

Appendix A

Preliminary Study Outlines for Interim Studies

2015 - 2016

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PRELIMINARY STUDY OUTLINE -- HB 422

Study: HB 422

Short Title: Evidence-Based Children's Mental Health Outcomes

Staff Recommendation: Statutorily Assigned to the Children, Families, Health, and Human Services Interim Committee

Preliminary Analysis

Issue(s) as listed in legislation:

- Recommend a system for evidence-based outcomes for children's mental health services
- Recommend options for performance-based reimbursement for providers of children's mental health services
- Review current system of children's mental health services and the Medicaid payment rates for those services
- Consider ways that the array and effectiveness of a provider's services could factor into the reimbursement rates
- Consider potential incentives for and risks of using evidence-based outcomes models

Preliminary study approach:

- Meet with the Department of Public Health and Human Services to identify material that is already available and that can be developed to assist in the study
- Meet with stakeholders to identify ideas, existing research, and their ideas for study approaches and priorities. Stakeholders other than DPHHS include children's mental health providers, advocacy groups such as the Montana Children's Initiative and the Legacy Provider Group, and family members of children receiving mental health services.
- Review pay-for-performance models in other states
- Review existing studies on evidence-based outcomes and pay-for-performance models
- Provide informational materials and arrange presentations as noted below
- Arrange for one out-of-town meeting as required by the bill to obtain public comment.

Deliverables; end products:

- Briefing papers on:
 - 1) existing children's mental health services, payment sources, and reimbursement rates
 - 2) how children qualify for state-funded mental health services
 - 3) the requirements that mental health providers would have to meet to participate in a pilot project, under the requirements of HB 422
 - 4) pay-for-performance models used in other states
 - 5) other topics as needed or requested
 - 6) decision tools to help the committee take the following actions that are required under HB 422: recommend an evidence-based outcomes model, make recommendations on the scope of the pilot project that DPHHS must undertake, and propose legislation containing an evidence-based outcomes model and other elements of a pilot project, including performance-based reimbursement options
- Panel or other presentations as needed on:
 - 1) the current medicaid reimbursement system for children's mental health system
 - 2) existing data collected by DPHHS that may inform the study
 - 3) data that should be collected and options for collection of that data, including any necessary changes to the state's IT systems
 - 4) potential incentives for and risks of evidence-based outcomes models
 - 5) evidence-based and pay-for-performance models used in other states and the results experienced by those states
- As required by HB 422, legislation to implement the pilot project
- Final report of committee activities

Role for LFD or LAD staff? x **Yes** **No**

Role for Executive agency? x **Yes** **No**
(Department of Public Health and Human Services)

Additional costs, over meetings? x **Yes** **No**

Bill requires one meeting outside of Helena, but appropriation for the meeting was removed.

Estimated LSD staff time: 800-1,000 **hours**

Other comments:

HB 422 originally assigned the tasks outlined in this PSO to a 15-member task force made up of 4 legislators and 11 gubernatorial appointees representing the different stakeholders. The task force was supposed to work with DPHHS to design the evidence-based outcomes system and was to meet at least six times a year. An amendment to the bill eliminated the task force but kept all of the duties assigned to it. The duties were just assigned to the Children and Families Committee, instead.

The committee members will not start this study with the same level of knowledge that a stakeholder task force would have had of the current system of children's mental health services, the use of evidence-based outcomes, options for measurement of outcomes, and the potential benefits and drawbacks of performance-based reimbursement. Similarly, the committee staff will not a knowledge level equivalent to the DPHHS staff that would have been working with the task force. In addition, the committee will meet fewer than six days a year and will have other duties to carry out during the interim. Yet the bill requires the committee to make recommendations on numerous topics and develop legislation for a pilot project.

Staff anticipates that this study will take the bulk of the committee's time during the interim, making it difficult for the committee to undertake any optional studies.

PRELIMINARY STUDY OUTLINE -- HB 430

Study: HB 430

Short Title: Providing for a Judicial Redistricting Commission

Staff Recommendation: Bill requires LSD to staff the commission

Preliminary Analysis

Issue(s) as listed in legislation:

A seven-member commission shall study whether judicial redistricting is necessary using the following factors:

- the population of the judicial districts as determined by the latest figures prepared and issued by the United States Census Bureau;
- each judicial district's weighted caseload as determined by judicial workload studies;
- the relative proportions of civil, criminal, juvenile, and family law cases in each judicial district;
- the extent to which special masters, alternative dispute resolution techniques, and other measures have been used in the judicial districts;
- the distances in highway miles between county seats in existing judicial districts and any judicial districts that may be proposed by the commission;
- the impact on counties of any changes proposed in the judicial districts; and
- any other factors that the commission considers significant to the determination of whether the state's judicial districts should be redistricted

Preliminary study approach:

Before the first meeting staff should gather and format existing Census, judicial workload, and case-type data and load it into the GIS program(s). Also, existing distances between county seats in districts should be gathered or calculated (if necessary).

The commission should:

- review and understand existing districts, judicial workload, case-type, and population data;
- review the extent to which special masters, alternative dispute resolution or other measures are used;
- take comments from interested parties and the public, including county commissioners, judges, attorneys, litigants;
- determine if the commission wants or needs to consider other factors;
- propose possible district realignments and study the effects those realignments might have on judges, counties, and other stakeholders;
- gather additional comments on any proposals; and
- report results to 2017 Legislature along with any legislative proposals.

Deliverables; end products:

- Work plan
- Maps as needed
- Staff papers as needed
- Panels or presentations on:
 - districts' use of special masters, dispute resolution methods, other methods to adjust workload;
 - use of treatment courts and effect on workload;
 - county costs to support judges and space issues/needs.
- Legislation, if required to implement commission recommendations
- Final report

Role for LFD or LAD staff? **Yes** x **No**

Role for Executive agency? **Yes** x **No**

The legislation does not require the participation of the Judicial Branch, but the success of the commission's work will depend on it.

Additional costs, over meetings? **Yes** x* **No**

Estimated LSD staff time: 800-1200 **hours**

Other comments:

The fiscal note assumes six meetings, only one of which would be a two-day meeting. Much of the workload data is already done. The staff work is largely front-loaded in the sense that the time required to format and load the data into the GIS program(s) will need to be accomplished before the first commission meeting. After that, the range of possible options for district changes isn't infinite nor complicated (compared to legislative redistricting) and the bill drafting to effect changes in districts is relatively straight-forward. The judicial branch already has extensive workload and case type data so the need for further data collection should be limited. LEPO staff with GIS expertise have also volunteered to help.

*Because this study anticipates gathering public input at several stages, it might be necessary or at least more efficient for commission members or staff to travel to meetings or conventions to reach the affected parties, such as district court judges, court clerks, attorneys, and county commissioners. The cost could be minimal if commission members were already planning to attend the meeting or the convention.

PRELIMINARY STUDY OUTLINE -- HB 627

Study: HB 627

Short Title: Study of Office of State Public Defender

Staff Recommendation: Bill establishes a special task force

Preliminary Analysis

Issue(s) as listed in legislation:

The bill's preamble states the organizational structure of the Office of Public Defender (OPD) has changed over time in response to court rulings and include three programs, each with its own chief. The preamble also states there has been a 14.6% increase in the Public Defender's Program caseload since 2010, of which 34% is attributable to abuse and neglect cases, and a 42% increase in the Appellate Defender Program.

The study must examine:

- the constitutional duties of the office;
- the statutory duties of the office;
- the ethics and professional responsibilities of attorneys employed at the office;
- how other states provide assistance of counsel to those who qualify for assistance, including how those states structure and fund their offices or programs and any litigation on the structure and funding of those offices and programs;
- the effects of compensation and workloads on the recruitment and retention of attorneys and administrative and support staff;
- measures and resources that could be implemented or assigned to improve staff and attorney recruitment and retention issues;
- the possibility, costs, and benefits of restructuring the office; and
- any other issues related to the duties, funding, and ethical obligation of the office that the task force determines are relevant to develop a long-term organizational plan that will allow the office to accomplish its constitutional and statutory duties.

Preliminary study approach:

The bill specifies that the task force:

- shall involve input from the various stakeholders of the office and the legal system and, to the extent possible, consult with outside experts about Montana's system and systems in other states;
- shall coordinate meetings with the law and justice interim committee LJIC;
- may hold no more than five meetings; and
- shall complete it's work by September 15, 2016.

