

**REORGANIZATION**  
*of the*  
**EXECUTIVE BRANCH**  
*of*  
**STATE GOVERNMENT**

*New Mexico*

1975-1978

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The intent of these recommendations is to establish a framework which will make government more accountable to the citizens, make the services provided by it more accessible, increase both the effectiveness and efficiency of government operations, and improve relationships among local, state, and federal bureaucracies.

The proposed structure will accomplish these goals by placing responsibility for executing the laws in the office of the governor as mandated by the constitution; by delineating clear lines of authority to provide the governor with the means of carrying out that responsibility; by simplifying the structure of government to make it more understandable; by eliminating the waste and duplication that are inevitable within the present fragmented system and streamlining the mechanisms for delivering service to the public.

New Mexico State Reorganization 1977

## *Introduction*

Shortly before adjourning in March 1977, the New Mexico legislature passed laws drastically changing the executive branch, a goal sought for many years by governors, reformers, and students of state government. The package of fourteen bills, creating a cabinet system of twelve departments—approved with few dissenting votes—consolidated some agencies, abolished others, and realigned the functions of hundreds of entities. On March 31, 1978, the effective date of the laws, members of the newly formed cabinet were sworn into office by the chief justice of the New Mexico supreme court. For the first time since statehood, the governor of New Mexico became, in fact, the chief executive of a substantial portion of the executive establishment.

These events brought to full circle the major recommendations of the 1951 Little Hoover committee that applied the “principles” of executive reorganization and underscored the constitutional limitations of the governor’s administrative powers with the long ballot mandating the election of independent executives: the lieutenant governor, secretary of state, attorney general, land commissioner, treasurer, auditor, corporation commissioners, and superintendent of public instruction. The last is the only office since removed from the ballot.

Beginning in the mid-1950’s, the escalating demands in public services, the rapid acceleration of federal programs, and the proliferation of state agencies widened the cracks in the executive branch. Over the next decade, governors, legislators, and voters tried to reform the system by pursuing both traditional and uncommon approaches.

The frequent adoption of constitutional amendments was the common method used to shore up the executive along with the other branches of state government. The method, however, often created more problems than it solved with the inclusion in the constitution of conflicting and ambiguous provisions—some of which had been better written into the statutes—making for a constantly lengthening document that baffled and confused the voters.

In 1963, the legislature tried another approach, one that was new to New Mexico, the creation of a constitutional revision commission to examine the constitution, make recommendations, and draft appropriate legislation. The following year, the commission recommended the calling of a constitutional convention to rewrite the 1910 document, and in its final report, 1967, drafted articles for a new constitution as a guide for delegates in the event the voters approved a convention.

The proposed executive article shortened the ballot by removing the office of secretary of state, attorney general, and treasurer, and declared that public utility and transport regulatory agencies would be governed by law. The article provided the framework for executive reorganization by authorizing the legislature to allocate all the executive offices, their powers and duties, to no more than twenty principal departments, and to prescribe the powers and duties of the departments. It empowered the governor to appoint and remove department heads and the heads of administrative bodies.

The voters, in 1968, accepted the commission's recommendations and approved the calling of a convention. The following year, however, they rejected, by a razor-edge margin, the constitution proposed by the convention. The drastic changes in the executive article accounted for some of the opposition.

The culmination of the convention experience coincided with the publication of a report in 1970 by the governor's committee on the reorganization of state government, created by the 1967 legislature to study the state's governmental organization, to recommend changes in the structure and procedures of state government, and to draft the necessary legislation. A modern version of the Little Hoover report, the committee's report described the governor's entanglement in 260 departments, offices, commissions, councils, and committees, and recommended enacting an executive reorganization act (similar to that proposed by the constitutional convention), a cabinet system with fourteen departments, and the elimination of all the elective offices except that of governor.

Bruce King, governor from 1971 to 1974, and the president of the 1969 constitutional convention, sought to improve the executive department by holding meetings of the heads of major agencies and using the state planning office to coordinate and monitor the programs and functions of offices under its jurisdiction.

Shortly after taking office in January 1975, Governor Jerry Apodaca started on a course that would result in a dramatic change in the executive branch within the next two years. The central feature of the master plan was the adoption by the legislature of a package of bills creating a cabinet system and specific departments. While some of the proposals altered the duties and functions of a few constitutional offices, the governor left the long ballot intact.

