

**Minutes of the Meeting of the Utah Privatization Policy Board**  
**Wednesday March 28, 2007 10:00 a.m.**  
**Room 3150, State Office Building**  
**Salt Lake City, Utah**

**Attendees**

Senator Chris Buttars, Representative Fred Hunsaker, Ted Boyer, Jim Kesler, Tanya Henrie, Gretta Spendlove, Steven Dickson, Steve Wrigley, Douglas Richins

**Excused**

Senator Brent Goodfellow

**Absent**

Norm Tarbox, Robin Riggs

**Welcome and Introductions**

Jim Kesler, Vice Chair conducted the meeting.

**Approval of Minutes:**

Mr. Dickson motioned for approval of the minutes of the meeting held January 3, 2007. Senator Buttars seconded that motion. The minutes were unanimously approved.

**Presentation by Steve Wrigley on "Reinventing Government"**

Mr. Wrigley presented an informative PowerPoint presentation on "Reinventing Government". He also distributed the presentation as a handout together with another handout titled "White Paper on Privatization". There was a discussion on the challenges in agencies in protecting their turf and how to break this down and facilitate cooperation. Mr. Wrigley suggested that we need to study and evaluate governance not just whether something should be privatized. His recommendations are on page 14 and 15 of his Power Point presentation. (Both of the handouts are attached to these meeting minutes.)

**Discussion Items for Future Meetings**

Mrs. Spendlove would like to see a presentation on the pitfalls and benefits of privatization.

**April Meeting**

It was suggested that we utilize the meeting going over a list of agencies to consider inviting to come and review their agency privatization efforts with the board, and also review an effective methodology to approach the agencies.

The next meeting will be on April 25, 2007 at 10:00 a.m. in the offices of the Division of Purchasing - 3150 State Office Building, Capitol Hill, Salt Lake City.

# White Paper on Privatization

by Ellen J. Dannin, Professor of Law

Most of what we hear about privatizing public services these days carries the same simple message -- privatizing is good. More sophisticated stories explain that the reason privatizing is good is that only the private sector can deliver a quality product at the lowest possible price.

However, like most things in life, privatization is more complex than this. Whether to have certain public services and how to deliver them are decisions with profound impacts on all of us. As San Diego, California, and the country move towards privatizing, it's time has we members of the public learn more about this issue or risk forfeiting our role in this democracy.

This paper takes a look at some of the most commonly held beliefs about privatizing public services. Some of what you read here may surprise you or raise issues you hadn't seen discussed before.

1. *Governments are broke because public services and tax dollars have been mismanaged.*

Here are some important reasons governments are finding themselves with budget problems these days.

- One important reason governments have been struggling with deficits during the past few years is that they have lost major sources of revenue. One important source of lost revenues has been ever lower tax rates on those who earn the most and on corporations. Lowering taxes by a percentage here or there doesn't mean much for most of us, but when tax breaks are given to corporations and the very rich the money lost is enormous. For each 1% a millionaire's tax rate is lowered, the government can lose \$10,000 in taxes.

Over the past 15 years, we have seen the tax rate on wealthiest lowered again and again. Each time, revenue is lost. If any of us kept having our incomes lowered each year, we'd have trouble paying the bills pretty soon. Governments are having the same problem.

It is estimated that the richest 1% of the population has received over \$80 billion in tax cuts since 1977. While this has happened the amount of wealth which has flowed to the richest has increased at enormous rates.

The share of corporate taxes as a percentage of federal revenues has declined from 23% in 1960 to 9% in 1990. Corporate property taxes show the same decline. The corporate share of local property tax revenues has dropped from 45% in 1957 to 16% in 1987.

Corporations are not paying lower taxes because of declining profits. Corporate profits have soared. An important part of those profits is money that once would have gone to support government services we all would benefit from. One important justification for those tax breaks was to give corporations more money to invest in creating good jobs. Instead of investing the money to create jobs, corporations have gone spending sprees to buy each other. Others have taken the money and used it to finance moving work out of

- First, this argument assumes that the private sector is free from these problems. Ask whether this belief is based on a private sector which is uniquely competent, thrifty, and honest or one that has managed to escape scrutiny. If the same standards of judgment were used, it is obvious that the private sector does not escape problems of waste and fraud. The past decade has seen many corporate leaders sent off to prison for corruption and misusing their positions.

If you have trouble thinking of any, here is a list to get you started. Beech-Nut sold sugar water as infant apple juice. E.F. Hutton pled guilty to 2000 felony counts in 1985. The Exxon Valdez spilled 240,000 barrels of oil into Prince William Sound.