To accomplish the tasks listed above, the overall study approach would be similar to other interim committees. The task force would adopt a study plan that includes only 5 meetings. One or more of the meetings would need to be coordinated with the LJIC. The basic approach to each of the tasks outlined in HB 627 would likely be as follows:

- The constitutional and statutory duties of the office would involve legislative staff research and legal analysis, which could build off of what was already done by the LJIC when the OPD legislation was crafted during the 2004-05 interim. This also involves presenting information to the task force about the established case law in the area of indigent defense.
- Examination of the ethics and professional responsibilities of attorneys employed at the office could be done through a review of ABA standards and the standards of the National Legal Aid & Defender Association. Also, the task force could invite testimony from objective third-party experts from the UM law school on ethics and professional obligations. The task force could then compare these standards to the OPD's personnel policies concerning qualifications and training.
- The 2004-05 LJIC examined in detail the various ways other states structure and fund their public defender offices. The LJIC also received in-person testimony from public defender chiefs in other states as well as from expert consultants. This information could be revisited, updated, and built upon. Additionally, the BJA publishes a compendium of standards for structuring indigent defense services and articulates the statutory language underpinning these standards. Also, the task force could review the peer review conducted by American University of OPD, which was done several years ago.
- Examination of the issue of who qualifies for OPD services and whether OPD is providing services to people who are not "indigent" will be a challenge within the 5-meeting limit and considering all of the other tasks. Legislative staff will need to spend a significant amount of time outside of the task force meetings to gather and distill information for the task force. This task may also involve requesting assistance from the Legislative Audit Division, depending on the task force's study plan decisions.
- Analysis of the effects of compensation and workloads on the recruitment and retention of attorneys and on administrative and support staff could be accomplished by requiring OPD to provide salary schedules, caseload information, and staff turnover information.
- For the task force to develop measures and recommend resources to improve staff and attorney recruitment and retention, the task force will need to spend a time understanding the dynamics behind the recruitment difficulties and turnover rates being experienced by OPD. This information will need to be put into context by examining public defender salaries, caseloads, and turnover rates in other states.
- For the task force to analyze the possibility, costs, and benefits of restructuring the OPD, the task force will need to examine the details of how other states structure and fund their offices, identify the pros and cons of those approaches, and consider testimony and comments from OPD and all of the other stakeholders in this study. This task involves oral testimony, legislative research, and fiscal analysis.

Deliverables; end products:

The bill specifies that the task force shall prepare a final report of its findings, conclusions, and recommendations, shall prepare draft legislation whenever appropriate; and shall submit the final report to the governor, the chief justice of the supreme court, and the 65th legislature.

Role for LFD or LAD staff? X **Yes** **No**

The bill sponsor, Rep. Randy Brodehl, testified that the objective of the study is to develop a long-term corrective budget plan for the OPD. If that is to be accomplished, LFD staff will need to provide significant staff support to this task force. This support will likely need to include, at a minimum:

- a detailed break down of the OPD's budget for personnel and operations;
- an analysis of the key "pressure points" that have caused the OPD to exceed its authorized budget;
- a fiscal analysis of any restructuring proposals developed by the task force; and
- a 6- to-10-year budget plan as envisioned by the bill's sponsor.

Depending on how deep of an examination the task force wishes to make of how OPD determines indigence, there may also be a need to request legislative audit staff assistance.

Role for Executive agency? X **Yes** **No**

The OPD will need to be significantly engaged in providing the task force with detailed information on the agency's structure, funding, personnel, and operational processes.

Additional costs, over meetings? **Yes** X **No**

HB 627 appropriated \$24,000 from the general fund to LSD for the biennium to support the study. This amount is sufficient to cover only the costs of meetings.

Estimated LSD staff time: 1500 - 2500 **hours**

Other comments:

HB 627 was requested and passed in the context of a budget decision to provide one-time-only funding for the OPD for the next biennium and at levels below the funding proposed in the governor's initial budget. Bill sponsor Rep. Randy Brodehl testified that the objective of the study is to "rebuild" the OPD and develop a 6- to 10-year budget for the agency as a "corrective" plan. Rep. Brodehl stated that the agency's expenditures have consistently exceeded its authorized budget and have been increasing at a higher percentage rate than desirable. Rep. Brodehl also testified that OPD had been requested to provide but had failed to provide to the Appropriations' Joint Subcommittee on the Judicial Branch, Law Enforcement, and Justice a satisfactory "corrective budget plan".

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PRELIMINARY STUDY OUTLINE -- SB 128

Study: SB 128

Short Title: Establish decennial school funding study

Staff Recommendation: Assign to School Funding Interim Commission

Preliminary Analysis

Issue(s) as listed in legislation:

Senate Bill No.128 amended 20-9-309, MCA, to require the legislature to create a School Funding Interim Commission every 10 years, replacing the previous requirement that the legislature "authorize a study" of school funding every 10 years. The bill also created a new section of law describing the membership and duties of the commission and requiring its formation for the 2015 - 2016 interim. The commission's duties are:

1. conduct a study to reassess the educational needs and costs related to the basic system of free quality public elementary and secondary schools; and
2. if necessary, recommend to the following legislature changes to the state's funding formula.

The commission is to be staffed by LSD with additional LFD staff assigned to assist the Commission.

Preliminary study approach:

There are several different methodologies for conducting a cost assessment for state K-12 school systems. The committee will need to determine early on how to go about conducting this assessment, including whether to contract with a 3rd party entity. The committee will also need to decide which aspects of the K-12 system to focus on. For instance, how much emphasis does the committee want to put on school transportation, teacher compensation, school facility needs, etc.? The bill included an appropriation of \$55,000 and indicated the intention of holding two one-week meetings. The committee will also need to determine the feasibility of this proposed schedule. One possible approach would be a hybrid schedule that incorporates two longer multi-day meetings with two shorter meetings:

August 2015 - convene for 1-2 day planning meeting

- "Why are we here?"-brief review of origin of statutory requirement for study; litigation history; 2005 session; QSIC
- Current funding formula overview/primer
- Determine method for "reassessing the educational needs and costs of the basic system..." (look at definition of basic system; examine methodologies for assessing; decide on utilizing consultants)
- Consider scope of study: what funding components to include/emphasize/ignore
- Consider forming work groups for particular aspects of study
- Design/adapt work plan and meeting schedule that works within budget

Winter 2015/2016 - convene for 3-4 day meeting

- More in-depth review of current formula
- Reports on reassessment
- Reports on other components; other state formulas
- Discuss possible changes to current funding formula (could range from technical cleanup of specific current sections to tweaks of current formula to complete overhaul/replacement of formula)
- Direct staff regarding any possible bill drafts related to above and any follow-up reports needed

Spring/Summer 2016-convene for 3-4 day meeting

- Follow-up reports
- Discuss bill drafts

Fall 2016-possible 1-2 day final meeting

- Recommend committee bills
- Review final report draft

The bill calls for 12 legislators and 4 public members to be appointed to the commission. In addition to these official members, representatives of the following can be expected to participate:

- The Office of Public Instruction
- The Board of Public Education
- The Governor's Office of Budget and Program Planning
- The Montana School Boards Association
- School Administrators of Montana
- The Montana Rural Education Association
- MEA-MFT
- The Montana School Business Officials Association
- The Montana Quality Education Coalition

Deliverables; end products: Commission work plan and meeting schedule; any requested staff reports or contracted assessments; panel discussions and testimony from subject matter experts and stakeholders; final report with recommendations, including any draft legislation.

Role for LFD or LAD staff? X Yes No

The bill requires LFD to provide staff to assist the commission.

Role for Executive agency? X Yes No

The School Finance Division within the Office of Public Instruction, the Board of Public Education, and the Governor's Office of Budget and Program Planning are likely participants in the study.

Additional costs, over meetings? ? Yes No

Possible use of outside consultant for assessment of the educational needs and costs of the basic system.

Estimated LSD staff time: 3000 - 5000* hours

* This estimate includes one research analyst, one staff attorney, and one fiscal analyst.

Other comments: The scope and workload of this commission is difficult to predict. Previous school funding studies have been conducted but under vastly different circumstances. The 2005 Quality Schools Interim Committee (QSIC) is the most recent example, but was under a tight time constraint of several months and was also tasked with revising the school funding formula enough to satisfy a court decision that found the existing formula to be unconstitutional and inadequate. The total cost of the QSIC study was approximately \$230,000 in 2005.