Many people in New Mexico and other states ask how this was accomplished when previous attempts to reform the executive failed. This paper provides some of the answers.

I wish to thank all the individuals who made this study possible by consenting to interviews and providing me with diaries, work sheets, memoranda, and reports.

Dorothy I. Cline  
Professor Emeritus, Political Science  
University of New Mexico

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Albuquerque, New Mexico

# I.

## *The Cabinet Initiatives*

1975

### **The Commitment to Strengthen the Office of Governor**

State senator Jerry Apodaca announced as a Democratic gubernatorial candidate in Las Cruces on September 21, 1973, and on the following day in Albuquerque stated publicly that he intended, if elected, to initiate the cabinet system in the executive branch. A basic campaign speech used around the state incorporated that commitment and the candidate's views of the office of governor in New Mexico.

“The Governor, it seems to me, should have mechanisms to make state government responsive, to inject his own vigor at all levels of state administration. The quasi-cabinet form could help in this effort. Governors really are the chief planners for the state. And their decisions should always be rooted in the long-range best interests and goals of the state. It is the office of Governor which can establish priorities for the future. It is the office of Governor which can bring separate agencies together, smooth out conflicts, set guidelines for action. We cannot be afraid of good strong state governments.”

This concept of the office evolved, partly, from legislative experience. Having served eight years as chairman or member of numerous



committees, he was struck by the confusion among agencies, the duplication of programs, conflicting policies, the intense lobbying and jockeying for funds, and the lack of focus on state problems. It seemed that no one and everyone spoke for the governor and for the people of the state.

Therefore, he fully intended to be an activist governor, a strong governor, a governor determined to provide the leadership for creating the mechanism that would make it possible for any governor in the future to take charge of the executive branch.

### **The Executive Maze**

Assuming office on January 1, 1975, just two weeks before the convening of the sixty-day session of the legislature, Governor Apodaca made his first move toward reorganization by directing one administrative assistant to explore and report on the cabinet concept, while another collected data intended to define and describe the "Executive Department" in New Mexico. (By this time the report of the governor's committee on the reorganization of state government was five years out of date.)

The initial step in studying the executive department was the preparation of a schedule by a member of the governor's staff for research and interviews that would provide current and comparative data. This first effort enabled the administration to describe areas for cabinet designations.

The second step was the identification of each executive entity by its official name and location, including the agency's statutory functions, organizational structure, budget, and the total number of full-time employees for the next fiscal year. It was necessary, later, to round out the study by describing the programs and functions carried out by each entity that, although legal, were not required by law and hence, not included in the inventory. A basic reference list was also compiled showing the status of each entity created by constitution, statute, executive order, or by governor's letter (Ref. 1).

The inventory of the executive branch, published December 15, 1976, disclosed that it consisted of "over three hundred and ninety boards, commissions, agencies, departments, committees, councils, and task forces," and that New Mexico state government had been

growing, and was continuing to grow, at the rate of approximately ten percent a year (Ref. 2).

A useful and essential by-product of the inventory was the preparation of a chart showing the organization of the executive branch as of December 31, 1976. So, for the first time in many years, New Mexicans could see what the executive branch looked like at a particular moment in the state's history (Fig. 1, in pocket).

### **A Quasi-Cabinet Formed**

The tempo to redesign the executive quickened noticeably when the governor created a "quasi-cabinet" by executive order on March 11, 1975, while the legislature was in session. Its size and composition reflected the governor's personal wishes, the recommendations of his associates, and criteria suggested by the University of New Mexico analysts. Governor Apodaca reasoned that the experiment had the best chance to succeed if the cabinet consisted of individuals with whom he had very close working relations, who appeared to be forceful leaders, and who were enthusiastic about getting the system off to a good start.

The sixteen-member cabinet consisted of the governor (chairman), lieutenant governor (vice chairman), and fourteen secretaries. Some ninety entities came together in the eight subcabinets, headed by secretaries of administration, economic development, ecology, education, human resources, justice, transportation, and energy (the last an unfilled post). These secretaries were joined by six of the governor's close associates who were assigned to public affairs, personnel, planning, manpower, appointments to boards and commissions, and executive branch administration (Fig. 2, March 1975).

