beneficiaries more seamless and to ensure that
17 proper mechanisms are in place to reduce or eliminate fraud, waste, and abuse;

18 (v) current regulatory requirements affecting health care providers and consumers, including identifying
19 areas in which regulatory requirements can be modified to reduce their burden;

20 (vi) a review of statutes that address the licensing of health care professionals to ensure that the licensing
21 requirements are appropriate for current and future health care work practices; and

22 (vii) other concepts identified by the committee.

23 (b) technology, particularly matters of availability, access, development, deployment, use, and integration.
24 Concepts for consideration include but are not limited to:

25 (i) the elimination of dual data entry by government employees;

26 (ii) movement toward the concept of a paperless office to the maximum extent possible by eliminating the
27 use and storage of paper;

28 (iii) focusing on increasing internet-based services, including the use of electronic forms, and creating
29 financial incentives for the public to migrate to using internet-based services;

30 (iv) persuading individuals and entities to be responsible for the accuracy of the information and data that
31 they provide to governmental entities;

32 (v) ensuring that a cohesive plan exists for the state's information systems to be able to support new
33 technology initiatives, including the increased demand and need for videoconferencing;

34 (vi) evaluating the use of and, where appropriate, providing for the implementation of new delivery
35 channels, such as the expanded use of the internet and mobile computing with social network tools;

36 (vii) leveraging Montana's investment in the state's two data centers and related infrastructure;

37 (viii) the practicality of various private-public partnerships to deliver services and the steps to be taken to
38 enter or complete the partnerships; and

39 (ix) alternatives by which the concepts outlined in this subsection (2)(b) can be accomplished while
40 preserving the security and integrity of consumer and state data.

41 (c) natural resources, particularly incentives for and impediments to development, adding value,
42 transporting, and conservation. Concepts for consideration include but are not limited to:

- 1 (i) the elimination of redundant regulatory processes;
- 2 (ii) the methods and means to facilitate the timely review and authorization of projects, including mitigating
3 postreview and postauthorization administrative or legal challenges;
- 4 (iii) alternatives for strengthening the threshold of legal standing for purposes of challenging procedural or
5 substantive permitting decisions;
- 6 (iv) options for creating and using electronic forms and authorizations to streamline project startup,
7 reporting, monitoring, continuation, and expansion;
- 8 (v) alternatives for implementing accountability in regulatory decisions;
- 9 (vi) the establishment of one process leading to the issuance of a permit. The process should include all
10 governmental entities involved in permitting a project and ensure efficient and effective public participation
11 whenever required or advisable.
- 12 (vii) the development and implementation of an incentive-based tax system that provides predictability and
13 stability for new and continued growth of natural resource development;
- 14 (viii) the potential for new technologies to advance the development of innovative natural resource
15 industries and sectors in Montana; and
- 16 (ix) the evaluation of the needs and requirements to facilitate investment and financing of natural resource
17 development projects in Montana.
- 18 (3) In order to ensure that state resources are being used effectively and efficiently, the committee may:
 - 19 (a) evaluate the coordination of projects and programs within the state, including projects and programs
20 that involve the sharing, distribution, or interaction of resources within state government and between state
21 government and federal, tribal, or local jurisdictions;
 - 22 (b) determine the legislative purpose of specific projects and programs and whether the purpose is being
23 accomplished in an efficient and effective manner. If the committee determines that the legislative purpose
24 is not being accomplished, the committee shall report the basis of the determination and recommend, with
25 proposed legislation, a statutory solution to achieve the legislative purpose or terminate the project or program.
 - 26 (c) determine the adequacy of public notice and opportunity for comment and participation in project or
27 program design or administration;
 - 28 (d) determine the transparency of project or program design and implementation;
 - 29 (e) evaluate the implementation and integrity of projects and programs;
 - 30 (f) determine the extent to which duplication and waste is prevented under current law and administration
31 and recommend, through proposed legislation, how to further prevent or eliminate duplication and waste; and
 - 32 (g) within the context of efficiency and effectiveness and as determined to be advisable by the committee,
33 examine other state matters of project or program design, implementation, or administration.
- 34 (4) At its first meeting, the committee shall establish its mission, goals, and objectives and specific
35 problems to be addressed. The committee shall also establish a work plan and maintain a website to foster
36 and ensure participation, accountability, and transparency. The website must:
 - 37 (a) list the committee membership and contact information and the committee's stated mission, goals, and
38 objectives;
 - 39 (b) include a calendar of committee activities, including meeting dates, times, and venues;
 - 40 (c) identify the projects and programs under committee examination;
 - 41 (d) provide or provide a link to relevant economic, financial, demographic, and other information provided
42 to the committee;

1 (e) establish and maintain links to federal, state, and local government websites that contain information
2 on opportunities for citizen participation and input; and

3 (f) provide any other information that the committee considers relevant.

4 (5) (a) The committee shall report to the legislative council, the legislative finance committee, and the
5 legislative audit committee if requested or if considered advisable by the committee.

6 (b) The committee shall prepare a final report of its findings and conclusions and of its recommendations
7 and shall prepare draft legislation whenever appropriate. The committee shall submit the final report to the
8 governor and the 63rd legislature, as provided in 5-11-210.

9

10 **Section 3. Appropriation.** There is appropriated \$100,000 from the general fund to the legislative
11 services division for the biennium beginning July 1, 2011, to support the activities of the select committee on
12 efficiency in government established in [section 1].

13

14 **Section 4. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective on passage and
15 approval.

16 (2) [Section 3] is effective July 1, 2011.

17

18 **Section 5. Termination.** [This act] terminates December 31, 2012.

19

- END -

Executive Summary of Committee Recommendations

Section A - Health Care/Medicaid

- LC 123 Create a medicaid pay-for-performance pilot project (was LCSC03)
- LC 124 Require DPHHS to measure outcomes for children's mental health services (was LCSC02)
- LC 125 Revise 72-hour presumptive eligibility requirements for crisis stabilization (was LCSC01)
- LC 150 Revise Medicaid application process (was LCSC12)
- LC 151 Revise Medicaid qualification enforcement laws (was LCSC10)
- LC 348 Increase reimbursement rates for children's medicaid mental health services (was LCSC13)
- LC 349 Create advisory committee on cost-base medicaid mental health rate reimbursement (was LCSC14)

Section B - Information Technology

- LC 259 Interim study investigating state/local gov electronic records management (was LCSC21)
- LC 260 Clarify authority of local governments to store electronic documents off-site (was LCSC20)
- LC 261 Revise statutory requirements for notarization of certain documents (was LCSC22)

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.
- Subcommittee actions led to staff from the two agencies involved with mining records and databases agreeing to present any ideas to the legislature in the future.

Section D - Priority Budgeting

No recommendations

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HB 642 - Efficiency in Government

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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 its 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 and one recommendation regarding appropriations affecting various elements of the state's Medicaid and mental health programs.

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 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

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

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 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 its 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

² Chapter 380, Laws of Montana, 2011.

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

meeting in October 2011. Subsequently, the Subcommittee met again in November 2011 and January and February 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:

- LC 123 Pay-for-Performance Pilot Project for Children's Mental Health Services (was LCSC03)
- LC 124 Measure Outcomes for Children's Mental Health Services (was LCSC02)
- LC 125 Revise 72-Hour Presumptive Eligibility Program for Crisis Stabilization (was LCSC01)
- LC 151 Penalty for Transfer of Assets (was LCSC10)
- LC 150 Revise Medicaid Application Process (was LCSC12)
- LCSC11 Eliminate Unit Billing for Certain Mental Health Services (was not approved for drafting by the full SCEG)

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).

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:

- LC 259 Study electronic records management (was LCSC 21)

- LC 260 Clarify the term “at the office” for local governments in the context of accessibility to electronic records (was LCSC 20)
- LC 261 Revising certain requirements regarding the notarization of documents (was LCSC22)

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 plant⁵ near Rocker and, in Butte, the Fracture Stimulation Lab at Montana Tech, the Ab SeaCast foundry

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.

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.)

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 a system for measuring and reporting on the outcomes of 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. The Committee approved two additional bills at its 2012 meeting. 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: Pay-for-Performance Pilot Project -- Children's Mental Health

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 a pay-for-performance model for Medicaid reimbursement. 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 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.

Action or Recommendation: The Committee recommends that the 63rd Legislature enact LC 123 (LCSC03).

Issue 2 Summary: Outcomes Measurement -- Children's Mental Health

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: 72-Hour Presumptive Eligibility Program

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 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 reimbursement to providers 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: Medicaid Application

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: Penalty for Transfer of Assets

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: Reduce Utilization Review of Children's Mental Health Services

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 House Appropriations Committee and Senate Finance and Claims Committee of the 63rd Legislature reduce the utilization review budget to pay for review of only those services subject to federal utilization review requirements.

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 recommending that the two committees reduce the utilization review budget to pay for review of only those services subject to federal utilization review requirements.

Issue 7 Summary: Medicaid Mental Health Targeted Case Management Payments

Some Medicaid mental health providers, including those who provide targeted case management services, must bill for their time in 15-minute increments. In addition, reimbursement rates for the services do not cover the actual costs of providing the services.

Action or Recommendation: The Committee recommends that the 63rd Legislature approve two pieces of legislation related to Medicaid mental health targeted case management services in an effort to improve reimbursement rates and to develop a monthly reimbursement rate that more accurately reflect the costs of providing services.