PRELIMINARY STUDY OUTLINE -- SB 224

Study: SB 224

Short Title: Criminal Justice/Sentencing Commission

Staff Recommendation: Bill requires LSD to staff the commission

Preliminary Analysis

Issue(s) as listed in legislation:

The bill creates a 15-person commission on sentencing, which is required to:

- conduct an empirical study of the impact of existing sentencing policies and practices on Montana's criminal justice system, including state prison capacities, local jail and detention center capacities, community supervision and parole resources, judicial operations, public defense expenditures, and law enforcement responsibilities;
- identify strategies to safely reduce incarceration in state prisons and to promote evidence-based diversion programs and other effective alternatives to incarceration;
- investigate the factors contributing to recidivism, evidence-based recidivism reduction initiatives, and cost-effective crime prevention programs;
- consider issues regarding disparity in the criminal justice process, including but not limited to racial and ethnic disparity issues;
- identify opportunities to:
 - streamline and simplify the criminal code; and
 - balance sentencing practices and policies with budget constraints;
- prepare a report of findings and recommendations for submission to the 65th legislature, including evidence-based analysis and data; and
- make a recommendation to the 65th legislature as to whether the commission should continue in existence.

The commission is required to meet quarterly.

Preliminary study approach:

The preliminary study approach will vary greatly depending on two factors. One, the funding for the study was line-item vetoed by the governor. As a result, the commission does not have funding to compensate members for participation. Two, Susan and Rachel are exploring the possibility of state officials inviting a team from the Council of State Governments to come to the state to work with the commission on a justice reinvestment project funded by the U.S. Department of Justice's Bureau of Justice Assistance. Either way, the commission's first task will be to request funding from the Legislative Council.

Step 1: Request funding from the Legislative Council. The fiscal note for SB 224 assumed 2 one-day meetings and four two-day meetings. The appropriation was \$28,000 and covered compensation for legislators and public members and travel expenses for all eligible members. It also covered contracted secretarial and other support services.

Step 2: Dependent on outcome of the justice reinvestment project. If the state decides not to apply or if CSG decides not to accept the application, the commission will need to develop a work plan that fits within the budget set for it by the Legislative Council. The options range from the full assumed number of 6 meetings in Helena to quarterly conference calls. Because the study is required in law, the commission should meet at least quarterly by whatever means it chooses.

Deliverables; end products:

Regardless of how the commission is able to shape its work, possible deliverables include:

- Work plan
- Various staff and department papers
- Panel presentations
- Public comment
- Legislation, if required to implement commission recommendations
- Final report

Role for LFD or LAD staff? **Yes** **No**

LFD staff might be needed to run cost-estimates.

Role for Executive agency? **Yes** **No**

Many executive agencies will be represented on the commission. Commission members and staff will rely heavily on agencies to provide data and analysis. The Judicial Branch will need to be involved, as well. This is especially true if the justice reinvestment possibility doesn't work out.

Additional costs, over meetings? **Yes** **No**

The bill does not contain an appropriation, so the commission will need to apply to Legislative Council for funding to comply with compensation and expense requirements.

Estimated LSD staff time: **?** **hours**

The amount of LSD staff time is impossible to accurately estimate because it depends so heavily on funding from the Council for the commission's work and the possibility of CSG involvement. The previous sentencing commission had its own full-time staff person and also relied heavily on several staff from the Department of Corrections. If funded by Legislative Council, the SB 224 commission could use a full-time staff person, whatever that amounts to in terms of hours. But if Montana applies to CSG and is accepted, the staff work would be reduced greatly. If the justice reinvestment possibility doesn't work out and Council decides not to fund the commission's work as anticipated by the fiscal note, the amount of needed staff time could diminish greatly. There are enough moving pieces that it is difficult to nail down a reasonable estimate of staff time at this point. By the end of May or early June, there should be more information available on the justice reinvestment possibility and the Council funding decision.

Other comments: How this study may be conducted is unusually and heavily dependent upon the potential support from CSG, including staffing and budget.

PRELIMINARY STUDY OUTLINE -- SB 390

Study: SB 390

Short Title: Study Fees Assessed by Department of Labor and Industry for P&O Licensing

Staff Recommendation: Statutorily Assigned to Economic Affairs Interim Committee

Preliminary Analysis

Issue(s) as listed in legislation:

The study must include (but is not limited to):

- (a) fees incurred, calculated, or charged by the Department of Labor and Industry that are:
 - (i) associated with licensing individuals, including initial licensing, reciprocity, and renewal;
 - (ii) related to compliance, including inspections and audits; and
 - (iii) related to any legal or enforcement actions;
- (b) costs by the department that are:
 - (i) direct and indirect costs;
 - (ii) standardized administrative service costs for license verification, duplicate licenses, late penalty renewals, license lists, and other administrative service costs;
 - (iii) administrative service costs not related to a specific board or program; and
 - (iv) legal costs;
- (c) whether fees for administrative services are commensurate with the costs of the services provided; and
- (d) whether the services provided add value to the work of the boards and contribute to public safety.

Preliminary study approach:

The preliminary study document would include:

- a history of how the Department of Labor and Industry has developed its current "fees commensurate with costs" structure;
- examples based on past materials delivered to the EAIC on board costs;
- questions to committee members to determine what information in particular they want regarding costs of boards;
- a review of materials provided to the Appropriations/Senate Finance and Claims Committees to determine how much detail these committees receive during the budgeting process and, if possible, see whether board and department roles are separated out. This helps determine department flexibility to move appropriation authority.
- a look at how often appropriation authority is transferred among boards, for what purposes, and how authorized; and
- a review of Audit Committee financial reports related to licensing boards.

The study would include discussions with Department of Labor and Industry budgeting personnel, the administrator of the Business Standards Division, and any board members who wish to meet (in person or via teleconference) with the EAIC related to their budget process.

The study also would include:

- a comparison with other Montana agencies that staff similar administratively attached boards or councils to determine if costs are equivalent. In particular, the comparison would include a review of how the Department of Justice assesses costs for attorneys in comparison with how the Department of Labor and Industry does the same assessments.
- sample costs from other states' licensing boards to determine licensing costs from a regional perspective for similar activities.

Deliverables; end products:

A final product would:

- show the rationale used by the Department of Labor and Industry to determine direct and indirect costs for licensing boards;
- provide a budget analysis of indirect costs assessed by the Department of Labor and Industry to licensing boards and to its other units to determine revisions, if any, over time;
- provide a perspective on Montana cost assessments in comparison with other state licensing boards in the region;
- recommend, if legislators determine a need, ways to increase transparency for the boards and licensees regarding their budgets; and
- draft legislation, if any is needed, to clarify how direct and indirect costs are to be developed, whether contingency authority is appropriate for a board individually or for the department, and whether the concept of administratively attached agencies needs to be refined in general.

Role for LFD or LAD staff? **Yes (both possibly)** **No**

Role for Executive Agencies? **Yes (DLI)** **No**

Additional costs, over meetings? **Yes** **No**

Estimated LSD staff time: 320 - 600 **hours**

Other comments:

LSD staff would attend some board meetings to observe DLI administration interaction with boards related to budgets and to be available for questions by the boards related to the study.

The governor removed the appropriation included in the bill, which would have paid for two separate EAIC meetings to address SB 390 specifically. The regular meetings of the Economic Affairs Interim Committee will now incorporate the SB 390 study in addition to existing monitoring of licensing boards.