Remember the S&L fiasco -- the one we taxpayers are still paying for. The government has had to come in to bail out the private sector. General Motors' mismanagement led it to lose billions each year and to layoff tens of thousands of employees. Even in the face of the misery management's failures had cause, it kept paying huge salaries to the very officers whose decisions brought about this disaster.

There is no reason to think that these problems will not arise in the case of subcontracted public services.

- Robert Monks (Republican politician) and Nell Minow (a corporate lawyer) begin their book on problems with the American corporate structure, *Power and Accountability* with a story of driving through the woods in Maine and coming upon industrial discharge which was killing the plants along the river. They comment:

Who wants this to happen? Not the owners of the company, the shareholders, not the managers or employees, not the community, not the government. I could not think of anyone connected with the company emitting the effluent who wanted the result I saw. This was an unintended consequence of the corporate structure. The very aspects of the company's design that made it so robust, so able to survive changes in leadership, in the economy, in technology, were the aspects that led to this result -- pollution that no one wanted, and everyone would pay for.

They are friends of corporations and yet they think that American corporate structure is ill-equipped to stop practices which make profits but which harm society, even in some cases in which the law is violated.

- Unfortunately, private corporate mistakes don't stay private. Hundreds of thousands of workers found that out when they were laid off. The lucky workers -- the ones who escaped layoffs are overworked and under stress. Communities have been hit as local business had to close for lack of customers. The roads, sewage systems, and other public services which were built to serve corporations who decided to seek higher profits elsewhere are now useless. None of these common corporate actions should make us comfortable with leaving the delivery of public services to the private sector.
- Yes, there are a few well-known examples of government overspending, such as the military's purchase of toilet seats and wrenches. These examples are notorious but do not paint an accurate picture of government spending. In any case, the public sector has a

be added in are services such as oversight and supervision, use of government-paid facilities or equipment, or outright subsidies. Also included in the cost must be lost revenues if the privatizer is allowed to keep the fees that would otherwise be returned to the government. A good example of the latter is the way Resolution Trust Corporation has been allowed to operate, by taking a percentage of money recouped.

- The biggest supporters of privatization are really saying that greed is the strongest and most reliable of human feelings. Is this a view you endorse? Should government be promoting greed as a building block of society?

What is the impact of greed? EAI lost its contract with the Baltimore School District because it would not agree to cut its profit when the school needed to address a budget shortfall. Recently, Warner-Lambert pled guilty for hiding faulty procedures in making drugs and agreed to a \$10 million fine. DuPont was fined \$115 million for concealing evidence in a trial involving its fungicides. Executives recently were convicted of concealing information on using faulty heart catheters during surgery. Where there is money to be made there is temptation, and that temptation is expensive for all of us. Each year we face the impact of \$200 billion of white collar fraud.

We're told that greed as a motivator is the engine that creates jobs and makes the economy work. In fact, what we see is greed leading to mergers, a focus on short term profits, and layoffs of thousands of workers each year. This year layoffs are up 45%.

Most of us are motivated by many things other than greed. Who among us would choose money over the life and happiness of a loved one? Most of us feel emotion such as love of community and nature and pride in our jobs. These are the very values that motivate many who go into public service. If the greed promoters are right in their dismal view of humans, why does anyone choose to become a teacher or a public health worker. Ask if we would want a society made up only of Wall Street traders.

Would we rather have public services provided by the greedy or by people committed to the value of public service.

- People motivated by greed need to be watched, especially when they have access to public money, information, and property. Overseeing private contractors to ensure there is no fraud or waste adds expense and is a very inefficient way to deliver public services. Yet this expense has to be borne to ensure that the contractor performs the job and to avoid being vulnerable to the unscrupulous. Overseeing subcontractors means having to retain skilled technicians or managers who can evaluate their actions. Had the services not been subcontracted, these skills would be used directly in performing the job.
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- In San Diego, the school bus service provided by public employees has been so much more efficient and less expensive than private bus services that all subcontracted transportation is being taken in-house. This story is not unique. Public workers can provide better service and get better wages while costing the public less. Unions have played an important role in this San Diego success story.

4. *It's impossible to get rid of bad public employees, so they don't care about their jobs.*

to this sort of danger. The EAI story, however, is not an aberration. This is the normal way American companies and the free enterprise system operate.

- Stock market manipulation is not the only private sector problem that could endanger providing public services. The rate of corporate bankruptcies has been high over the past few years. If a company that is supposed to be providing public services goes bankrupt, how will the service be maintained?
- Many public sector workers have lost their jobs as federal, state and local governments have tried to cope with the lost revenues. Cutting jobs has not meant cutting out the work those people once did. Those who have remained have seen their workloads increase. For some the increase has been so great they are unable to perform all their new duties and suffer from burnout and frustration.