Discussion: Throughout the interim, the Subcommittee and the full Committee heard from providers who wanted to change the billing method used for some Medicaid mental health services that currently must bill in 15-minute increments. Providers suggested changing this unit billing method to a simpler process, such as a monthly rate. The Subcommittee recommended in February 2012 that the Committee make that change. The Committee authorized drafting of the legislation in February and took public comment on the draft legislation in May 2012.

Based on mixed testimony provided at the May meeting, the Committee tabled the proposal, which called for reimbursement of mental health targeted case management services on a monthly basis but did not specify a reimbursement rate for those services. However, members later agreed to allow stakeholders to continue to refine the proposal.

At the August 2012 meeting, the Committee reviewed bill drafts to:

- establish a nine-member advisory committee to work with DPHHS on developing a monthly reimbursement rate for adult and children's Medicaid mental health targeted case management services, to better reflect the actual costs of providing services; and
- appropriate \$5.7 million in state and federal funds in the next biennium to increase the reimbursement rate for children's mental health targeted case management services. The appropriation would increase reimbursements by about 45%, from \$12.61 per 15-minute unit to \$18.35 per 15-minute unit.

Stakeholders said the bills would help ensure that providers continue to offer targeted case management to children because providers would receive higher reimbursement in the next two years. They also would be assured that the case management rates for both adults and children would be reviewed to align rates more closely with actual costs. Stakeholders said an advisory council specific to targeted case

management rates may have more success in developing rate recommendations than the Commission on Provider Rates and Services. That commission is supposed to review and make recommendations on reimbursement rates for a wide range of Medicaid services, but has not met since September 2010.

Findings and Conclusions: Testimony indicated that targeted case management rates for children are lower than the costs of providing the services. Stakeholders said the low reimbursement rates may affect both access to the services and the quality of the services provided. Testimony also indicated that many providers consider the 15-minute unit billing method to be unnecessarily cumbersome. Consequently, the Committee concluded that legislative changes would improve efficiencies for providers and could improve access to the Medicaid services by changing reimbursement rates and methodology.

Action or Recommendation: The Committee recommends that the 63rd Legislature enact LC 348, to provide a temporary increase in children's Medicaid mental health targeted case management reimbursement rates, and LC 349, to develop a recommendation for permanent changes to mental health targeted case management reimbursement rates for both children and adults.

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.⁶ 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: Senator Jon Sonju, R-Kalispell; Sen. Ed Buttrey, R-Great Falls; Jim Keane, D-Butte; and Dave Wanzenried, D-Missoula and Representatives Mark Blasdel, R-Somers; Rep. Scott Reichner, R-Bigfork; and Kathleen Williams, D-Bozeman

The Subcommittee solicited comments and ideas from all quarters regarding how the state could "improve" information technology. At each of its meetings, the Subcommittee members heard from the Mr. Dick Clark, the state Chief Information Officer (CIO). 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 Subcommittee's solicitation of ideas garnered 25 submissions.

The IT Subcommittee focused on the 25 ideas submitted and 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 of the 25 items were examined further and eight of the 14 items were considered for action. Those eight 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 includes items that would increase the capacity for state government to be interconnected, the 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 broadband access and services.

⁶ As used in this Section B, whenever the term "State" is capitalized and used in conjunction with "system", "technology", "access", "capacity" or the like, it is referring to the State of Montana as a governmental entity.

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. One key to success is to identify workable opportunities to implement mobile computing, which cannot be done without a policy framework, plan, and 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 that affect or address information needs in areas as diverse as 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 also a risk because 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 public employees, commerce, and the public. 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 data entry, i.e. record on paper and someone else enters into the system. Outside state government, public and commerce e-services should be considered for application development if there is an added value and the cost-to-benefit ratio is compelling.

Action or Recommendation: The Committee recommends that the Montana 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. The Committee suggested that the policy planning entities develop five governmental functions, including one in the Legislative Branch, as demonstration projects to test and, prove the technology and infrastructure support.

Although the policy planning entities did not formally report to the Committee, the topic of mobile computing remains a topic under continuing discussion within each of the groups. Within the Legislative

Branch, the video web stream has been updated through contracting with Granicus. The updates 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 SMDC and private entities that provide cloud computing hardware, software, and services. There needs to be a clear understanding about how the SMDC and contracted 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 jurisdictional issues related to cloud contracting. Because of the nature of the cloud, legal venues and processes are not clearly defined. The Committee [took no action on this issue or (insert action taken)].

Discussion: The cloud services hosting market is maturing but does not yet fully meet the expectations or the hype of the 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 primary issue is how to effectively 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 could reduce costs.
- Cloud hosting moves IT purchasing away from irregular capital expenditures towards more predictable operational budgeting 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.

Action or Recommendation: The Subcommittee considered the following recommendation:

Montana, through the DOA, should consider the deployment of a coordinated, hybrid, cloud-hosting environment across agency IT resources, vendor-provided public cloud as well as the State of Montana's 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 develop:

1. a standard public-cloud-hosting contract template with required terms and conditions; and
2. a checklist/template for evaluating potential cloud services for:
 - a. business, security and technical requirements;
 - b. procurement methodology; and
 - c. state infrastructure impacts, including network resources.

The Subcommittee considered the ITSD's recommendations and asked for further clarification regarding the jurisdictional issues related to cloud contracting. Because of the nature of the cloud, legal venues and processes are not clearly defined but remain under discussion.

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. Montana has an "Electronic Records Initiative" that was completed in September of 2008. However, it has not been fully implemented or funded.

Action or Recommendation: The Committee recommends that the 63rd Legislature enact legislation to study the management of electronic records (ER) and to recommend steps for creating a process for collecting, preserving, and managing public ER while also 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" that defined the complexity of the issue, including the potential increased and one-time costs of such a system.

To illustrate the complexity of ECM, the ITSD's brief outlined a few questions that need to be more fully identified, documented, and understood to ensure that the features and function of any ECM system meets state requirements. The questions included:

- What is and is not considered a record?
- What types of records must be managed, legally, and what records should be managed?
- Will the entire lifecycle of a record be managed within a solution?
- How will the system ensure that records can be physically viewed, as e-records, as technology changes?
- How will the system interface with other systems such as email, websites, etc.?
- To support ECM, what costs, such as scanning, storing and maintaining, need to be planned for through the appropriation process and budgeted for across state government?

CONSOLIDATION

Consolidation is a term used in relation IT shops to describe combining one or more IT functions for the purpose of efficiency and effectiveness. Combinations 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. Recent, state-specific legislation considered in Colorado, Iowa, Indiana, Florida, Minnesota, Oklahoma, Texas, and Utah reveals that proposals for consolidation are varied and that states are or have

considered options ranging between consolidating a single program, such as data center participation, and consolidating an entire function or range of programs into a single unit, complete with schedules to transfer budgets, equipment, and personnel.

Consolidation issues addressed by the Committee directly relate to the capacity, utilization, and cost of the SMDC.

Action or Recommendations: The ITSD's briefing 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 and recommends that the 63rd Legislature enact LC 259 to study and make recommendations for creating, collecting, preserving, and managing ER and EMC processes while maintaining security and cost controls. The Committee recommends using 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 the State of Montana Data Center (SMDC)

The SMDC has made considerable progress in assisting state agencies transitioning or migrating to SMDC services. In some cases, an agency that does not utilize SMDC experiences higher costs to operate and secure data storage and management services.

Action or Recommendations: The Committee requested that the staff provide a cost comparison of agency in-house data center service to SMDC costs. The resulting comparison of costs may be used in the appropriations and budgeting processes to ensure that agencies are funded sufficiently and appropriately to migrate to the SMDC.

Discussion: The CIO does not have the statutory authority to require agency participation in the SMDC. Instead, agencies can opt in -- or not. In this model, where each agency has sole discretion to participate or not, ITSD is compelled to market the services of the SMDC. Issues raised in the Committee's examination of the SMDC include:

- transition costs are real and may not have been accounted for in the budgeting or appropriations processes;
- incentive payments come with strings attached that need to be monitored;
- an individual agency does not realize the cash value of the energy cost savings that accrue from migrating to the SMDC;
- any reduction in actual costs spans state government while the budgeted costs do not;
- cost avoidance should be considered; and
- non-monetary incentives for and the benefits of migrating to the SMDC need to be emphasized.

Findings and Conclusions: The IT Subcommittee identified incentives for agency migration to the SMDC. When an agency used the SMDC, the resulting benefits include reduced energy costs to the state, reduced server maintenance, and less down time and reduced costs for monitoring, inspecting, and maintaining equipment. Nonmonetary incentives include increased security, earthquake protection, uninterrupted power supply, and redundant data circuits. The Committee heard testimony from representatives of two agencies that have migrated to the SMDC and from some that were considering migrating. Issues important to the agencies included how to obtain assurances from ITSD/DOA that the cost to migrate, i.e. moving the servers and other equipment, is recoverable by the migrating agency and that actual cost savings, specifically energy cost savings, are attributed to the agency that migrates.

Action or Recommendation: The Committee requested that staff provide a cost comparison of agency in-house data center services to SMDC costs for the same services. The resulting comparison of costs may be used in the appropriations and budgeting processes to ensure that agencies are funded sufficiently

and appropriately to migrate or transition to the SMDC.