PRELIMINARY STUDY OUTLINE -- SB 418

Study: SB 418

Short Title: Monitor/ Evaluate DPHHS Implementation of Legislative Mental Health Investments

Staff Recommendation: Statutorily Assigned to Children, Families, Health, and Human Services Interim Committee

Preliminary Analysis

Issue(s) as listed in legislation:

- Monitor how the Department of Public Health and Human Services implements the following mental health objectives established for the investments the 2015 Legislature made in mental health services:
 - increase use of community-based crisis intervention services to reduce short-term admissions to the Montana State Hospital
 - reimburse providers for effective prevention and treatment that enables sustainable recovery in communities, as shown through quality assurance activities and analyses
 - improve outcomes for individuals with serious mental illness and co-occurring substance disorders, as demonstrated through data collection on individual client outcomes for recovery markers and performance measures
 - improve collaboration between community mental health providers, nursing homes, and state-run facilities, as demonstrated through an increase in state facility discharge rates with a corresponding decrease in client recidivism to state facilities
- Evaluate the implementation of the objectives listed above.
- Report to the 65th Legislature on:
 - how the implementation of the objectives was carried out
 - areas that need continued improvement

Preliminary study approach:

- Meet with DPHHS to determine how the department will be collecting the data required above, including data on client outcomes and client recidivism
- Meet with stakeholders to discuss how they plan to be involved in evaluation of the objectives
- Monitor admissions, discharges, and re-admissions at the Montana State Hospital, Montana Mental Health Nursing Care Center, and community crisis intervention programs
- Schedule DPHHS reports and public comment at every committee meeting so the committee receives ongoing information about implementation of the objectives

- Schedule time for committee members to evaluate the implementation and to identify recommendations to make to the next legislature
- Provide information and decision tools to assist committee members in evaluating whether implementation meets legislative objectives and whether improvements are needed

Deliverables; end products:

- Briefing papers on:
 - 1) mental health initiatives approved by the 2015 Legislature
 - 2) Montana State Hospital admissions, discharges, and recidivism (on an ongoing basis, to determine how they change over the interim)
 - 3) development of new community-based crisis services
 - 4) use of community-based crisis services (on an ongoing basis, to determine how they change over the interim)
- DPHHS update at every meeting
- Panel or other presentations as needed on:
 - 1) development of community-based services
 - 2) data showing how well DPHHS is implementing the objectives
- Decision tools to help the committee determine:
 - 1) standards for evaluating how well DPHHS is implementing the objectives
 - 2) recommendations for the 2017 Legislature
- Report to the Legislature, as required under SB 418
- Legislation, if requested

Role for LFD or LAD staff? x **Yes** **No**

Role for Executive agency? x **Yes** **No**

Additional costs, over meetings? **Yes** x **No**

Estimated LSD staff time: 800-1,000 **hours**

Other comments:

An amendment to SB 418 required the Children and Families Committee to undertake the activities listed in this PSO. The activities essentially follow up on the legislation proposed by the Children and Families Committee last interim and approved by the 2015 Legislature.

Only two members of last year's interim committee will serve on the committee this interim. In addition, most of the mental health bills went to the House Appropriations and Senate Finance and Claims committees, so the members of the standing committees did not have the benefit of hearing the details of the policy issues involved. Staff anticipates that the first few meetings will be devoted to reviewing the Montana mental health system and the history behind the 2015 mental health bills so that members will be able to better evaluate implementation efforts.

PRELIMINARY STUDY OUTLINE -- HJR 7

Study: HJ 7 Interim Study Poll Rank: 3

Short Title: Study of Next-Generation 9-1-1

Staff Recommendation: Assign to Energy and Telecommunications

Preliminary Analysis

Issue(s) as listed in legislation: (1) Next-generation 9-1-1 can improve emergency response and public safety in an increasingly mobile society. (2) Next-generation 9-1-1 must evolve with technological advancements and its implementation in Montana will require coordination and innovation.

Preliminary study approach: (1) Examine the state and federal regulations that will guide implementation and advancement of next-generation 9-1-1. (2) Engage key stakeholders to discuss how best to develop a plan to advance next-generation. (3) Analyze opportunities to either establish a process for furthering that plan or the initial steps needed to implement a plan. (4) Depending on how much time the committee dedicates to the subject, the committee could expand the analysis to include analysis of direct and indirect financing opportunities for next-generation 9-1-1. This could include a review of stranded 9-1-1 funds and the relationship, if any, to next-generation 9-1-1.

Deliverables; end products: (1) Study outline. (2) White paper with findings and recommendations. (3) Proposed legislation, if any.

Role for LFD or LAD staff? x Yes (This will depend upon whether or not the committee decides to expand the analysis to include financing opportunities.)

Role for Executive agency? x Yes (This will depend upon whether or not the committee decides to expand the analysis to include financing opportunities.)

Additional costs, over meetings? Yes x No

Estimated LSD staff time: 150 to 300 hours

Other comments: None

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PRELIMINARY STUDY OUTLINE -- HJR 8

Study: HJR 8 Interim Study Poll Rank: 14

Short Title: Study the current and future state of Montana Law Enforcement Academy funding and operations

Staff Recommendation: Assign to Legislative Finance Committee

Preliminary Analysis

Issue(s) as listed in legislation:

The resolution requests a committee to:

- study long-term funding options for the Montana Law Enforcement Academy (MLEA); and
- examine the current state and future of the operations and campus needs of the MLEA.

Preliminary study approach:

- review current funding structure and amount (applicable statutes and relevant financial data);
- visit MLEA campus to observe campus;
- listen to stakeholder feedback about operational and campus needs;
- identify needs to operate MLEA at desired level and quantify the cost of satisfying those needs;
- identify additional or replacement funding sources; and
- draft legislation as needed to implement any changes.

Deliverables; end products:

- background report on current structure and duties of MLEA, including existing funding structure, legislative history, and shortfall;
- short report on current and future needs; and
- legislation to alter funding mechanism, if desired.

Role for LFD or LAD staff? X Yes No

Staff recommends assigning the study to the LFC.

Role for Executive agency? Yes X No

Only to the extent that the Department of Justice and the Department of Corrections are included as stakeholders whose opinions should be solicited.

Additional costs, over meetings? X Yes No

There would be a small cost for a motor pool van to drive the committee to MLEA.

Estimated LSD staff time: 0-8 hours if assigned to LFD hours

If assigned to LFC/LFD, there's no need for LSD to be involved beyond assistance with bill drafting and possibly participating in any site visit. If assigned to an LSD committee, this estimate should be revised upward (120 hours?) to accommodate the time needed to produce the deliverables.

[My estimate of the time it would take a committee (ie, LFC) to study this issue is about 8 hours of committee time. That would include a several hour site visit of the MLEA (4 hours) and 4 more hours (spread out over the number of meetings) to discuss the current funding, possible funding options, and review any draft legislation. The discussion would include public comment from relevant stakeholders.]

Other comments:

The study isn't really focused on the policy need for the MLEA. It seems unquestioned that Montana needs the MLEA. The real discussion is over how to fund that program. Because of the focus on funding (how the current mechanism is falling short and what should replace it), the study is better suited for the Legislative Finance Committee rather than the more policy-focused interim committees.

PRELIMINARY STUDY OUTLINE -- HJR 13

Study: <u> HJR 13 </u> Interim Study Poll Rank: <u> 6 </u>
Short Title: <u> Study of federal roads and access on federal lands </u>
Staff Recommendation: <u> Assign to EQC </u>

Preliminary Analysis

Issue(s) as listed in legislation: Assess road access on federal land in Montana over a 35-year period to determine which roads have been closed and which roads have limits on access. The assessment should include:

- * the location of each road, including all gated roads;
- * the approximate mileage of each road; and
- * identification of the federal agency to which the road belongs.

Assess landlocked public parcels in Montana including:

- * the size and location of each landlocked parcel;
- * the number of landowners that own property adjacent to each parcel; and
- * whether any of the adjacent landowners permit outdoor recreationists to cross their property to reach each parcel;

Assess trends in permits and licenses being issued by the Department of Fish, Wildlife, and Parks in each area for elk and deer hunting over a 15-year period, with a specific emphasis on identifying reduced hunter opportunity in areas where roads have been closed on federal land or where there are large landlocked areas.

Preliminary study approach:

- * Gather requested data through a combination of staff research and cooperation from federal agencies.
- * Summarize data in comprehensible format.
- * Identify policy and legal issues affecting federal road management and access.
- * Identify options within jurisdiction of Montana to affect federal road management and access.

Deliverables; end products:

- * Maps, spreadsheets and summaries of data
- * Staff papers on policy and legal issues affecting federal road management and access
- * Committee recommendations, legislation

Role for LFD or LAD staff? **Yes** x **No**

Role for Executive agency? x **Yes** **No**

FWP will need to assist in gathering and analyzing data. Will likely require assistance from wildlife management as well as GIS personnel.

Additional costs, over meetings? X **Yes** **No**

It is possible federal agencies would require compensation for specialized data sets and analysis that would require extra staff time outside of regular duties to produce.