For the public this may appear to be incompetence or a bad attitude. Unfortunately this feeds the impression that the public sector is incompetent. The root causes, however, are insufficient support, and this will remain whether or not the public or private is the provider.

- Privatized public services may also be shut down by strikes. Private sector employees have a right to strike.
- All too often the discussion about privatization comes down to dollars paid or saved. Price is not the only consideration where public services are concerned. Other public values may be more important, such as quality of service, reliable availability and wide access.

To put it more concretely, think of the CDC stepping in to stop a potential epidemic of Hantavirus or encephalitis. None of us would have wanted the CDC not to investigate or provide services designed to stop the diseases from spreading to those too poor to pay. We all benefitted by having a stable service available quickly and without regard to price. Who could put a price on stopping an epidemic quickly? Other public services are similarly difficult to put a price tag on.

When it comes to mailing a letter, if I live in a city and can get a private contractor to deliver all my in-city mail at less than first class postage, I might think that's a pretty good deal. I may think less of it if I have to pay the full cost of delivery to my mother who lives across the country up a mountain down a dirt road. By paying more for my letters in the city, it's true I subsidize other letters. On the other hand, the system works well when provided on this large national scale. With public service, the whole is greater than the sum of its parts.

If mail service gets divided up by competing subcontractors, the advantages of a national service -- a service that helps knit us together as a people -- will be lost. Here, cost is not the most important value; equity and access to service on a national basis is.

- Information is a public service we don't often think about. The government collects and maintains a great deal of information. Some of it is confidential. Should a subcontractor or a series of subcontractors have access to this information? Under these circumstances,

Every time we take an elevator, buy food, or eat a meal in a restaurant we can feel safer because we know that government experts have inspected what goes on behind the scenes that we can't see. The state makes certain that people who provide important services, such as our car mechanics, are licensed and competent to do their jobs.

We receive weather reports and know that disaster relief is available if needed. We have roads to drive on thanks to public services. Airplanes are guided in by air traffic controllers.

It's hard to imagine how each of us as an individual could afford to buy these things. It's also easy to see that we each benefit just by having these available, even if we never use them. Only by pooling our tax dollars are we able to provide for our collective good.

- There are well-known cases in which the government has contracted out certain services only to find that when the contract ends, the contractor refuses to return the government resources they were allowed to use in the first place.

*7. All the studies show that privatization is better.*

- First, the facts of life. Where do studies come from? Who are the experts who made these findings?

If you look behind the surface you'll see that a lot of what we "know" about privatization is mere puffery. Groups such as the Reason Foundation and the National Council for Public Private Partnerships (formerly the Privatization Council) have spent a lot of time and money convincing the public that privatization is better. When they issue their reports or sit on panels or are quoted by the news media they are basically just making commercials for their product: private takeover of community services.

What do these statements and studies say. If you read the paper -- what they release to the public -- you hear stories about the future impact of privatization. They talk about how much money they think government will save if it privatizes particular projects and how much better the services will be. You see very few follow-up stories on what has really happened.

There's at least some reason to wonder how certain they feel about their own data. Recently many of these privatizers fought vigorously against legislation in the District of Columbia, which required that, before any public service was subcontracted, there had to be proof that there would be at least 10% savings. Why did they fight so hard? Surely if they believe what they say they would not object. Ten percent is such a small amount that it should be easy to prove. Despite this, the pro-privatizers have fought vigorously against the law and for a system requiring no proof to back up whatever they want to claim.

This is not the only gap between what they say and what they do. If you read what these groups send out to their constituents -- companies thinking of going into the privatization business -- you don't see talk about the public interest. The focus is on Profit. When the word "Profit" appears in their publications, you see it in boldface and large type.

They try to create a sense that privatizing is something good. The National Council for

- increased discrimination against minorities and women
- loss of government control and sovereignty
- lost constitutional and other legal rights
- decreased efficiency as a result of difficulty monitoring and administering contracts
- loss of accountability and control
- lost infrastructure
- increased corruption, bribery, kickbacks, bid-rigging, campaign donations, low-ball bids, and contractor bankruptcy
- higher direct costs or hidden costs to pay for the loss of pensions and benefits of public employees
- increased conflict, strikes, grievances, and arbitrations

The Hebdon report found:

In conclusion, we found privatization to be, at best, a disruptive, socially destabilizing, and ultimately harmful method of cost saving. At its worst, privatization can actually increase costs, lower the quality of services, reduce public accountability, and marginalize citizen involvement in the democratic process. ... The rational solution is to seek creative alternatives to the way services are currently provided by improving the utilization of the existing workforce. The practical answer, we believe, can be found in fundamental reform of public sector work process through dialogue, discussion, and negotiations. This is the challenge for politicians, management officials in the public sector, public employee unions, and employees.