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

Representatives of some local governments and school districts stated that their readings of section 7-5-2131, MCA, limits the ability for local governments or schools to use electronic records because the statute requires the county clerk to physically keep records at the clerk and recorder's or school district's offices.

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

Discussion: The Committee discovered that some local government officials were interpreting “records”, as used in statutes, as paper records only, not electronic records.

Findings and Conclusions: Representatives of local governments and of schools testified that the statute should be amended to clarify that electronic versions of public records can be stored and maintained anywhere, as long as there is local, on-site access to the e-records. The local government and school representatives and the SMDC staff agreed that productive discussions regarding SMDC migration and use could begin as soon as the statute is revised.

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

Issue 6 Summary: Address energy-cost savings at the agency level

For appropriation and budgeting purposes, rent and utility costs are charged on a square foot basis to each agency by the General Services Division. The rates are based on a statewide average use or cost, not on each agency's actual use or cost. When an agency transitions to the SMDC, there is decrease in the energy used by the state for data storage and management, but the GSD does not decrease the migrating agency's bill for that agency's reduced energy consumption; hence, the agency does not see a decrease in utility charges.

Action or Recommendation: , The IT Subcommittee initially recommended a global motion be applied to that the appropriation subcommittees examine rental rates and separate out utilities. After further research, the Subcommittee determined that separating rent and energy costs would be a labor intensive project that could require the legislature to set utility rates by agency by building. The Committee made no recommendation on this issue.

Discussion: Rent and utility costs are charged to agencies in a "blended rate". The utility costs are not necessarily specific to the agency's energy consumption. When an agency uses less energy and, therefore, impacts the actual cost of utilities, the savings is recovered by the GSD but the GSD does not reduce the amount or rate it charges the agency. If GSD collects more than budgeted, then all agencies participate in a "rent holiday" or the rent rate is reduced is reduced for all agencies.

Findings and Conclusions: Testimony in late 2011 from representatives of agencies that had migrated data storage and maintenance to the SMDC indicated that all agencies would see a decrease in rent due to the decrease in electric utilities costs for state government as a whole. Subsequently, GSD enacted a temporary rent holiday to offset for over collection in the months of November and December 2011. The legislature will set the blended rate during the 2013 session and, at that time, determine if a discounted rate will be applied in the future.

Action or Recommendations: The IT Subcommittee initially recommended that the appropriation subcommittees examine rental rates and separate out utilities. After additional research, the Subcommittee determined that separating the costs was a labor intensive project that could require the legislature to set utility rates by agency by building. The Committee made no recommendation on this issue.

BUDGET AND FUNDING ISSUES

Perhaps because information technology (IT) policy and finance are interrelated, a number of recommendations were made by stakeholders to change the way IT is funded. The recommendations could require changes to the appropriations or to statutes that implement financial policy related to IT.

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 included the utilization of the "Northern Tier" network and improvements to the "middle mile" and "local loop" connections. The improvements are to be funded through a combination of reductions in contracted services and rate recovery.

Action or Recommendation: The Committee [took no action on this issue or specify action].

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: Additional network traffic is caused by increasing demands from consumers using mobile computing and accessing government services and by the 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 taxpayers have also increased the requirements for network capacity. Without expanding the "network highway" there is not enough capacity available to meet the demands. As a result, network traffic grinds to a halt, applications stall out, and there is systemic gridlock.

In addition to ensuring sufficient 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, in part, personal information and federally protected tax and criminal justice information. Any increased capacity of the State's network has to be done in a manner so that protected information can continue to be transmitted securely across the network.

During the Committee's examination of access to and the capacity of the State network's, various stakeholders testified that transition or migrating to the Northern Tier would be an improvement to the state network was a work in progress. Other stakeholders had a different perception, saying that the

current means and manner of providing internet access and capacity throughout state agencies, whether in Helena or elsewhere.

There are four major cost drivers to the State's network. As described by ITSD staff when briefing the SCEG:

1. The first cost driver is the cost of the State's internet connection. Internet access contracts were recently awarded to CenturyLink (Qwest) for \$12.75 Mega Bytes (MB)/month for a 200Mbps connection in Helena and to VisionNet \$18 MB/month for a 100Mbps connection in Billings. Merely increasing the capacity (speed) of the internet connection for the State network to 1Gbps at the lowest rates currently available to the State would increase cost by \$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" that, keeping with the transportation metaphor, are the secondary roads of the network. The middle mile represents the cost of getting a circuit from the two network hubs (Helena and Billings) to the location (town/city) of the remote or satellite state office. The costs for the middle mile are calculated by using a couple of different models. One carrier includes the middle mile as an explicit cost for the mileage from Helena/Billings to the remote/satellite location, then adding the "local loop" costs. A different carrier includes all of the costs in a single, total end-to-end circuit charge.
4. The fourth cost driver is what is known as the "local loop" charge, i.e., the streets, alleys, parking lots, and driveways in the transportation system metaphor, and represents the cost of connecting the State office to the town/city network. As noted in discussing the middle mile costs, the local loop cost can be seen as an itemized charge in the circuit cost or can be included in the overall circuit cost.

The State network is funded through a cost recovery model through ITSD. Each agency pays for circuits and capacity to connect to the State network from satellite offices located throughout the state. The ITSD uses the revenue collected from agencies to pay the various commercial network providers.

Action or Recommendations: The Committee [took no action on this issue or specify action.]

Issue 8 Summary: Multi-State Purchasing for Internet Services

The Committee examined if multistate purchasing could provide the State better access and capacity services at lower cost.

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 form 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 lower costs than are currently incurred.

Findings and Conclusions: The CIO has the authority to participate with the Western States Contracting Alliance (WSCA) in multistate 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 for Geographic Information System (GIS) programs. The four states shared in completing the governance documents and the request for information and request for proposal processes under the WSCA umbrella. As of this writing, the contract has not been released because nondisclosure 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 to other parts of state government. The Committee sent a memorandum 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

The IT Subcommittee discussed the applicability and efficacy of the Montana Information Technology ACT (MITA), given that the act is over 10 years old. The Subcommittee did not pursue this item because a performance audit by the Legislative Audit Division was underway at that time. The findings of the audit,⁷ released in June 2012, include:

1. There is a need to improve the agency information technology strategic plan template and review process to ensure completeness and continuity.
2. To enhance oversight, the State CIO should expand policy guidance and reporting procedures in the context of project management for state agencies.

⁷ Strengthening Processes Related to IT Governance: Department of Administration, Information System Audit, Legislative Audit Division, June 2012, ed. Kent Rice and Nate Tobin.

3. The State CIO should distinguish information technology policies from standards and guidelines and should formalize a systematic policy development process whereby agencies know when updates to policies, standards, and guidelines 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: Electronic Submission

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: State's Role in Federal Regulation

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 2012 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 budgeting at its meeting on September 10, 2012. The Committee made no recommendations.

INTRODUCTION

Taryn Purdy, Principal Fiscal Analyst, Legislative Fiscal Division, introduced the subject and addressed three topics:

- the current Montana budgeting system;
- the priority-based budgeting model, focusing on Washington state's Priorities of Government;
- efforts undertaken over the years in Montana concerning performance budgeting and measurement and priority setting.

Joining Ms. Purdy in briefing the Committee were Carl Graham, CEO of the Montana Policy Institute in Bozeman and Ms. Tara Veazey, Executive Director of the Montana Budget and Policy Center in Helena.

OVERVIEW: CURRENT MONTANA BUDGETING SYSTEM

Montana uses a modified incremental budgeting system, meaning that budgeting essentially starts with base expenditures (the last fully completed fiscal year), with incremental changes (either positive or negative) to reflect such factors as changing workload or caseloads, and the addition or elimination of programs. At each stage in the budgeting process beginning with preliminary priority setting in the year prior to the legislative session, the anticipated amount of revenue available is calculated to determine the parameters within which the budget must be established.

The system also includes elements of performance, zero-based, and line-item budgeting. Two examples are the following.

- For certain requested changes, agencies submit additional information on goals, performance criteria, milestones, and other factors designed to enable the legislature to evaluate what the change is designed to accomplish and whether its purpose has been met.
- Agencies are required to submit prioritized plans for how they would operate with a base budget that is 5% lower than the current. This information is available to the legislature to aid in priority setting.

OVERVIEW: PRIORITY BASED BUDGETING (PBB)

PBB is a budgeting process by which a systematic effort to determine government-wide priorities, the most effective way to address those priorities, and the most cost and operational efficient ways of achieving desired results. It essentially addresses several questions:

- What resources are available to fund government? What factors drive revenues?
- What are the most important functions of government and what results should be expected (priorities)?
 - How will priorities be determined?
- What should be monitored to ensure meeting the priorities/getting the results?
- What strategies should be pursued to achieve the desired results?
 - What are the most programmatically effective and economically efficient?
 - How can you tell?
- How will resources be divided among the priorities and strategies?

A number of counties and municipalities utilize some type of priority based budgeting. While a number of states employ or have employed some portion or version of the system, state government presents a unique set of challenges due to the separation of powers between the branch that proposes and executes the functions of government (executive), and the branch that, through the appropriations process, funds the operation of government and consequently sets its priorities and scope (legislative). Because the State of Washington has a long established priority based methodology called Priorities of Government, its process was highlighted to illustrate the general concept of PBB as it might be undertaken at the state level.