Estimated LSD staff time: Best estimate (200- 640) **hours**

Other comments: The amount of staff time will depend in part on the willingness of federal agencies, most likely the Forest Service and the Bureau of Land Management, to provide data and specialized analysis. Staff may be able to accomplish some analysis based on GIS data provided by the agencies, but that could significantly increase staff hours.

The study could have a strong local government component because counties would likely be consulted on local access issues. In either the EQC or the Local Government committee, this study could be paired with SJ 20 study of historic road right-of-way acquisition.

PRELIMINARY STUDY OUTLINE -- HJR 14

Study: HJR 14 Interim Study Poll Rank: 13

Short Title: Study of Eyewitness Identification Policies and Procedures

Staff Recommendation: Do Not Assign

Preliminary Analysis

Issue(s) as listed in legislation:

The resolution's preamble lists two main issues:

- eyewitnesses misidentification contributing to wrongful convictions; and
- the need to ensure that law enforcement agencies across the state uniformly adopt and implement eyewitness identification best practices.

The study is to:

- identify current written eyewitness identification policies and procedures in place at law enforcement agencies throughout the state;
- create a plan for a uniform, statewide adoption of the eyewitness identification model policy developed by the Montana Law Enforcement Academy (MLEA) by law enforcement agencies;
- identify resources to assist law enforcement with the adoption of eyewitness identification best practices that comport with the Montana Law Enforcement Academy policy;
- recommend essential components of training programs for law enforcement officers on eyewitness identification procedures;
- develop a compliance mechanism to ensure that law enforcement agencies have adopted evidence-based eyewitness policies; and
- identify any statutory changes needed to implement the policies.

Preliminary study approach:

The preamble of the resolution acknowledges that the MLEA has already adopted a model policy based on best practices and the recommendations of the National Academy of Sciences. The MLEA or the Police Protective Association could conduct its own survey and evaluation of eyewitness policies throughout the state and propose legislation for the next session if desired without committing legislative staff or committee resources to do this study.

If the study is assigned, legislative staff would:

- work with the MLEA to conduct a survey of all local law enforcement agencies;
- obtain and summarize the model policy developed by the MLEA;
- obtain and summarize the key components of the National Academy of Sciences' best practices;
- conduct a legal analysis of whether the state has authority to require local law enforcement agencies to adopt and/or comply with certain eyewitness policies;
- investigate whether other states have adopted a state compliance mechanism; and
- based on guidance from the LJIC, develop a committee bill draft to implement a statewide compliance program (within the scope of the state's authority) and provide the LJIC with a fiscal analysis of the estimated cost to implement the state compliance program.

Deliverables; end products:

- a staff paper for the LJIC or a final report to the legislature;
- a bill draft, if recommended and within the scope of the state's authority; and
- a fiscal analysis of the bill draft.

Role for LFD or LAD staff? X **Yes** **No**
LFD staff to provide fiscal analysis of any bill draft recommended.

Role for Executive agency? X **Yes** **No**
MLEA to help conduct a survey of local law enforcement agencies.

Additional costs, over meetings? **Yes** X **No**

Estimated LSD staff time: 480 to 640 **hours**

Other comments: If this study were to be undertaken, it would best be assigned to the Law and Justice Interim Committee. However, the LJIC and, especially, the LJIC staff is fully deployed on the studies directed statutorily through HB 430 (Judicial Redistricting) and SB 224 (Sentencing Commission) and the sexual assault study requested in SJR 24. Therefore, the staff recommends that this study not be assigned.

PRELIMINARY STUDY OUTLINE -- HJR 16

Study: HJ 16 Interim Study Poll Rank: 11

Short Title: Study of Ridesharing

Staff Recommendation: Assign to Energy and Telecommunications IC

Preliminary Analysis

Issue(s) as listed in legislation: (1) Ridesharing presents opportunities and challenges. (2) A piecemeal approach to regulating motor carrier services in Montana may result in a patchwork of conflicting standards that the Public Service Commission (PSC) must administer.

Preliminary study approach: (1) Receive updates from PSC on its rulemaking and any dockets that have come before the commission after passage of SB 396. (2) Engage key stakeholders to discuss new hybrid regulation of motor carriers and whether deregulation is more appropriate.

Deliverables; end products: (1) Panel discussion. (2) Proposed legislation, if any.

Role for LFD or LAD staff? x No

Role for Executive agency? x Yes PSC

Additional costs, over meetings? Yes x No

Estimated LSD staff time: 40 to 60 hours

Other comments: Assuming Senate Bill No. 396 is passed and approved, ridesharing will be available in Montana. The PSC has initiated rulemaking in anticipation of the July 1 effective date. The motor carrier industry continues to be quite distressed about this issue and the partial regulation they remain under. It may be useful for an interim committee to dedicate a couple hours to a panel discussion in 2016 to see how the industry is adjusting and how ridesharing is faring in Montana.

Because the PSC falls under the ETIC's monitoring responsibilities, staff recommends that the study be assigned to ETIC.

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PRELIMINARY STUDY OUTLINE -- HJR 21

Study: HJR 21 Interim Study Poll Rank: 9

Short Title: Study Opportunities to Expand Ownership of Personal Information

Staff Recommendation: Assign to State Administration and Veterans' Affairs

Preliminary Analysis

Issue(s) as listed in legislation:

- (1) explore opportunities to provide greater power and control to people regarding information collected about them;
- (2) clarify the level of ownership that individuals have concerning the collection, dissemination, and use of personal data and the methods by which individuals may exercise and enforce their rights regarding use of that information;
- (3) find methods for consumers to exclude their personal information property from use without severely inhibiting private sector and government functions; and
- (4) address, at a minimum, the following types of personal information:
 - (a) medical records, including records of health conditions, symptoms, treatment, diagnoses, laboratory test information and results, and any information derived from this information;
 - (b) prescription information, including drug names, dosage, frequency, amounts, dates and times of pickup, and any information derived from this information;
 - (c) shopping and purchase records, including descriptions of items purchased, the location of purchases, the dates and times of purchases, the price and amounts of purchases, any product return dates, times, locations, and other derived information, and ammunition purchase records, including caliber, brand, price, and amount;
 - (d) the individual's location, obtained using a handheld communications device carried by the individual, a GPS tracking device, a radio tracking device, a radio frequency identification tag, an automated license plate reader, or facial recognition software;
 - (e) social security number, driver's license number, state identification card number, or tribal identification card number;
 - (f) web search terms, browser history, and information derived from this information; and
 - (g) passwords for personal e-mail, internet, and application accounts not including cryptographic hashes of passwords, such as those commonly used for login authentication.

Preliminary study approach:

This study involves globally changing technology that may or may not have federal or other state laws that limit the dimensions of ownership of personal information. A realistic approach to this far-reaching study would:

- scope out each issue addressed in the resolution to provide general information to legislators;
- review what other states and Congress have done on areas of specific interest to legislators (for example, the Health Information Protection and Portability Act -- HIPAA -- already has specific laws related to health information sharing and ownership);
- determine if a short list of subject areas are amenable to changes in Montana state law;
- develop further study from the short list of subject areas.

Deliverables; end products:

Depending on the interest of the committee to which this study is assigned, the following deliverables are possible:

- a high-level overview of all the issue areas, which would include an index of how Congress or other states have treated each subject area listed in HJR 21;
- an in-depth review of one or two subject areas if the committee decided to focus on a short list of subject areas. This option may include potential draft legislation.

Role for LFD or LAD staff? **Yes** **No**

Role for Executive Agencies? **Yes** **No**

Additional costs, over meetings? **Yes** **No**

Estimated LSD staff time: 160-2,000 **hours** - depending on level of activity

Other comments:

The information-gathering stage might be rather complex and time-consuming given the need to look at a variety of federal laws, including the following at a minimum: 5 U.S.C. 552a, 12 U.S.C. 1953, et seq., 12 U.S.C. 3412, et seq., 15 U.S.C. 1681, et seq., 18 U.S.C. 2510, et seq., 20 U.S.C. 1232g, 42 U.S.C. 3796h, 47 U.S.C. 551, et seq., 50 U.S.C. 401, et seq., 50 U.S.C. 1801, et seq., and 45 CFR, parts 160 and 164. If any further activity requires more staff time, that amount could increase to occupy roughly one staffer's full interim. The base used for hours of staff time is 20 eight-hour days for 160 hours. Additional research requirements, given decreases in available staff time for an expected 3 weeks vacation and 70 hours of committee meetings, might use all the 2,050 hours of staff time.