Grouping myriad entities into functional or major-purpose areas posed tough problems at the early planning stage since there was insufficient information about agency functions and relationships to make firm and reliable judgments. (The inventory was underway.) The state banking commissioner, for example, was assigned to the subcabinet of economic development, but some thought the office might be better located in the subcabinet of administration, inasmuch as it was a regulatory body. There was uncertainty about placing the public records commission in administration, as there was about placing the oil and gas accounting commission in energy. The

area enveloping human services—health, social services, income support, rehabilitation, and employment security—was the most troublesome and remained so through 1978.

### **First Publication on Reorganization**

The administration's first report, released in April, 1975, a month after the appointment of the secretaries, and designed as a public relations tool, explained the objectives and the substance of the plan. The report elaborated on the role of a chief executive.

“Previously in New Mexico, the authority of Governor has been dispersed and curtailed. Several factors have contributed to this situation: among them are the numerous and virtually autonomous boards, commissions, and agencies, and a general breakdown in communication with, and responsibility to, the executive on the part of these boards, commissions, and agencies. This has led to a fragmentation of executive power and has acted as a drag on the ability of the state's chief executive to solve problems effectively, quickly, and responsively.” (Ref. 3)

Governor Apodaca was only one in a long line of governors, of both parties, to lament the deteriorating condition of the executive. Governor Edwin L. Mechem, faced with World War II growth, was instrumental in establishing the Little Hoover committee. Upon leaving office, Governor John Simms declared that New Mexico had a “15%-governor,” and later he chaired the governor's committee on the reorganization of state government, with Governor Mechem a fellow-member of the committee. Speaker of the House Jack Campbell championed reorganization in his gubernatorial campaign and, when elected, proposed the creation of a constitutional revision commission. Governor David S. Cargo received the final report of the revision commission and supported, privately if not publicly, most of the recommendations in the executive article. The testimony of these former governors led the constitutional convention executive committee to conclude that “the governor of this state is not able to govern under a system of divided and irresponsible government.”

## **Elected State Executives Drawn Into the Process**

The attitudes of state officials elected as executives, independent of the chief executive, and very protective of their constitutional prerogatives and political aspirations, were matters of real concern to the administration at the outset, since misunderstandings, rumors, and insufficient information could damage the cabinet system before it had a chance to get on its feet.

To forestall this possibility, the governor sent a special letter reaffirming the independence of state officials, soliciting their voluntary cooperation, and inviting them to participate in the meetings of the cabinet. In the meantime, each office was attached, informally, to a subcabinet. The secretary of state, auditor, and treasurer were aligned with administration; the state corporation commission with economic development; the land commissioner with energy; and the attorney general with justice. In yet another move to allay fears, the governor held monthly breakfast meetings at the mansion where these officials could get the facts and discuss their reactions to the new system, off-the-record.

## **The Quasi-Cabinet and Subcabinet Groups Begin Work**

The cabinet, in monthly or bimonthly meetings, worked from an agenda drafted by the governor's assistants, revised by the governor, and distributed before each meeting. The agenda for the first meeting on April 26, 1975, for example, included the student intern program, insurance policies for state employees, important bills passed by the legislature, requirements for the handicapped in offices rented by state agencies, and enrollment trends in the elementary schools. The secretary for personnel summarized the employment pattern in state government and the status of affirmative action programs for several months.

Members of the news media regularly attended cabinet meetings—rarely the subcabinet meetings—and Santa Fe reporters published and broadcast a considerable amount of information concerning the formation of the cabinet and the effect of reorganization on state government.

At the initial cabinet meeting, the governor directed the secretaries to establish effective lines of communication with the heads of agen-

cies drawn into their subcabinets. These individuals met regularly to discuss what each agency, and subcabinet as a whole, had to do to convert to a totally new concept of administration. The single function common to all task forces was to assist the governor's staff in the gathering of information for the inventory.

In an effort to unify and strengthen the cabinet, the governor held breakfast meetings at the mansion with all the secretaries on the first Monday of each month preceding the open cabinet meetings at the capitol.