Washington utilizes a four-stage system:

1. *Determine the most important values in the state* - Hearings were conducted around the state to get citizen input. An advisory group coordinated and gathered the data. Among the values identified were improvement of student achievement and strengthening of government's ability to achieve results efficiently and effectively.
2. *Determine the results you want to achieve* – This is a consensus process between state government and other citizens. Among the results identified were improve the health of support of citizens of the state and protect natural resources.

3. *Determine how progress toward success will be achieved and measured* – This stage involves determination of key indicators of success, identification of what will be measured to determine if success is being achieved, and identification of proven or promising strategies.
4. *Develop a results-based prioritization of activities that most directly accomplish the desired outcome.*

As indicated, the process is both time and information intensive. Among the most critical factors in any priority based budgeting system is the amount and scope of information that must be gathered both to measure progress and to be able to determine what the most effective strategies are. Consequently, this requirement and the consequent demands on agencies of state government must be acknowledged up-front when considering the scope of any implementation.

According to State of Washington non-partisan legislative fiscal staff, the legislature does not systematically use priority based budgeting when establishing appropriations, although it does use some of the information gathered when reviewing budgets.

OVERVIEW: USE OF PERFORMANCE MEASUREMENT/PRIORITY SETTING IN MONTANA

Montana has and is currently employing various types of performance measurement and priority setting. Therefore, if the state chooses to further explore or adopt some type of PBB, some fundamental processes can be incorporated or used to aid in building the system. Ms. Purdy prepared and presented a staff report, *History of Performance Budgeting in Montana*, that summarizes the past 40 years of Montana's experiments with elements of performance budgeting that includes insights into why the efforts were undertaken and relative success or failure of the efforts.⁸

COMPARING AND CONTRASTING

Mr. Graham, an advocate of "priority budgeting" contends that the "present law", "incremental", or "baseline" system of budgeting, e.g., Montana's current system, is inadequate because it assumes that current spending is necessary and efficient. In that regard, he contends that current budgeting creates an "iceberg effect" that focuses legislative consideration on visible changes, but not on the bulk of current spending or the relative importance or value of the programs that the spending supports.

Ms. Purdy's overview of the existing budgeting process--from the earliest development in the executive planning process through the vetting process within the governor's budget office, the review and analysis conducted by the legislature's fiscal staff's of the proposed executive budget, and the appropriations

⁸ The full report can be found on the Select Committee's web page, under the Publications tab.

subcommittees' and committees' ultimate consideration of program budgets--suggests that there is considerable scrutiny of all parts of the budget and of the programs that comprise the public services that the budget supports.

Mr. Graham also noted that under the current budgeting system a "ratcheting effect" occurs, in that the baseline budget--whether for a program, a department, or the budget as a whole--increases in good years but doesn't decrease in lean years. Further, he maintains that the current process encourages gimmicks and short-term fixes whenever revenue is tight, thus delaying closer scrutiny of a program's underlying "priority" compared to other programs competing for the same pot of money. He listed a number of other inadequacies with the current state budgeting process, including:

- the presumption that all current spending is both efficient and effective;
- the *status quo* (base budget) has inherent advantages over the promise of better outcomes and results that are possible with priority budgeting or some other methods of budgeting;
- the review, analysis, and consideration provided with the current process addresses only the proposed, incremental changes to existing budgets rather than the base level of funding itself or, more importantly, the relative priority or value of the program/department for which the budget is contemplated or authorized;
- with baseline, incremental budgeting, policymakers, budgeteers, and the public are seeing only the tip of the iceberg of state spending which, therefore, reduces legislative oversight;
- the current process doesn't prioritize all spending; rather, only the fractional amount of marginal spending is considered; and
- the current approach to budgeting is basically limited to general fund spending, but doesn't consider special revenue, especially federal revenue.

According to Mr. Graham, priority budgeting scrutinizes and establishes the relative value of state services, not only provided through numerous programs and funding levels but also as measured against consensus goals. Priority budgeting recognizes that resources (revenue) are fixed and perhaps excessive, thus forcing lawmakers to identify and make hard decisions among various "wants" and "needs". The current process of baseline, incremental budgeting does not.

Ms. Veazey's perspectives differ from Mr. Graham's in various ways, sometimes substantially and other times not so much. Like Graham, Ms. Veazey:

- agrees that the state's tax dollars should be used wisely, efficiently, and effectively to deliver on our shared goals and objectives as a state;
- believes that components of priority budgeting can be helpful in analyzing the most effective

strategies for pursuing a particular state goal or objective;

- maintains that public budgeting should be transparent and accountable;
- supports efforts that would give legislators, executive agencies, and the public more information, data, and analysis to guide strategic budgeting.

However, Ms. Veazey does not necessarily agree with Graham that when implementing components of priority budgeting available resources should necessarily be treated as fixed or excessive. She also contends that closer scrutiny of "tax expenditures" could result in an increase in available resources. She suggests that a similar system of ongoing goal-setting, measurement and evaluation should be applied to Montana's tax code.

In addition, Ms. Veazey warned the committee about some of the theoretical and practical limitations of priority budgeting, including:

- Although priority budgeting can be helpful in evaluating options for pursuing a particular state goal (e.g. decreasing recidivism), it is less helpful in determining the appropriate allocation of resources across divergent goals or determining the optimal level of overall state spending.
- The short, biennial nature of legislative sessions in Montana, combined with term limits, pose practical limitations on the legislature's ability to process all of the data provided and evaluation required by priority budgeting.
- Performance measurements are often inadequate for making cost-benefit decisions under priority budgeting. For example, two years is not long enough to measure progress on many of government's goals (e.g. tobacco prevention and early learning). In addition, many important performance indicators are heavily influenced by factors outside of an agency's control (e.g. the economy), making it very difficult and costly to measure the true impact of any one governmental program or activity.

Mr. Graham cautions that state budgets face a "perfect storm" comprised of structural deficits, growing Medicaid obligations, unfunded liabilities of public employee pensions, and uncertainties surrounding federal funding of state programs/budgets, e.g., the continual and growing federal budget deficits and national debt, the impending "fiscal cliff", economic uncertainty in Europe, China, the U.S., and elsewhere and, barring significant changes, the unsustainability of Medicare and Social Security. He maintains that Montana can prepare to respond to fiscal uncertainties by adopting priority budgeting processes that will focus public attention and lawmakers' actions on two basic questions: (1) What can, should, and must state government do; and (2) What is the best way to do it? Moreover, even if the uncertainties manifest in positive ways, priority budgeting will benefit Montana according to Mr. Graham.

Ms. Purdy, Mr. Graham, and Ms. Veazey each spoke from or referred to prepared material. Ms. Purdy provided the Committee with copies of three documents that she authored: i.e., *Montana's Budgeting Process*; *History of Priority Budgeting in Montana*; and *Priority Based Budgeting/Washington State's Priorities of Government*, each of which is available on the Committee's web page under Publications.⁹ Mr. Graham presented *Priority Budgeting for Montana*, September 9, 2012, also available on the Committee's web page under Meeting Material for the September 10-11, 2012 meeting. Ms. Veazey did not provide written material to supplement her oral comments.

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⁹ The Select Committee's web page is available at <http://leg.mt.gov/sceg> .

Appendix A

This appendix contains a copy of each of the draft bills recommended by the full Select Committee on Efficiency in Government to the 63rd Legislature (2013). It also include a copy of the Committee's letter sent to the House Appropriations Committee and the Senate Finance and Claims Committee of the 63rd Legislature regarding reducing the appropriation for utilization review of certain Medicaid services.

| <u>LC No.</u> | <u>Short Title of Legislation</u> |
|---------------|---|
| LC 123 | Create a medicaid pay-for-performance pilot project (was LCSC03) |
| LC 124 | Require DPHHS to measure outcomes for children's mental health services (was LCSC02) |
| LC 125 | Revise 72-hour presumptive eligibility requirements for crisis stabilization (was LCSC01) |
| LC 150 | Revise Medicaid application process (was LCSC12) |
| LC 151 | Revise Medicaid qualification enforcement laws (was LCSC10) |
| LC 259 | Interim study investigating state/local gov electronic records management (was LCSC21) |
| LC 260 | Clarify authority of local governments to store electronic documents off-site (was LCSC20) |
| LC 261 | Revise statutory requirements for notarization of certain documents (was LCSC22) |
| LC 348 | Increase reimbursement rates for children's medicaid mental health services (was LCSC13) |
| LC 349 | Create advisory committee on cost-base medicaid mental health rate reimbursement (was LCSC14) |

- * *Memorandum* from the Select Committee to the House Appropriations Committee and Senate Finance and Claims Committee of the 63rd Legislature regarding "Appropriation for Utilization Review of Children's Mental Health Services", signed by Sen. Jon Sonju, Presiding Officer, dated May 15, 2012.