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# REINVENTING GOVERNMENT

Presented by:

**Steven M. Wrigley, M.A., CPM**

Department of Human Services

Based in part on the book titled

Reinventing Government

By David Osborne & Ted Gaebler

## Privatization vs. Traditional Government

- ◆ The question may be more complex then, “When is is appropriate to Privatize Government functions?”
- ◆ Maybe the role of this committee is to also encourage a Paradigm Shift in Traditional Government to more of an Entrepreneurial model.

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## **Common Beliefs For Privatizing Public Services**

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- ◆ Governments are broken because public services and tax dollars have been mismanaged.
- ◆ Government spending is fully of incompetence, waste and fraud. Privatizing would eliminate this problem.
- ◆ Market forces and competition ensures that the private sector delivers a higher quality service at a lower cost than the public sector.

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## **Common Beliefs For Privatizing Public Services**

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- ◆ It's impossible to get rid of bad public employees, so they don't care about their jobs.
- ◆ Private corporations make more efficient use of funds and eliminate waste.
- ◆ Money paid in taxes would make us all richer if spend in the private sector.

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## **Cornell University Hebron Report Findings**

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“We found privatization to be, at best, a disruptive, socially destabilizing, and ultimately harmful method of cost savings. At its worst, privatization can actually increase costs, lower the quality of services, reduce public accountability, and marginalize citizen involvement in the democratic process.”

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## **Cornell University Hebron Report Findings**

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“The rational solution is to seek creative alternatives to the way services are currently provided by improving the utilization of the existing workforce. This practical answer can be found in fundamental reform of public sector work process through dialogue, discussion, and negotiations.”

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## Prerequisites to Privatization

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- ◆ There needs to be a competitive marketplace.
- ◆ There needs to be a significant number of bidders to ensure competition.
- ◆ There needs to be back up should the chosen provider fail.
- ◆ The goods or services to be provided must be able to be clearly defined.
- ◆ Minimal risk to the public and government should services be interrupted.

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## Entrepreneurial Government

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- ◆ Public sector institutions that habitually and constantly use their resources in new ways to heighten both their efficiency and their effectiveness.
- ◆ The kinds of governments that developed during the industrial era, with their sluggish, centralized bureaucracies, their preoccupation with rules and regulations, and their hierarchical chains of command, no longer work very well.

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## **Principles of Entrepreneurial Governments**

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- ◆ Promote competition between service providers, and empower citizens by pushing control out of the bureaucracy, into the community.
- ◆ They measure the performance of their agencies, focusing not on inputs but on outcomes.
- ◆ They are driven by their goals – their missions – not by their rules and regulations

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## **Principles of Entrepreneurial Governments**

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- ◆ They redefine their clients as customers and offer choices between schools, between training programs, between housing options.
- ◆ They prevent problems before they emerge, rather than simply offering services afterward.
- ◆ They put their energies into earning money, not simply, spending it.

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## **Principles of Entrepreneurial Governments**

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- ◆ They decentralize authority, embracing participatory management.
- ◆ They prefer market mechanisms to bureaucratic mechanisms.
- ◆ They focus not simply on providing public service, but on catalyzing all sectors – public, private, and voluntary – into action to solve their community's problems.

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## **A Third Choice**

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- ◆ Most of our leaders still tell us that there are only two ways out of our repeated public crises: we can raise taxes, or we can cut spending.
- ◆ We do not want less education, fewer roads, less health care. Nor do we want higher taxes.
- ◆ We want better education, better roads, and better health care, for the same tax dollars.

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## An Alternative To Traditional Government

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- ◆ To melt the fat of government, we must change the basic incentives that drive our governments.
- ◆ We must turn bureaucratic intuitions into entrepreneurial institutions, ready to kill off obsolete initiatives, willing to do more with less, eager to absorb new ideas.

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## Government vs. Governance

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- ◆ Our problem today is not too much government or too little government.
- ◆ Our fundamental problem is that we have the wrong kind of government.
- ◆ We do not need more government or less government, we need better government. To be more precise, we need better governance.

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## Governance

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- ◆ **Governance** is the process by which we collectively solve our problems and meet our society's needs.
- ◆ Government is the instrument we use. The instrument is outdated, and the process of reinvention has begun.