PRELIMINARY STUDY OUTLINE -- HJR 26

Study: <u> HJR 26 </u> Interim Study Poll Rank: <u> 12 </u>
Short Title: <u> Study of the implementation of the Dylan Steigers Protection of Youth Athletes Act </u>
Staff Recommendation: <u> Education & Local Government Interim Committee </u>

Preliminary Analysis

Issue(s) as listed in legislation: The study resolution can be summarized as asking the following questions:

- Are school districts implementing the requirements of the Act consistently?
- Do school district policies and procedures reflect the most current scientific and medical understanding of concussion identification and recovery?
- What changes, if any, to current law or its implementation are necessary to ensure that all Montana youth athletes are protected?

Preliminary study approach: The information regarding school district implementation could be gathered through a survey of school districts. Comparing school district policies and procedures with current best practices may require some analysis by brain injury and concussion recovery experts. The committee may be able to utilize members of the Traumatic Brain Injury Advisory Council and medical professionals specializing in this area for this analysis. Answering the first two questions will help inform committee consideration of any necessary changes to current law; this consideration may be further enriched through discussions with representatives from the Montana High School Association, the Montana School Boards Association, the Montana Coaches Association, the Montana Athletic Trainers Association, the Montana Association of School Nurses, the Traumatic Brain Injury Advisory Council, and medical professionals specializing in this area. The committee could direct staff to document any recommendations to present as part of its final report to the 65th Legislature in 2017, including any draft legislation.

Deliverables; end products: Study outline and meeting schedule; any requested staff reports or analysis of survey data; panel discussions and testimony from subject matter experts and stakeholders; final report with recommendations, including any draft legislation.

Role for LFD or LAD staff? Yes X No

Role for Executive agency? X Yes No

The Montana Department of Public Health and Human Services (DPHHS) has collaborated with a number of entities to conduct a preliminary survey and report on the implementation of the Dylan Steigers Protection of Youth Athletes Act and has indicated plans for a follow-up effort. The committee may determine to work with the Department in conducting this study.

Additional costs, over meetings? Yes X No

Estimated LSD staff time: 400 - 600 hours

Other comments: The amount of staff time could be reduced if the committee determined to collaborate with DPHHS in conducting the study. The study could also be assigned to the Children, Families, Health, and Human Services Interim Committee, although the current law does focus on the duties of school districts and employees.

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Preliminary Study Outline -- HJR 27

Study: HJR 27 Interim Study Poll Rank: 5

Short Title: Study statutory appropriations

Staff Recommendation: Assign to the Legislative Finance Committee

Preliminary Analysis

Issue(s) as listed in legislation:

- Magnitude of the number of and dollar amount of statutory appropriations in the aggregate
- Public policy implications of and legislative responsibility for statutory appropriations
- Legislators need to:
 - ▶ understand what a statutory appropriation is and how one is established;
 - ▶ identify statutory appropriations that do not meet the conditions set forth in 17-1-508(2), MCA. Logically, this also requires that legislators need to identify statutory appropriations that do meet the conditions.
 - ▶ determine if programs that are funded by a statutory appropriation are more successful than those that are funded through the general appropriations act; and
 - ▶ if determined to be advisable, identify or recommend remedial legislation.

Preliminary study approach:

- ▶ Historical review of statutory appropriations in Montana; i.e., generally, where did they come from and how they are created.
- ▶ Compile a list, descriptions, and dollar amounts of statutory appropriations from MCA and determine, to the extent possible, reasons for the enactment of each.
- ▶ Review each statutory appropriation vis a vis the conditions in 17-1-508(2); determine if conditions are met--or not.
- ▶ Define how the "success" of a program is determined and whether programs funded with statutory appropriations are more successful than programs funded through general appropriations, e.g., HB 2 or "dog and cat" appropriation bills.
- ▶ If determined by the Committee to be advisable, recommend legislation to 65th Legislature for revising statutory appropriations.

▶ **Deliverables; end products:**

- Staff briefing papers on:
 - ▶ Historical review of statutory appropriations in Montana.
 - ▶ List, description, dollar amounts of statutory appropriations and reasons for enactment of each.
 - ▶ Assessment of whether each statutory appropriation meets 17-1-508(2) conditions.
- ▶ Panel or other presentations as needed from OBPP, agencies, other stakeholders.
- ▶ Legislation, if requested by committee
- ▶ Final report of committee activities

Role for LFD or LAD staff? XXX LFD **Yes** **No**

Role for Executive agency? XXX **Yes** **No**

OBPP at least and possibly other departments or stakeholders, including local governments, private goods and services providers, vendors, contractors, et al.

Additional costs, over meetings? **Yes** x **No**

Estimated LSD staff time: 100-200 **hours**

Estimated LFD staff time: TBD **hours**

Other comments:

Periodic review of statutory appropriations is a legislative tradition and has been undertaken both systematically and piecemeal at different times in years past. Especially experiencing the full effects of legislator term limits, each legislature has members who do not have institutional knowledge of why many statutory appropriations do or should exist. Preparing the lists of statutory appropriations, including purpose and amounts, should be relatively straightforward staff work. LSD Legal staff can compile a list of statutory appropriations by MCA section number and provide the enactment date of each. LFD staff can compile appropriation data for a relevant historical period. Identifying the historical reasons for enacting individual statutory appropriations will be challenging due to the lack of clear records in some cases. Determining the relative "success" of programs will depend on the Committee's ability to clearly define, as a benchmark, what "success" means and looks like so Committee members and others can constructively discuss and weigh statutory appropriations against general appropriations.

Preliminary Study Outline -- HJR 29

Study: **HJR 29** Interim Study Poll Rank: **10**

Short Title: **Study Membership-Based Health Care Services**

Staff Recommendation: **Do Not Assign**

Preliminary Analysis

Issue(s) as listed in legislation:

- Estimated financial impacts of membership-based health services
- Insurance-related issues related to membership-based health services, including use of high-deductible plans and estimated network scope and availability
- Regulatory aspects related to membership-based health services
- Impacts of membership-based health services on the health care system and health insurance companies
- Number, availability, service areas, and costs of private air and ground ambulance services
- Billing rates and practices for private air and ground ambulances, including rates for flights to regional medical centers, common out-of-network insurance reimbursement rates, and balance billing amounts
- Existence of preferred provider arrangements between private air ambulance services and health insurers
- Prevalence, service area coverage, and terms of reciprocity agreements used by membership-based private air and ground ambulance services
- Appropriateness of state laws requiring licensure of emergency medical services and exempting private air ambulance services from state regulation
- Impacts that membership-based direct-service health care or air or ground ambulance services have had in other states, including effects on health care providers

Preliminary study approach:

- Meet with stakeholders to identify available information on study areas and obtain suggestions for study resources and committee presentations. Stakeholders include DPHHS, which licenses ambulance services; the State Auditor's Office, which handles insurance-related complaints; the Department of Justice's Consumer Protection Office; and air and ground ambulance services of all types.
- Compile available information on ambulance charges, insurance reimbursements, and balance billing for membership-based and other types of ambulance services

- Determine whether state regulation affects prices and costs to consumers
- Review membership-based ambulance services in other states and any research on the effects of those services on health care providers and health care services

Deliverables; end products:

- Briefing papers on:
 - 1) services offered by and the billing practices of membership-based and other types of air and ground ambulance services
 - 2) research from other states, if available
- Panel or other presentations as needed on:
 - 1) differences between membership-based and other types of ambulance services
 - 2) consumer and insurer experiences/complaints involving membership-based and other types of ambulance services
- Legislation, if requested by committee
- Final report of committee activities

Role for LFD or LAD staff? _____ **Yes** x **No**

Role for Executive agency? x **Yes** _____ **No**
 Departments of Justice and Public Health and Human Services, State Auditor's Office

Additional costs, over meetings? _____ **Yes** x **No**

Estimated LSD staff time: 250-400 **hours**

Other comments:

This study resolution stemmed from a standing committee's concerns over testimony related to the costs and billing practices of private air ambulance services. The concerns could be resolved by revising the Montana law that exempts these companies from state insurance laws. A study isn't really necessary to determine how to address the concerns.