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

BY REQUEST OF THE SELECT COMMITTEE ON EFFICIENCY IN GOVERNMENT

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A PILOT PROJECT TO REIMBURSE CERTAIN MEDICAID PROVIDERS BASED ON PERFORMANCE; CREATING A PAY-FOR-PERFORMANCE TASK FORCE; ESTABLISHING THE DUTIES OF THE TASK FORCE; PROVIDING FOR PUBLIC PARTICIPATION IN DEVELOPMENT OF A PAY-FOR-PERFORMANCE MODEL; REQUIRING DATA COLLECTION; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

WHEREAS, state government budgets have come under pressure in recent years because of prevailing national economic conditions; and

WHEREAS, the costs of providing social services makes up a large portion of state government budgets; and

WHEREAS, new approaches to funding social services may result in lower costs and better outcomes over the course of time; and

WHEREAS, research in other states indicates that linking provider payments to desired outcomes and quality improvements results in improved access to care, better care integration and coordination, family-focused planning, earlier and less restrictive interventions, and a reduced number of treatment days.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Pay-for-performance pilot project for children's mental health services -- legislative purpose. (1) The department of public health and human services shall establish a pilot project for paying providers of children's mental health services according to performance-based principles that allow an enhanced payment to providers who demonstrate that the children they serve attain identified outcomes. The department shall develop the pilot project in accordance with the provisions of [sections 1 through 5].

(2) The department of public health and human services shall collect and analyze data related to the pilot project in order to determine its effectiveness and to evaluate whether the use of performance-based payment for services should be extended to other services, geographic regions, or populations.

(3) The purpose of the pilot project is to:

1

(a) improve the partnership and collaborative efforts between the department of public health and

human services and providers of children's mental health services; and

(b) link the payment for providers with improvements in:

(i) access to care;

(ii) integration and coordination of care;

(iii) the development and use of individualized treatment plans; and

(iv) efforts to ensure recovery and permanent placement for children who are receiving medicaid mental health services or who are in foster care under the supervision of the state.

(4) The legislature shall review the results of the pilot project to determine whether:

(a) the project should be continued or expanded; and

(b) modifications are needed before the pay-for-performance model is expanded to include additional children, providers, or services.

NEW SECTION. Section 2. Scope of pilot project. (1) The pay-for-performance pilot project provided for in [sections 1 through 5] may be designed to include services to children who are:

(a) enrolled in medicaid or the healthy Montana kids plan; or

(b) in foster care under the supervision of the state.

(2) Providers are eligible to participate in the pilot project if they:

(a) offer services to youth with serious emotional disturbance as defined by the department of public health and human services by rule; and

(b) are licensed as:

(i) a mental health center as defined in 50-5-101;

(ii) a psychiatric residential treatment facility as defined by the department by rule; or

(iii) a child-placing agency under Title 52, chapter 8, part 1.

(3) (a) The pilot project may be limited in scope to a specific:

(i) number of children; and

(ii) geographic region.

(b) The geographic region must include both rural and urban populations.

NEW SECTION. Section 3. Task force -- membership -- meetings -- reimbursement. (1) There is a pay-for-performance task force that shall work with the department of public health and human services to design a performance-based system for services provided to children who are eligible under [sections 1 through 5].

(2) The task force consists of 17 members appointed no later than August 1, 2013, as follows:

(a) 13 members appointed by the governor;

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(b) two members of the Montana senate appointed by the senate committee on committees and each representing a different political party; and

(c) two members of the Montana house of representatives appointed by the speaker of the house and each representing a different political party.

(3) The governor shall appoint as members:

(a) five providers of children's mental health services, including one representative of each of the five children's mental health service regions established by the department of public health and human services;

(b) two family members of children who have received medicaid mental health services;

(c) one person who serves as an advocate for children's mental health;

(d) one representative of the Montana university system who has experience in measuring outcomes for children; and

(e) four department of public health and human services employees as follows:

(i) one representative of the children's mental health bureau;

(ii) one representative of the child and family services division;

(iii) one representative of the medicaid and health services branch; and

(iv) one representative of the director's office.

(4) Task force members shall elect a presiding officer at the first meeting.

(5) (a) Except as provided in subsection (5)(b), the task force shall meet at least six times per year. Meetings must be held in Helena and may be held by teleconference.

(b) If a majority of the task force determines that the task force is able to accomplish its work through quarterly meetings, the task force may meet four times per year.

(6) (a) Legislative members of the task force are entitled to receive compensation as provided in 5-2-302 for each task force meeting.

(b) Except as provided in subsection (6)(c), task force members are entitled to reimbursement for expenses as provided in 2-18-501 through 2-18-503.

(c) Task force members who are full-time salaried employees of the state are entitled to reimbursement for expenses as provided in 2-18-501 through 2-18-503 only if a task force meeting under [section 4] is held outside of Helena.

(7) Task force activities must be must be completed within the budget approved for the department of public health and human services.

NEW SECTION. Section 4. Duties of task force. (1) The pay-for-performance task force shall recommend to the legislature a pay-for-performance system to be used for the pilot project provided for in [sections 1 through 5].

(2) The task force shall adopt a short-term work plan and a long-term work plan that outline the scope of work to be completed, including the recommendation of an appropriate pay-for-performance model for the pilot project. Each work plan must include deadlines for completion of each item identified

in the work plan.

(3) In recommending a pay-for-performance model for children's mental health services, the task force shall take into consideration:

(a) the current array of children's mental health services allowed for under the Montana medicaid state plan and any data the department of public health and human services has collected regarding the effectiveness of the services;

(b) the degree to which the array and effectiveness of services offered by a provider may factor into the level of pay the provider receives under a pay-for-performance model;

(c) potential incentives for and risks of the pay-for-performance models under review;

(d) existing data that may be relevant to development of the model;

(e) the types of data that must be collected to evaluate the effectiveness of the model; and

(f) the need for changes to the state's information technology systems in order to collect and analyze data.

(4) The task force shall conduct at least one meeting with medicaid providers and other interested parties to obtain comment on the elements of a pay-for-performance model that:

(a) will best meet the needs of Montana children; and

(b) takes into account the geographic and demographic features of the state.

(5) The task force shall recommend a model after reviewing, in conjunction with the department of public health and human services:

(a) the current medicaid reimbursement system for the services covered by [sections 1 through 5];

(b) the department's system for collecting data related to children's mental health services and payments for the services;

(c) pay-for-performance models used by other states, including enhanced tier payment systems; and

(d) public comment submitted to the task force.

(6) The task force shall make a recommendation to the 2015 legislature on the scope of the pilot project as determined under [section 2(3)].

NEW SECTION. Section 5. Pilot project timeline -- reporting requirement. (1) The pay-for-performance task force shall:

(a) complete the short-term and long-term work plans required under [section 4] by December 2013;

(b) develop proposed legislation that contains a pay-for-performance model and identifies other

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elements of the proposed pilot project for consideration by the 2015 Legislature and implementation on July 1, 2015; and

(c) develop recommendations for the 2017 legislature on the continuation or expansion of the pilot project based on the collection and analysis of data related to the pilot project.

(2) The task force in conjunction with the department of public health and human services shall provide quarterly reports to the children, families, health, and human services interim committee on:

- (a) the work of the task force;
- (b) the status of legislative proposals; and
- (c) data related to the defined benchmarks and outcomes of the pay-for-performance pilot project.

NEW SECTION. Section 6. Codification instruction. [Sections 1 through 5] are intended to be codified as an integral part of Title 53, chapter 6, and the provisions of Title 53, chapter 6, apply to [sections 1 through 5].

NEW SECTION. Section 7. Effective date. [This act] is effective July 1, 2013.

NEW SECTION. Section 8. Termination. [This act] terminates June 30, 2017.

- END -

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

BY REQUEST OF THE SELECT COMMITTEE ON EFFICIENCY IN GOVERNMENT

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO MEASURE THE OUTCOMES OF CHILDREN'S MENTAL HEALTH SERVICES; REQUIRING REPORTING OF THE OUTCOMES; AMENDING SECTION 52-2-311, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Department to measure outcomes for children's mental health services. (1) The department of public health and human services shall measure and report on, as provided in 52-2-311, the effectiveness of medicaid mental health services provided to children. The measurement must be based on identified outcomes.

(2) In measuring outcomes, the department shall:

(a) use validated tools to assess and measure the fidelity of medicaid children's mental health services to a wraparound philosophy of care as defined in 52-2-302;

(b) use validated measures to:

(i) evaluate the acuity of a child's mental health needs;

(ii) assess family functioning and the strengths and weaknesses of family skills; and

(iii) measure the improvements a child and the child's family are making in the areas of acuity of need, family functioning, and family skills and the relationship of the improvements to the treatment provided; and

(c) track a child's placement in services in order to create incentives for providing community-based treatment and reduce the use of out-of-state services, psychiatric residential treatment facility services, and placement in group homes.

Section 2. Section 52-2-311, MCA, is amended to read:

"52-2-311. ~~Out-of-state placement monitoring~~ Monitoring and reporting. (1) The department shall collect the following information regarding high-risk children with multiagency service needs:

(a) the number of children placed out of state;

- (b) the reasons each child was placed out of state;
- (c) the costs for each child placed out of state;
- (d) the process used to avoid out-of-state placements; and
- (e) the number of in-state providers participating in the pool.

(2) For high-risk children with multiagency service needs whose placement is funded in whole or in part by medicaid, the report must include information indicating other department programs with which the child is involved.

(3) On an ongoing basis, the department shall attempt to reduce out-of-state placements.

(4) The department shall report on the measurement of identified outcomes for medicaid mental health services provided to children that is required under [section 1]. The report shall identify the outcomes for each provider of services.