### **A New Cabinet Appointed**

By the end of 1975, and anticipating the opening of the thirty-day session of the legislature, the governor and his staff assessed the eight-months' experience with the "quasi-cabinet." The system, they found, was a basic tool for any governor and adaptable to state government in New Mexico. However, the cabinet in its present form was not the answer, since it appeared to have a transitory rather than a stable, long-lasting quality. During this period, several former United States cabinet officials visited the state (Dean Rusk, Stewart Udall, and Arthur Goldberg), attended the governor's breakfasts and discussed their experiences under different presidents. No cabinet, they agreed, could work successfully if staff members came between the executives and members of the cabinet. The review made it clear that the cabinet must be made up of members who had a high potential for surviving beyond one administration.

The governor, in January 1976, removed his assistants from the cabinet and created a fourteen-member cabinet with seven new secretaries. The departments consisted of administration, public safety, natural resources, commerce and industry, labor, health and social services, education and cultural affairs, transportation, energy, taxation and revenue, corrections, and hospitals and institutions (Fig. 2, January 1976).

Establishing new departments and selecting the secretaries was an easier matter for the governor than it had been in March, since he now had the practical advice of the women and men who had been deeply involved in the realignment process from the beginning. Even so, it was touch-and-go, since adequate data, models, and options would not be assembled for six months.

# II.

## *Reform* 1976

### **The Legislative Waters Tested**

Governor Apodaca's strategy and time table called for positive action by the legislature which would be meeting for thirty days beginning January 20, 1976. The State of the State message made clear—if there was any doubt—that he was determined to press forward with executive reform.

“I have come to the conclusion that a main focus of my administration will be to streamline our state government. We cannot afford to wait any longer. We cannot afford to subsidize waste and duplication. We cannot afford the excess baggage of hundreds of boards, commissions, agencies, and divisions which block effective response to the needs and problems of the people.”

He requested the passage of an executive reorganization act and the authority to consolidate and eliminate certain boards and commissions while announcing the abolition of inactive or useless bodies created by earlier executive orders. In submitting these proposals, the governor's staff was anxious to keep the momentum, generated in 1975, by gaining some tangible victories in the 1976 session. This suggested the submission of a few modest proposals that

did not require a great deal of research, and which might, also, shed light on the prospects of bringing about extreme changes in the executive department.

The administration's executive reorganization proposal followed the general principle approved by the 1969 convention, and one that was adopted by the congress, allowing the president's reorganization proposals to take effect unless vetoed by either the house or senate, in a law that expired during the Nixon years.

The proposal was introduced in the house and approved by the house judiciary committee when a few legislators challenged its constitutionality on the grounds that it was an unlawful delegation of legislative power to the executive, and that one-chamber veto was improper—the arguments used, unsuccessfully, in the house of representatives against President Carter's reorganization plan. Even though the Apodaca administration had hoped to test the waters with a vote on the bill, the surfacing of the constitutional issue prompted the staff to withdraw the measure. Consequently, it became necessary to proceed with executive reorganization in New Mexico by drafting bills department-by-department.

Despite this setback, the administration found that the proposed consolidation of eight agencies offered practical tests of the sentiment of the legislators concerning executive branch reform. Five bills passed easily: merging the motion picture industry commission with the department of development, the commission on alcoholism with the department of hospitals and institutions, the traffic safety commission with the motor vehicle department, the New Mexico railroad authority with the department of parks and recreation, and the state grasshopper and other range pest control board with the department of agriculture. Three proposals were rejected: merging the committee on children and youth with the department of health and social services, the intertribal Indian ceremonial association with the department of parks and recreation, and the Old Lincoln County memorial commission with the department of parks and recreation. This represented a five-to-three score on consolidation. At the same time, sixteen obsolete statutes pertaining to executive entities were repealed with no difficulty.

The tactic of "testing the waters" yielded some useful tips and several surprises. Some bills thought to be simple turned out to be "hot potatoes"; in other cases, opposition appeared from unexpected

sources or the usual lobbyists failed to testify. An analysis of the votes turned up some new-found friends.