In addition, much of the pricing and billing information that the resolution proposes to obtain is proprietary information and won't be available for the study. Both proponents and opponents of the bill testified that they may be able to provide a range of costs and prices but would not share actual cost or billing information.

Finally, the study envisioned a review of membership-based or direct-care arrangements involving other health care providers, as those arrangements would have been authorized under SB 149. The governor vetoed that bill.

The Children, Families, Health, and Human Services IC is the most appropriate candidate to assign this study to. However, the CFHHS is already loaded with the statutory studies in HB 422 (Children's mental health) and SB 418 (mental health care program implementation). For that reason, staff recommends that the Council does not assign this study.

PRELIMINARY STUDY OUTLINE -- SJR 2

Study: <u> SJR 2 </u> Interim Study Poll Rank: <u> 15 </u>
Short Title: <u> Study state assumption of federal Section 404 permits </u>
Staff Recommendation: <u> Assign to Water Policy Interim Committee </u>

Preliminary Analysis

Issue(s) as listed in legislation: Projects in and near waterways are subject to myriad local, state, and federal permitting requirements. Federal Section 404 permits are necessary for actions that place dredged or fill material into wetlands or other waters of the United States. The Clean Water Act allows the state to assume some permitting programs, including Section 404 permits.

Preliminary study approach: (1) Evaluate current applicable statutes and relevant case rulings. (2) Investigate other states' experiences in assuming Section 404 permitting. (3) Receive input from regulated community, conservation districts, local governments, DEQ, DNRC, U.S. Army Corps of Engineers, EPA, and the public. (4) Field trip to visit site subject to Section 404 permit. (5) Determine possible legislative actions in the near- and short-term.

Deliverables; end products: (1) Study outline. (2) Report with findings and recommendations. (3) Final report with recommendation, including proposed legislation, if any.

Role for LFD or LAD staff? **Yes** x **No**

Role for Executive agency? Yes

Additional costs, over meetings? Maybe. Depends on scope

Estimated LSD staff time: (288 to 720) **hours**

Other comments: This study should be easy to incorporate into regular WPIC workload and travel plans.

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PRELIMINARY STUDY OUTLINE -- SJR 12

Study: <u> SJ 12 </u> Interim Study Poll Rank: <u> 2 </u>
Short Title: <u> Study of Net Metering Costs and Benefits </u>
Staff Recommendation: <u> Assign to Energy and Telecommunications </u>

Preliminary Analysis

Issue(s) as listed in legislation: (1) During the 2015 Legislature, net metering was at the forefront of the energy policy debate. Questions were raised concerning how to account for the benefits of net metering and how to determine the costs of net metering. (2) Before making changes to Montana's net metering policies, information about the impacts of net metering on nonparticipating utility customers and utilities overall is needed. (3) Information concerning the economic development opportunities and additional benefits of further encouraging net metering is needed. (4) There has been limited analysis of net metering and the impacts of expanding opportunities in Montana.

Preliminary study approach: (1) Examine the economic impacts of net metering on utility operations, operating costs and supply resource impacts, system stability issues, and safety issues. (2) Analyze subsidies, economic development impacts and additional economic matters. (3) Quantify Montana specific costs and benefits with analysis of avoided energy purchases, cost shifts, transmission and distribution matters, and business impacts. (4) Analyze various sized systems and comparable review methods used in other states for valuing net metering. (5) Visit net metering facilities.

Deliverables; end products: (1) Study outline. (2) Report. (3) Decision tool. (4) Final report with recommendations and findings, including proposed legislation, if any.

Role for LFD or LAD staff? Yes x No

Role for Executive agency? x YES (PSC)

Additional costs, over meetings? Yes x No (Unless they decide they want to hire a consultant, which has been discussed.)

Estimated LSD staff time: (1,000 to 1,440) hours

Other comments: This study will require a significant amount of analysis. There is limited information on net metering in Montana. Staff will need to gather most of the information through inquiry of various stakeholders. This will be a full interim project.

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PRELIMINARY STUDY OUTLINE -- SJR 20

Study: **SJR 20** Interim Study Poll Rank: **4**

Short Title: **Study of county road rights-of-way on state trust land**

Staff Recommendation: **Assign to Education and Local Government**

Preliminary Analysis

Issue(s) as listed in legislation:

- County roads that have been legally established as county roads and some roads that have been used as county roads but have not been legally established cross state trust land.
- Some counties have identified these roads and some have not. There is significant disparity among counties in identification of roads, in determination of which roads cross state trust land, and in determination of potential market value of the easements across state trust land.
- The Montana Constitution (Art. X, section 11) prohibits state trust land from being disposed of until full market value of the land has been secured by the state.
- This provision has been interpreted by the Montana Supreme Court to require that full market value be secured for public and private road easements on state trust land.
- The Department of Natural Resources and Conservation is obligated to require counties to pay full market value of the land when granting easements across state trust land. DNRC works with counties to complete the applications for easements and to determine the full market value of the land, but leaves it up to the counties to identify the roads.
- Many counties have neither the resources to identify all of the roads for which legal easements are required nor the money to pay for the easements once full market value is established.
- Absence of legal easements on state trust land has become problematic in some counties where private property is accessed using these roads, and where the private property may be difficult to sell without legal easements having been established.

Preliminary study approach:

1. Review the legal history of the issue, including the Enabling Act of 1889, legislation enacted over time, the 1999 *Montrust* decision, and the state and counties' response to the decision.
2. Working with DNRC Trust Lands Division, establish the scope of the problem by identifying which counties have acquired easements, which have begun the process, and which have not begun to identify roads for which easements are required. Establishment of the scope will also include an estimate of the road miles involved and the variability of land values in the counties.
3. Working with the counties, develop strategies for applying resources to road identification, which in many cases, will have to occur before easement acquisition may be begun.
4. Over the course of the study, identify options for assisting counties in identifying roads for which easements must be obtained and identify options for DNRC and the 2017 Legislature to consider to facilitate the process.

Deliverables; end products:

A potential end product is a package of viable options, based on a clear understanding of the scope of the problem, that may be pursued by counties, DNRC, and the 2017 Legislature to clarify legal status of county roads on state trust lands.

Role for LFD or LAD staff? **Yes** x **No**

Role for Executive agency? x **DNRC Trust Lands Division** **Yes** **No**

Additional costs, over meetings? **Yes** x **No**

Estimated LSD staff time: 1500 **hours**

Other comments:

This study will rely heavily on the staff and resources at DNRC's Trust Lands Division, as well as the Montana Association of Counties--all of whom are acutely aware of the problems and who were involved in the development of the study resolution. Outreach to individual counties will also be necessary.

There is a potentially significant role for LSD staff's GIS expertise.

PRELIMINARY STUDY OUTLINE -- SJR 21

Study: **SJR 21** Interim Study Poll Rank: **1**

Short Title: **Study of local fire protection and emergency services**

Staff Recommendation: **Assign to Education and Local Government Interim Committee**

Preliminary Analysis

Issue(s) as listed in legislation:

- Legislation has been introduced during the last several sessions that would affect the powers and duties of local fire departments, fire districts, fire service areas, and fire companies, as well as the qualifications, duties, and benefits provided to paid and volunteer firefighters and emergency medical technicians.
- The Department of Natural Resources and Conservation requires counties to provide workers compensation coverage for operators of firefighting apparatus provided to counties and assigned to fire agencies in the counties pursuant to agreements entered into as part of the State-County Cooperative Fire Protection Program, and many local fire agencies do not have the financial resources to comply.
- Powers, duties, jurisdictions, financing, and operations of local fire and emergency service agencies are not well understood by the public or by policymakers.
- A comprehensive review of local fire protection, emergency services, and firefighter and emergency medical technician benefits would lead to more comprehensive, consistent, and coordinated services across jurisdictions to the benefit of the state's citizens.

Preliminary study approach:

This is a wide-ranging study that touches on multiple facets of local fire and emergency services. It will be necessary for the committee to prioritize its work, as it is likely unrealistic to thoroughly examine every issue listed in the resolution. The sponsor of SJR 21 recognized this, and asked that prioritization be specifically mentioned in the resolution. In order to facilitate prioritization, staff will prepare and present to the committee brief reports on each of the enumerated study topics, including an explanation of why each topic appears in the resolution. How many topics the committee decides to pursue should depend on the other studies assigned to the committee and where the committee believes the need is greatest.