~~(4)(5)~~ (a) The department shall report biannually to the children, families, health, and human services interim committee concerning the information it has collected under this section and the results of the efforts it has made to reduce out-of-state placements.

(b) The department shall annually prepare and publish the report required under subsection (4) and distribute the report to providers of medicaid mental health services for children."

NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 53, chapter 6, and the provisions of Title 53, chapter 6, apply to [section 1].

NEW SECTION. Section 4 Effective date. [This act] is effective on passage and approval.

- END -

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

BY REQUEST OF THE SELECT COMMITTEE ON EFFICIENCY IN GOVERNMENT

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING IN STATUTE THE 72-HOUR PRESUMPTIVE ELIGIBILITY PROGRAM FOR ADULT CRISIS STABILIZATION SERVICES THAT IS PROVIDED FOR IN ADMINISTRATIVE RULE; REVISING THE RULE REQUIREMENTS IN ORDER TO ALLOW REIMBURSEMENT FOR TWO PSYCHIATRIC DIAGNOSTIC INTERVIEWS IN A 72-HOUR PERIOD AND REIMBURSEMENT FOR CRISIS STABILIZATION SERVICES PROVIDED WITHIN 7 DAYS OF A PERSON'S PREVIOUS DISCHARGE FROM CRISIS STABILIZATION SERVICES; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Definitions. As used in [sections 1 through 5], the following definitions apply:

- (1) "Adult" means an individual who is 18 years of age or older.
- (2) "Crisis" means a serious, unexpected situation resulting from an individual's apparent mental illness in which the individual's symptoms are of sufficient severity, as determined by a mental health practitioner, to require immediate care to avoid:
 - (a) jeopardy to the life or health of the individual; or
 - (b) death or bodily harm to the individual or to others.
- (3) "Crisis stabilization" means development and implementation of a short-term intervention to respond to a crisis in order to:
 - (a) reduce the severity of an individual's symptoms of mental illness; and
 - (b) attempt to prevent the individual from receiving services in a more restrictive environment.
- (4) "Crisis stabilization services" or "services" means the services allowed under [section 3].
- (5) "Presumptive eligibility" means a period of up to 72 hours after an individual is found to be in crisis and during which the individual is presumed to be eligible for crisis stabilization services that will be reimbursed by the department.

NEW SECTION. Section 2. Purpose -- limitations. (1) (a) The purpose of [sections 1 through 5] is to establish a program through which enrolled providers may be reimbursed by the department when they provide mental health services during a 72-hour period to stabilize an adult who:

- (i) is in a mental health crisis; and
- (ii) is uninsured or whose insurance does not adequately cover the cost of the services.

(b) Reimbursement for services provided during a presumptive eligibility period is intended to reduce the need for the individual to receive more intensive services in a more restrictive setting.

(2) [Sections 1 through 5] are not intended to establish an entitlement:

- (a) for an individual to receive services under the program; or
- (b) for a provider to be reimbursed for services delivered to an individual.

(3) The department may determine the duration of services to be reimbursed under the program and the types of providers who may receive reimbursement for services.

(4) The department or its designee may restrict reimbursement based on:

- (a) the medical necessity of the services;
- (b) availability of appropriate alternative services;
- (c) the relative cost of services; or
- (d) other relevant factors.

(5) (a) Subject to available funding, the department may suspend or eliminate reimbursement for services or otherwise limit services, benefits, or provider participation in the presumptive eligibility program.

(b) The department shall provide notice of changes to the program at least 10 days in advance of the date that the changes will be made by:

- (i) publishing notice in Montana daily newspapers; and
- (ii) providing written notice to crisis stabilization providers and other interested parties.

NEW SECTION. Section 3. Crisis stabilization services -- requirements. (1) In order to qualify for reimbursement under [sections 1 through 5], crisis stabilization services must be delivered in a safe environment to an individual in crisis as required under this section.

(2) Crisis stabilization services must:

(a) be delivered by an individual or facility that is enrolled with the department to provide services under [sections 1 through 5];

(b) be provided in accordance with a plan for crisis stabilization that meets requirements established by the department by rule;

- (c) include a plan for appropriate followup care; and
- (d) be medically necessary mental health services that:
 - (i) are delivered in direct response to a crisis in an effort to stabilize the individual in crisis;
 - (ii) provide diagnostic clarity;
 - (iii) are designed to treat symptoms that can be improved during the presumptive eligibility period;

and

- (iv) provide an appropriate alternative to psychiatric hospitalization.
- (3) Crisis stabilization services include but are not limited to:
 - (a) two psychiatric diagnostic interview examinations during the crisis stabilization period;
 - (b) coordination of care as defined by the department by rule;
 - (c) individual psychotherapy;
 - (d) family psychotherapy conducted with or without the patient;
 - (e) one-to-one community-based psychiatric rehabilitation and support; and
 - (f) crisis management services as defined by the department by rule.

(4) The department may not deny payment for medically necessary mental health services that are provided within 7 days of an individual's previous discharge from crisis stabilization services provided under [sections 1 through 5] unless the denial is made pursuant to [section 2] or [section 4].

NEW SECTION. Section 4. Claims and reimbursement -- exceptions. (1) The department shall adopt and make available a fee schedule for crisis stabilization services.

(2) Claims for crisis stabilization services provided pursuant to [sections 1 through 5] must be submitted to the department as provided by rule.

(3) Providers shall accept the amounts payable under this section as payment in full for services delivered to eligible individuals during the presumptive eligibility period.

- (4) Services delivered to an individual in crisis may not be reimbursed if:
 - (a) the services delivered were not approved for reimbursement by the department; or
 - (b) the provider is not enrolled with the department.

NEW SECTION. Section 5. Rulemaking authority. The department may adopt rules establishing:

- (1) limits on the scope and duration of crisis stabilization services, except for reimbursement for:
 - (a) two psychiatric diagnostic interviews during the presumptive eligibility period; and
 - (b) crisis stabilization services provided within 7 days of an individual's previous discharge from

services;

(2) requirements for participating providers and their enrollment in the program;

(3) the scope of services that may be reimbursed because they involve coordination or management of care;

(4) the elements of the required plan for crisis stabilization;

(5) procedures for submitting claims for reimbursement for services provided during the presumptive eligibility period;

(6) procedures for the department's review and audit of claims and for recovery of overpayments;

(7) recordkeeping and confidentiality requirements; and

(8) any other requirements needed to carry out the purpose of [sections 1 through 5].

NEW SECTION. Section 6. Codification instruction. [Sections 1 through 5] are intended to be codified as an integral part of Title 53, chapter 21, and the provisions of Title 53, chapter 21, apply to [sections 1 through 5].

NEW SECTION. Section 7. Effective date. [This act] is effective July 1, 2013.

- END -

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

BY REQUEST OF THE SELECT COMMITTEE ON EFFICIENCY IN GOVERNMENT

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATING TO THE MEDICAID APPLICATION AND ELIGIBILITY DETERMINATION PROCESSES; AUTHORIZING THE USE OF ONLINE APPLICATIONS FOR ASSISTANCE; REVISING APPLICATION INFORMATION REQUIREMENTS; CLARIFYING CERTAIN REQUIREMENTS OF THE MEDICAID ELIGIBILITY DETERMINATION PROCESS; REQUIRING REPORTS; AND AMENDING SECTIONS 53-6-132 AND 53-6-133, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-6-132, MCA, is amended to read:

"**53-6-132. Application for assistance -- exception.** (1) Subject to subsection ~~(2)~~ (3), application for assistance under this part may be made in any local office of public assistance or through the use of an online application. The application must:

(a) request only the minimum information necessary to make an eligibility determination under state and federal laws; and

(b) be presented in the manner and on the form prescribed by the department.

(2) All individuals wishing to apply must have the opportunity to do so.

~~(2)~~(3) Notwithstanding the provisions of subsection (1), the department may designate an entity other than the local office of public assistance to determine eligibility for medicaid ~~managed care~~ services.

(4) The eligibility determination process must:

(a) through a data match system, use information legally accessible by the state, including electronic databases, to collect and verify applicant information in place of requiring applicants to submit documentation;

(b) use technology that includes the use of online applications, electronic databases, document imaging, and other electronic content management tools; and

(c) authorize electronic signatures in accordance with state standards pursuant to Title 30, chapter 18."

Section 3. Section 53-6-133, MCA, is amended to read:

"**53-6-133. Eligibility determination.** (1) The department ~~local office of public assistance~~ shall promptly determine the eligibility of each applicant under this part in accordance with the rules of the department. Each applicant must be informed of the right to a fair hearing and of the confidential nature of the information given. The department, ~~through the local office of public assistance,~~ shall, after the hearing, determine whether ~~or not~~ the applicant is eligible for assistance under this part, and aid must be furnished promptly to eligible persons. Each applicant must receive written or electronic notice of the decision concerning the applicant's application, and the right of appeal is secured to the applicant under the procedures of 53-2-606.

(2) The ~~local office of public assistance and the~~ department may accept the federal social security administration's determination of eligibility for supplemental security income, Title XVI of the Social Security Act, as qualifying the eligible individuals to receive medical assistance under this part."

NEW SECTION. **Section 4. Report to interim committee.** By April 1 of each even-numbered year through 2016, the department of public health and human services shall provide to the children, families, health, and human services interim committee an oral report on the progress of the use of online applications in the application and eligibility determination processes under Title 53, chapter 6, part 1.