The administration's success in consolidating a few agencies and cutting away some underbrush was overshadowed, however, by legislative approval of a \$100,000 appropriation (with little discussion) to employ a full-time reorganization staff. Without this funding, the entire effort would have been seriously crippled, if not halted. Up to this point, the group working on reorganization consisted of three of the governor's assistants.

The \$100,000 budget request formulated by the governor's staff was based largely on hunches for, without a research staff, it was impossible to secure realistic figures from any of the states with successful experience in executive reform. A year later it was apparent the costs for staff, reports, publications, and printing bills were underestimated. The difference was made up by the staff working overtime, six and seven days a week for many months, and working after the expiration of contracts.

### **Developing the Proposals and Strategy for 1977**

The intensive work of reforming the executive establishment over the next six months began July 1, 1976, with the employment of the project director for the governor's reorganization staff, the employment of researchers, analysts, secretaries, bill draftsmen, technical writers, and consultants, and the assignment to the project of legal interns (Fig. 3). Their first task was the inventory of agencies (Ref. 2). As work progressed, the versatility and physical stamina of the members of the reorganization staff became important, as they were called on to conduct research, draft charts, design proposals, write reports, set type, edit, and proofread; and, when the 1977 session convened, to lobby, write bills, serve the ways and means committee, and brief legislators on the contents of all of the bills.

Identifying the major functional areas for intensive research, which led to the structuring of the departments, was a major undertaking, combining a synthesis of data and subjective evaluation. The staff selected eleven functional areas and, in doing so, retained the departments that proved to be satisfactory in the 1976 cabinet; i.e., the departments of transportation, natural resources, taxation and



revenue, commerce and industry, and educational finance and cultural affairs. Problem areas were dealt with by reallocating functions and changing the scope of the department's jurisdiction and establishing new departments. Human services, labor, and hospitals and institutions, for example, were transformed into the departments of human services and health and environment (Fig. 2, January 1977).

It was necessary, in the meantime, to establish a standard nomenclature for entities in the executive branch (departments, divisions, bureaus, and sections), and to adopt criteria for judging whether to retain or abolish an agency, create a body, transfer functions of one agency to another, or change the duties of an existing agency. The measuring sticks were: statutory obligations, structure, functions, regulations, practices, budgets, personnel, relationships with other agencies, and with other levels of government. The staff, at this stage, examined reports from some twenty states and the publications of federal agencies and research organizations, and they interviewed numerous state and federal officials. After compiling and analyzing the data, the staff designed a small number of optional forms of departmental organization to present to agency heads in subcabinet groups. Upon receipt of their comments and recommendations, the reorganization staff went back to the drawing boards to revise and synthesize all the proposals.

The final step led to the governor's office where the cabinet and key members of the administration reviewed the proposals and models. The governor settled disputes, offered his own recommendations, and put the final touches on the master plan—a plan, he thought, that accomplished his original objectives and that was judged to be acceptable to the legislators and their constituents.

### **Reorganization Staff Drafts Legislation**

The route to be followed in converting the reorganization plan into bills for the 1977 legislative session was a practical matter that had to be settled. Two approaches were considered: requesting that it be done by the 25-year-old legislative council service, or having the governor's reorganization staff do it. The first approach was not possible because the legislative council's workload and budget precluded such an additional large-scale project, and, more impor-

tantly perhaps, a long-standing policy confined its bill draftsmen to legal, technical, and mechanical matters which prohibited them from raising policy questions with legislators. The governor finally decided that the bill draftsmen, engaged in such an innovative undertaking, must be sensitive to substantive issues and free to deal with them as they emerged. Consequently, the reorganization staff was expanded to include a small number of bill draftsmen and lawyers, to serve both as advisers and technicians. They were individuals who were grounded in government and politics of New Mexico; all but one had served with the legislative council service in the past, and they included a former director of the health and social services department and the director of the 1968-1970 governor's committee on the reorganization of state government.

The draftsmen divided the tasks, searched the compiled laws, checked each entity with respect to powers, duties, functions, and relationships, consulted with the researchers and analysts, and molded the legislation. A basic policy, agreed upon at the outset, was credited with expediting the task: each bill was drafted on the premise that it stood alone as a single piece of legislation that might or might not become law, quite apart from the contents of any other department bill. Linked with this was the decision not to iron out conflicting or overlapping provisions or language problems in any of the bills until the legislature had acted on all the proposals and had adjourned.