Comment on prioritization will be solicited from local fire agency personnel, firefighter organizations, the Montana Association of Counties, the Department of Natural Resources and Conservation, State Fund, and other individuals and organizations as determined by the committee.

Once the committee has decided the areas on which to focus, staff will solicit from the members a set of goals and desired outcomes for each study topic.

Deliverables; end products

Deliverables could include:

- thorough understanding among the committee members of the various local fire and emergency service entities, what their jurisdictions are, where there may be gaps in service, and what funding needs exist;
- maps or other documentation intended for use by the legislature and public showing the various agencies and jurisdictions;
- proposed legislation, if warranted, to change benefits, facilitate funding, enhance coverage, increase public knowledge of service areas and operations.

Role for LFD or LAD staff? Yes X No

Role for Executive agency? X DNRC Forestry Division, Dept. of Military Affairs
Disaster and Emergency Services Division Yes No

Additional costs, over meetings? Yes X No

Estimated LSD staff time: 500-1000 hours

Other comments:

If the committee chooses to prioritize DNRC's County Co-op program and workers compensation requirements, the study can build on the work done during the 2011-2012 interim by the Economic Affairs Interim Committee on this subject.

If the committee chooses to prioritize identifying all of the various agencies that exist and their jurisdictional boundaries, use of GIS expertise and resources would be appropriate.

PRELIMINARY STUDY OUTLINE -- SJR 22

Study: SJR 22 Interim Study Poll Rank: 8

Short Title: Study Guardianship Options

Staff Recommendation: Do Not Assign

Preliminary Analysis

Issue(s) as listed in legislation:

- Review existing guardianship statutes for potential changes
- Review guardianship services available through the Department of Public Health and Human Services
- Review local efforts to provide guardianship services
- Review funding needs and potential funding sources for guardianship services
- Review efforts in other states to establish uniform, statewide guardianship programs or improve guardianship services
- Review recommendations by national groups

Preliminary study approach:

- Meet with stakeholders to identify existing needs and work that has already been done on this topic. Stakeholders include DPHHS, district court judges, county attorneys, private attorneys, area agencies on aging, and other statewide or local groups that work with elderly and developmentally disabled individuals
- Compile information on existing guardianship laws and services
- Review programs in other states
- Review existing state and national studies on guardianship needs and services

Deliverables; end products:

- Briefing papers on:
 - 1) Montana guardianship laws, state-provided services, and local programs
 - 2) recommendations by national groups
 - 3) guardianship programs/services in other states
 - 4) other topics as needed

- Panel or other presentations as needed on:
 - 1) gaps in Montana's guardianship laws and services
 - 2) local guardianship programs
 - 3) available and potential funding for guardianship programs
 - 4) other topics as needed
- Legislation, if requested by committee
- Final report of committee activities

Role for LFD or LAD staff? _____ **Yes** x **No**

Role for Executive agency? x **Yes** _____ **No**

Additional costs, over meetings? _____ **Yes** x **No**

Estimated LSD staff time: 400-500 **hours**

Other comments:

The Children, Families, Health, and Human Services IC is the most appropriate candidate to assign this study to. However, the CFHHS is already loaded with the statutory studies in HB 422 (Children's mental health) and SB 418 (mental health care program implementation). For that reason, staff recommends that the Council does not assign this study.

PRELIMINARY STUDY OUTLINE -- SJR 24

Study: **SJR 24** Interim Study Poll Rank: **7**

Short Title: **Study sexual assault in Montana**

Staff Recommendation: **Assign to Law and Justice Interim Committee**

Preliminary Analysis

Issue(s) as listed in legislation:

The resolution requests a committee to consider:

- current state and federal sexual assault statutes, including those governing the criminal-justice process from investigation to charging to sentencing of sexual-assault related crimes;
- current policies and practices of local, state, and university law enforcement agencies and the county attorneys related to investigating and prosecuting sexual assault crimes and related best practices;
- societal attitudes and myths related to sexual assault and education related to overcoming those attitudes and myths;
- best practices and policies for treatment, incarceration, registration, and supervision of offenders and for treatment for victims;
- if and to what extent best-practices training is available to stakeholder agencies and sexual assault response units;
- measures to improve understanding of the difficulties in the criminal justice system in responding to sexual assault, measures to prevent sexual assaults, and education and/or tools to help community response to sexual assault;
- jurisdictional factors that hinder responses to sexual assault, including assaults on Indian reservations and on Montana university campuses;
- information-sharing and data collection challenges related to analysis of sexual assault in Montana.

The resolution requests the committee receive updates from the Montana Attorney General's Office on its agreement with the U.S. Department of Justice (and the Missoula County Attorney's Office) to consider how changes resulting from that agreement might be translated into opportunities for statewide programs.

The resolution lists possible stakeholders, including local, university, and state agencies, tribal and federal governments and law enforcement agencies, advocacy organizations that work to prevent sexual assault, and victims' advocacy groups.

The bill sponsor acknowledged the broad nature of the study and recommended a 10,000 foot approach. She emphasized four areas the committee could consider:

- 1) jurisdictional conflicts;
- 2) investigation and prosecution current practices and policies and best practices and policies;
- 3) opportunities for increased or revised treatment for offenders; and
- 4) assistance for victims.

Preliminary study approach:

The committee and staff should:

- identify and contact stakeholders to gather information and ideas on how study could/should proceed;
- compile and review information on:
 - ▶ current sexual assault laws - federal and state;
 - ▶ current policies and practices of law enforcement entities and the county attorneys' offices related to investigating and prosecution sexual assaults;
 - ▶ established best practices for investigation and prosecution of sexual assault crimes and current requirements for or availability of best practices training;
 - ▶ current correctional and law enforcement policies and practices concerning treatment, incarceration, registration, and supervision of offenders of sexual assault crimes;
 - ▶ jurisdictional factors;
 - ▶ existing data and available analyses related to sexual assault in Montana;
 - ▶ existing educational or informational programs for community members; and
 - ▶ existing resources for victims of sexual assault and best practices for treatment of sexual assault victims.
- receive an initial presentation and subsequent periodic updates from the Montana Attorney General's Office on its agreement with the U.S. Department of Justice (and the Missoula County Attorney's Office);
- elicit testimony from existing stakeholders on shortcomings with current laws, policies, and resources and on opportunities for improvement; and
- narrow the scope of the study to focus on issues the committee finds concerning and/or in which the committees feels further committee work could be beneficial.

The committee could coordinate with other interested committees, including the State-Tribal Affairs Committee and the SB 224 Commission on Sentencing.

Deliverables; end products:

- Study outline
- Possible staff papers on:
 - ▶ current state and federal statutes related to sexual assault, including a comparison of punishments;
 - ▶ best practices for investigation and prosecution of sexual assault crimes and for victim resources;
 - ▶ current correctional and law enforcement policies and practices concerning treatment, incarceration, registration, and supervision of offenders of sexual assault crimes;
 - ▶ jurisdictional factors that affect or complicate reporting, investigation, and prosecution of sexual assault crimes on Montana Indian reservations and university campuses;
 - ▶ resources available to victims of sexual assault crimes;
 - ▶ existing data and available analyses related to sexual assault crimes; and
 - ▶ other topics as requested and necessary.

- Panel discussions or other presentations on:
 - ▶ current policies and practices of law enforcement agencies and county attorneys' offices related to investigation and prosecution of sexual assault crimes and if/how best practices training is available to those agencies and offices;
 - ▶ societal attitudes and myths related to sexual assault;
 - ▶ stakeholders' views on what is working/what is not working in current law and practices, and suggestions on what parts of the process should be retained or eliminated
 - ▶ training or education opportunities that can be offered or expanded to law enforcement, county attorneys, judges, and community members
- Options for legislative consideration
- Legislation, if desired by committee
- Summary of study in committee final report

Role for LFD or LAD staff? _____ **Yes** X **No**

Role for Executive agency? X **Yes** _____ **No**

The Montana Department of Justice will need to be involved in most meetings and did volunteer during proponent testimony to be of assistance to the committee. The University System will also need to be involved.

Additional costs, over meetings? _____ **Yes** X **No**

Estimated LSD staff time: 1000-1200 **hours**

Other comments:

There seem to be many interested stakeholders willing to be active in the study process. The study's success will be highly dependent on the committee's willingness to narrow the focus of its work after the initial background study steps.