- END -

INTRODUCED BY _____
(Primary Sponsor)

BY REQUEST OF THE SELECT COMMITTEE ON EFFICIENCY IN GOVERNMENT

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A FINE FOR RECEIVING ASSETS THAT WERE TRANSFERRED TO QUALIFY AN APPLICANT OR RECIPIENT FOR MEDICAID."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** Receipt of transferred assets for less than fair market value -- fine. (1) A person who receives an asset for less than fair market value from an applicant for or recipient of medical assistance under this part is subject to a civil fine payable to the department if the department initiates a judicial proceeding and shows by a preponderance of the evidence that:

(a) the asset was transferred to qualify the applicant or recipient for medical assistance under this part;
(b) the transfer resulted in the imposition of a period of ineligibility for medical assistance under 53-6-166;

(c) the department advised the person who received the asset that the transfer would result in a period of ineligibility, and the person refused to return the asset to the applicant or recipient; and

(d) the department provided medical assistance to the applicant or recipient during the period of ineligibility because the applicant or recipient received an undue hardship exception under 53-6-166.

(2) A court may impose a civil fine of 100% to 150% of the amount that the department paid for medical assistance for the applicant or recipient during the period of ineligibility that is attributable to the amount transferred to the person receiving the asset, plus the department's court costs and attorney fees.

(3) A transfer that is subject to a civil fine under this section is void.

(4) The department may petition a court to set aside a transfer that is void under this section and to require the return of the transferred asset to the applicant or recipient.

NEW SECTION. **Section 2. {standard} Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 53, chapter 6, part 1, and the provisions of Title 53, chapter 6, part 1, apply to [section 1].

- END -

INTRODUCED BY _____
(Primary Sponsor)

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO INVESTIGATE ELECTRONIC RECORDS MANAGEMENT BY STATE AND LOCAL GOVERNMENT; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 64TH LEGISLATURE

WHEREAS, Montana state government lacks enterprise-wide policy, planning and resources to properly archive, maintain and access state and local government electronic records; and

WHEREAS, this lack of a framework for managing state and local government electronic records puts entities at risk of being unable to provide evidence to support the rule of law, support the accountability of government administration, detail interactions between the people of Montana and their government, and document the history and culture of Montana.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

- (1) identify and examine strategies for identifying, classifying, managing, and preserving electronic records that have value;
- (2) examine the costs and benefits associated with the strategies,
- (3) identify funding sources or mechanisms to evaluate long-term governance structures for governing electronic records management;
- (4) identify and evaluate the methods and means for improving access to state government electronic records, including alternative formats specifically addressing retention of state email records;
- (5) examine public-private partnerships that increase awareness of public records management and access; and
- (6) develop educational strategies to provide awareness of electronic records management processes inside and outside of government.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2014.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, or recommendations of the appropriate committee, be reported to the 64th Legislature.

- END -

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT APPROPRIATING MONEY TO THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO INCREASE REIMBURSEMENT RATES FOR CHILDREN'S MEDICAID MENTAL HEALTH TARGETED CASE MANAGEMENT SERVICES; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 20. Appropriation. (1) There is appropriated to the department of public health and human services the following money:

- (a) from the state general fund, \$967,662 for fiscal year 2014 and \$999,919 for fiscal year 2015; and
- (b) from federal special revenue, \$1,843,674 for fiscal year 2014 and \$1,867,644 for fiscal year 2015.

(2) The appropriation must be used to increase the reimbursement rate for children's medicaid mental health targeted case management services for each 15-minute unit of service.

NEW SECTION. Section 21. {standard} Effective date. [This act] is effective July 1, 2013.

- END-

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

BY REQUEST OF THE SELECT COMMITTEE ON EFFICIENCY IN GOVERNMENT

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING AN ADVISORY COMMITTEE ON COST-BASED RATE REIMBURSEMENT FOR MEDICAID MENTAL HEALTH TARGETED CASE MANAGEMENT SERVICES; ESTABLISHING THE DUTIES OF THE COMMITTEE; REQUIRING THE COMMITTEE TO SUBMIT REPORTS TO THE LEGISLATIVE FINANCE COMMITTEE AND TO THE 2015 LEGISLATURE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Advisory committee -- membership -- meetings -- reimbursement.

(1) There is an advisory committee that shall work with the department of public health and human services to design a cost-based rate reimbursement plan for medicaid mental health targeted case management services.

(2) The committee consists of nine members appointed no later than August 1, 2013, as follows:

(a) two members of the Montana senate appointed by the senate committee on committees and each representing a different political party;

(b) two members of the Montana house of representatives appointed by the speaker and each representing a different political party;

(c) the division administrator of the developmental services division of the department of public health and human services;

(d) the division administrator of the addictive and mental disorders division of the department of public health and human services; and

(e) three members representing providers of adult and children's mental health targeted case management services who are chosen and appointed by the director of the department of public health and human services from a list of six individuals nominated by the Montana children's initiative and the Montana council of community mental health centers.

(3) Committee members shall serve for a term of 2 years. Vacancies must be filled by the appointing authority.

(4) Committee members shall elect a presiding officer at the first meeting.

(5) The committee shall meet monthly unless a majority of the committee determines that the committee is able to accomplish committee work through quarterly meetings, in which case the committee may meet four times per year.

(6) The committee is attached to the department of public health and human services for administrative purposes only, as provided in 2-15-121.

(7) (a) Legislative members of the committee are entitled to receive compensation as provided in 5-2-302.

(b) Committee members who are full-time salaried employees of the state are entitled to reimbursement for expenses as provided in 2-18-501 through 2-18-503.

NEW SECTION. Section 2. Advisory committee duties. (1) The advisory committee shall design a cost-based rate reimbursement plan for medicaid mental health targeted case management services.

(2) The cost-based rate reimbursement plan must include:

(a) a monthly case management reimbursement rate;

(b) a cost-based rate reimbursement methodology based upon, but not limited to, the following factors:

(i) the consumer price index;

(ii) energy costs;

(iii) health insurance increases;

(iv) salaries;

(v) fixed costs;

(vi) reasonable costs associated with the provision of services;

(vii) the service utilization average per provider from the previous year; and

(ix) the unduplicated number of recipients per provider; and

(c) a schedule for periodically updating reimbursement rates that takes into account changes in cost and service utilization.

NEW SECTION. Section 3. Advisory committee reports. During the 2013-2014 interim, a representative of the advisory committee shall appear before and provide a written report no less than five times to the legislative finance committee concerning the progress of the cost-based rate reimbursement plan.

NEW SECTION. Section 4. Advisory committee findings, recommendations, and report. The advisory committee shall make findings and recommendations concerning the cost-based rate reimbursement plan and provide a written report to the 2015 legislature documenting those findings and recommendations.

NEW SECTION. Section 5. {standard} Effective date. [This act] is effective July 1, 2013.

NEW SECTION. Section 6. {standard} Termination. [This act] terminates December 31, 2014.

-END-



Select Committee on Efficiency in Government 62nd Montana Legislature

SENATE MEMBERS

JON SONJU--Chair
EDWARD BUTTREY
MARY CAFERRO
JIM KEANE
EDWARD WALKER
DAVID WANZENRIED

HOUSE MEMBERS

MARK BLASDEL
RON EHLI
GALEN HOLLENBAUGH
PAT NOONAN
SCOTT REICHNER
KATHLEEN WILLIAMS

COMMITTEE STAFF TEAM

DAVE BOHYER, Lead Staff
DAVID NISS, Staff Attorney (Ret.)
JULIANNE BURKHARDT, Staff Attorney
DAWN FIELD, Secretary
SUE O'CONNELL, LSD, Health Care
JASON MOHR, LSD, Nat'l Res.
SONJA NOWAKOWSKI, LSD, Nat'l Res.
QUINN HOLZER, LFD, Health Care
TARYN PURDY, LFD, Budgeting Process
BARBARA SMITH, LFD, Technology
LOIS STEINBECK, LFD, Health Care

TO: House Appropriations Committee and Senate Finance and Claims Committee of the 63rd Legislature

FROM: Jon Sonju, Presiding Officer

RE: Appropriation for Utilization Review of Children's Mental Health Services

DATE: May 15, 2012

During the 2011-2012 interim, the Select Committee on Efficiency in Government heard from interested parties about the process used by the state to review treatment plans for certain children's mental health services before the services are provided.

This so-called "utilization review" is formalized in a contract between the Department of Public Health and Human Services (DPHHS) and Magellan Medicaid Administration, Inc. Under this contract, Magellan reviews the following services before they are provided to children 17 years of age or younger:

- admission to a psychiatric residential treatment facility (PRTF);
- psychiatric inpatient hospitalization;
- services involving partial hospitalization;
- therapeutic group care;
- therapeutic family care and therapeutic foster care;
- therapeutic home visits;
- outpatient therapy sessions if a patient has received 24 sessions and a provider is recommending additional sessions; and
- certain community-based psychiatric rehabilitation services if they are being provided in conjunction with some other services.

The federal government requires prior review of children's mental health treatment that involves inpatient psychiatric services in a psychiatric facility or program. Thus the federal government requires this review only for treatment at a psychiatric residential treatment facility or a hospital.

Clearly, Montana has chosen to require review of a number of additional services.