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## Defining The Role of Government

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- ◆ Privatization is simply the wrong starting point for a discussion of the role of government. Services can be contracted out or turned over to the private sector. **But governance cannot.**
- ◆ We can privatize discrete steering functions, but not the overall process of governance. If we did, we would have no mechanism by which to make collective decisions, no way to set the rules of the marketplace, no means to enforce rule of behavior.

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## The Role Of The Public Sector

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- ◆ The central purpose of state government is to be the catalyst, which assists communities in strengthening their civic infrastructure. In this way we hope to empower communities to solve their own problems.
- ◆ The public sector tends to be better at policy management, regulations, ensuring equity, ensuring continuity and stability of service, and ensuring social cohesion.

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## The Ten Principles of Entrepreneurial Public Organizations

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- ◆ **Steering Rather Than Rowing (Catalytic Government).** Catalytic governments separate “steering” (policy and regulatory) functions from “rowing” (service-delivery and compliance functions).
- ◆ **Empower communities rather than simply deliver services (Community-Owned Government).** Community-owned governments push control of services out of the bureaucracy, into the community.

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## The Ten Principles of Entrepreneurial Public Organizations

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- ◆ **Injecting competition into Service Delivery rather than monopoly (Competitive Government).** Require service deliverers to compete for their business, based on their performance and price
- ◆ **Transforming Rule-Driven Organizations / driven by their missions, not their rules (Mission Driven Government).** Deregulate internally, eliminating many of their internal rules and radically simplifying their administrative systems, such as budget, personnel, and procurement.

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## The Ten Principles of Entrepreneurial Public Organizations

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- ◆ **Fund Outcomes rather than Inputs (Results - Oriented Government).** Results-oriented governments shift accountability from inputs to outcomes, or results.
- ◆ **Meet the needs of the customers, not the bureaucracy (Customer-Driven Government).** Customer-driven governments treat those they serve – as their customers.

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## The Ten Principles of Entrepreneurial Public Organizations

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- ◆ **Concentrate on Earning, than Spending (Enterprising Government).** Enterprising governments focus their energies not only on spending money, but on earning it.
- ◆ **Prevention rather than Cure (Anticipatory Government).** Anticipatory governments seek to prevent problems rather than delivering services to correct them.

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## The Ten Principles of Entrepreneurial Public Organizations

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- ◆ **Decentralize authority From Hierarchy to Participation and Teamwork (Decentralized Government).** Decentralized governments push authority down through the organization or system, encouraging those who deal directly with customers to make more of their own decisions.
- ◆ **Solve problems by leveraging the market place, rather than simply creating public programs (Market-Driven Government).**

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## Government Should....

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- ◆ Steer, not row
- ◆ Empower communities to solve their own problems rather than simply deliver services
- ◆ Encourage competition rather than monopolies
- ◆ Be driven by missions, rather than rules
- ◆ Be results-oriented by funding outcomes rather than inputs

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## Government Should....

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- ◆ Meet the needs of the customer, not the bureaucracy.
- ◆ Concentrate on earning money rather than spending it.
- ◆ Invest in preventing problems rather than curing crises.
- ◆ Decentralize authority.
- ◆ Solve problems by influencing market forces rather than creating public programs.

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## Legislative Role of the Committee

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- ◆ Legislation establishing the privatization policy board gives the board two responsibilities.
  - **Study and consider privatization issues related to state agencies.**
  - **Make recommendations to state agencies and the legislature regarding the privatization of services.**

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## More Specific

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- ◆ 63-55a-3 Privatization Policy Board – duties.
  - Review whether or not certain services performed by existing state agencies could be privatized to provide the same types and quality of services that would result in cost savings.
  - Review particular requests for privatization of services and issues concerning agency competition with the private sector.
  - Recommend privatization to the agency head when the proposed privatization is demonstrated to provide a more cost efficient and effective manner of providing existing governmental services.

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## Recommendations

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- ◆ The Board should be proactive in studying services currently being provided by state agencies to encourage privatization of services when appropriate, and / or to encourage and reward the integration of Entrepreneurial principles into existing governmental service delivery system.

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## Recommendations

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- ◆ We need to encourage and support state agencies to use their existing resources in new ways to heighten both their efficiency and their effectiveness.
- ◆ We need to regularly invite state agencies to present to the committee what they are doing to provide a more cost efficient and effective manner of providing existing governmental services.

## Recommendations

- ◆ We may desire to review and enhance our current legislative charge to provide government services in the most effective manner.