The utilization review contract that was set to expire on June 30, 2012, had been in place for seven years. In the final year of the contract, DPHHS was to pay Magellan \$1.7 million for utilization review and related services.

Committee members heard from DPHHS, Magellan, and interested parties about the reasons for utilization review and the provisions of the current contract. As a result, we agreed to recommend that the 63rd Legislature reduce the appropriation for utilization review services and pay for only the utilization review required by the federal government.

We believe the reduction will benefit children with mental health problems, Medicaid providers, and the state. Children would benefit because necessary services are less likely to be delayed by utilization review or a provider's appeal of a denial of services. Providers would benefit because they would receive prompt payment for the services they believe will improve a child's mental health and lead to treatment in a less restrictive setting.

Finally, the state would benefit because reducing the number of services reviewed by an outside company would reduce the costs of utilization review. Paying only for the utilization review required by the federal government would save the state more than \$1 million.

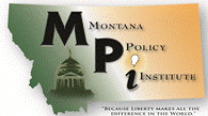
Thus the Select Committee on Efficiency in Government respectfully requests that future utilization review contracts cover only the federally required services. Along with the other members of the Select Committee, I sincerely hope that the House Appropriations and Senate Finance and Claims Committees of the 63rd Legislature will give this request serious consideration.

Appendix B

This appendix includes the PowerPoint slide presentation on *Priority Budgeting* that Carl Graham, CEO of the Montana Policy Institute in Bozeman, gave to the Select Committee on September 10, 2012, at the State Capitol.

Priority Budgeting For Montana

Select Committee on Efficiency in Government 9/10/2012



Carl Graham
CEO
Montana Policy Institute

Bottom Line

Why Now, Why This?

- Sailing into a perfect storm
 - Structural deficit
 - Off-Budget spending
 - Revenue Volatility
 - Medicaid
 - Pensions
 - Federal funding uncertainties
- “Present Law” system inadequate
 - Assumes current spending is necessary and efficient
 - Creates “Iceberg” effect focused on visible changes, not bulk of current programs and spending
 - “Inputs” Focused



The Coming Storm

- Structural Deficit
 - Compares ongoing spending w/ ongoing revenues
 - P&L vs. Balance Sheet approach
- General Fund budget in deficit 6 years running
- 2013/2015 revised upwards w/ 2015 forecast
- Revision carries significant risks
 - Natural resource revenue volatility
 - Pension obligations
 - Healthcare costs (Medicaid expansion)
- Can no longer count on GF ending balance for budget stabilization during downturns



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Off Budget Trends

| Year | Dedicated Revenues | General Fund | Total Revenue | Dedicated revenue/ Total Revenue % |
|------|--------------------|--------------|---------------|------------------------------------|
| 1990 | 961 | 346 | 1307 | 73.5 |
| 2000 | 665 | 1055 | 1720 | 38.7 |
| 2005 | 616 | 1385 | 2001 | 30.8 |
| 2011 | 855 | 1695 | 2549 | 33.5 |

- ✓ Lack of transparency/accountability
- ✓ Lack of legislative oversight
- ✓ “Special” protected status in the budgeting process



- Cannot compare to other priorities
- Requires positive action to change

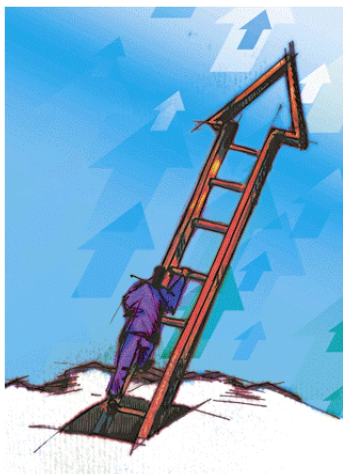
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Matching Resources and Requirements

Priority Budgeting

Priority Budgeting: What Does It Look Like?



How will the state measure progress and success?

How much is available to spend?

How can essential services be delivered efficiently and effectively?

What must the state accomplish?



What Must the State Accomplish?

- Identify core state functions

What Must the State Accomplish

What?

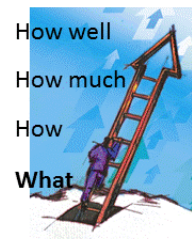
WA State Core Functions

- Student achievement
- Health of Washingtonians
- Security of most vulnerable
- Economic vitality
- Mobility of people, goods
- Safety of people/property
- Quality of natural resources
- Culture/recreation
- Govt efficiency/effectiveness

How?

LA Streamlining Commission

- 238 recommendations
- Hundreds of millions \$\$
- 19% reduction in spending
- 89 bills for implementation

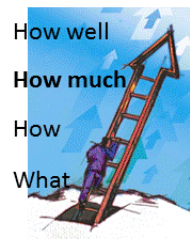


How: Efficiency and Effectiveness

- Core function review:
 - Outcome based, not agency
 - Program identification, evaluation and ranking
 - Duplication identified, addressed

How Much: Performance-Based Budgeting

- Determine top line spending amount
 - Revenue estimates: All sources
 - Spending caps/growth limits
- Allocate spending to core functions
 - Align programs under core functions
 - Prioritize programs
 - Above the line: Fund
 - Below the line: Can't afford
- Focus is on outcomes, not inputs

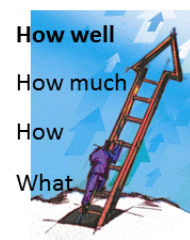


How Much: Program Racking and Stacking

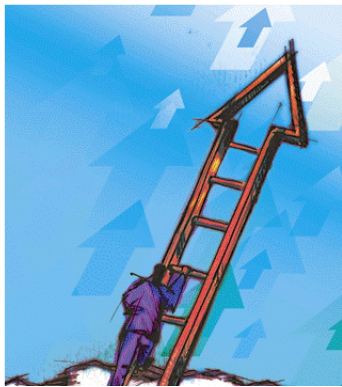
| | Student Achievement 30% | Public Safety 20% | Citizen Mobility 30% | Public Health 20% |
|------------------|----------------------------|----------------------|-------------------------|----------------------|
| Outcome A | Program | Program | Program | Program |
| Program | Program | Program | Program | Program |
| Program | Program | Program | Program | Program |
| Program | Program | Program | Program | Program |

How Well: Measuring Performance

- Performance-based – outcomes, not activities
- Clear missions and goals – related to core functions
- Performance measures: Specific, measurable results
- Institutionalized process
- Methods vary
 - Sunset Advisory Commission (CO)
 - Competitive sourcing
 - Performance audits: internal/external



Priority Budgeting



How will the state measure progress and success?

How much is available to spend?

How can essential services be delivered efficiently and effectively?

Priority Budgeting Summary

Key Benefits

- Explicit definitions:
 - Goals
 - Core functions
- Explicit prioritization
- Comprehensive: no iceberg
- Systematic review
- Focus is on outcomes rather than inputs
- Effectiveness/Efficiency not a partisan issue

Key Enablers

- Spending limits
 - Revenue-based
 - Growth limits
- All-inclusive
 - Revenues
 - Spending
- Consensus-based approach
- Transparency
 - Process
 - Products

Key Challenges

- Legacy programs
 - Stakeholders
 - Constituents
- Bureaucratic inertia
- Reaching consensus
 - Goals
 - Missions
 - Metrics



Other Resources

- NCSL has a number of resources that provide detailed information on performance based budgeting along with state experiences with PBB. Please see the following list of links and attachments.
 - *Legislative Performance Budgeting*, <http://www.ncsl.org/default.aspx?tabid=12617>
 - *Asking Key Questions: How to Review Program Results*, <http://www.ncsl.org/default.aspx?tabid=21387>
 - *Five Actions to Improve State Legislative Use of Performance Information*(attached)
 - *Legislating for Results*, <http://www.ncsl.org/default.aspx?tabid=12672>
 - *Governing for Results in the States: 10 Lessons*, <http://www.ncsl.org/default.aspx?tabid=12607>
- ALEC State Budget Reform Toolkit. See Section II "Tools to Modernize State Budgeting" http://www.alec.org/wp-content/uploads/Budget_toolkit.pdf
- New Mexico Legislative PBB resources (<http://www.nmlegis.gov/lcs/lfc/lfcperfbdg.aspx>)
- New Mexico Governing for Results: Presentation to the Government Restructuring Task Force (<http://www.nmlegis.gov/lcs/handouts/GRTF%20Cathy%20Fernandez%20and%20Dannette%20Burch.pdf>)
- Montana Policy Institute will publish "Budgeting for Results: A Fiscal Road Map for Montana" in October 2012. The study will include detailed analyses of Montana's budgeting process and challenges, along with a roadmap for Priority Based budgeting in the state.



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Are We The First?

Nope

- Alaska: Considering legislation
- California: Implementing via Executive Order
- Florida: Implemented by Governor
- Georgia: Implementing in 10% increments
- Illinois: Budgeting For Results law but not much progress
- Iowa: Implementing for K-12
- Kansas: Considering legislation
- Minnesota: Considering legislation
- Mississippi: Considering legislation
- Montana: Partial implementation – Missions/goals
- Nevada: Passed 2011
- New Hampshire: Considering legislation
- Ohio: Considering legislation
- Oregon: Considering legislation
- South Carolina: Governor intent to implement
- Utah: Bill to be introduced 2013



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Priority Budgeting For Montana

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Select Committee on Efficiency in Government 9/10/2012



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