### **The Project Speeded Up**

The administration's reorganization effort escalated following the defeat in the November 1976 election of a constitutional amendment which would have allowed a second, and consecutive, four-year term for state elected officials; this brought the stark realization that the governor had less than two years to achieve his goals. In mid-November, the governor called a cabinet meeting, held a press conference, met with forty of the 112 legislators, called statewide meetings of community leaders, and used television to explain the broad features of the plan, as the draftsmen hastened to complete the bills. He warned members of boards and commissions, and the heads of departments, not to line up with special interest groups and fight the proposals, except at the risk of losing their jobs. The reorganiza-

tion staff, equipped with flow charts and slides, addressed special interest groups and conferred with political scientists at the University of New Mexico and New Mexico State University.

By late December, the governor, the prospective speaker of the house, and the house Democratic caucus agreed on the legislative strategy for the coming session. It called for the introduction of the reorganization package in the house of representatives at the opening of the session, the referral of all the bills to a single, standing committee that would devote full time to conducting hearings and would report the bills out to the house as quickly as was humanly possible. After projecting the potential workload of four committees, the responsibility was given to the house ways and means committee, chaired by an Albuquerque representative with a strong interest and experience in administrative matters. For administration lobbyists, the governor tapped the administrative aide and his legal counsel, the director of the department of development, and the director of the department of finance and administration.

In early January, the chairman and five members of the ways and means committee plotted the committee's activities for the session, agreed on a tentative schedule for hearings, and divided the work between the full committee and a subcommittee, the latter composed of members who were not also assigned to the house appropriations and finance committee, which always has a heavy workload. While the subcommittee was, in effect, an extension of the full committee, the full committee devoted its thought to the generic bill, the Executive Reorganization Act, and to some of the more controversial issues.

# III.

## *Governor's Plan Documented* 1977

### **Responsive State Government**

The lead document for reorganization, prepared for the legislators, explained the principles of reorganization, reasons for the proposals, the dimensions and content of the master plan, and the methodology used throughout the study, with numerous charts accompanying the narrative. The creation of a modern executive branch was essential and the need was immediate.

“New Mexico state government has grown beyond all reasonable bounds. No one can remember the names, much less keep track and evaluate the performance of over 390 boards, commissions, departments, and committees. These multiple bureaucratic structures prevent the establishment of well-delineated lines of authority and block effective administration and implementation of law. Such an archaic organization mode defies the application of modern management techniques and severely inhibits the ability of elected officials, especially the chief executive, to meet their constitutional obligations. The result is government without public accountability.” (Ref. 4)

Therefore, the rationale for the governor's plan was to increase the accountability, efficiency, and effectiveness of the executive branch

and to improve intergovernmental relations. The goals were to be achieved by forming a cabinet, grouping myriad agencies into departments, eliminating overlapping, duplicated functions, useless agencies, and by stripping boards of managerial powers.

### **The Cabinet, Departments, and Secretaries**

The cabinet consisted of the governor and the heads of departments with the title of secretary. The departments corresponded in part with the functional areas formed originally for research purposes (Fig. 2).

Department heads, appointed by the governor with senate consent, directed and staffed their departments, administered funds, and planned and developed programs. An administrative services division was attached to each secretary's office for personnel, records, budget, fiscal and legal matters, planning, and management evaluation.

### **Singular Offices of the Executive**

Six offices were created to accommodate agencies serving a "special clientele with specific needs" or performing "important quasi-judicial duties crossing all departments," with an administrative assistant to the governor acting as coordinator. These were the office on the status of women, office of human rights, office of military and veterans' affairs, state personnel office, office of the state purchasing agent, and the office of Indian affairs. An office of licensing was suggested as a clearing house for examining and licensing boards. The lines of authority for some of these offices were later changed by the house ways and means committee.

### **Consolidation and Realignment of Functions**

The reorganization staff realigned existing agencies within functional areas by pursuing one of three courses: (1) The most frequently-used method transferred all or some of an agency's powers, functions, and duties to a department. (2) A few agencies, chiefly those with quasi-judicial duties, were administratively attached to a

department with the latter responsible for administering the budget, maintaining personnel records, reporting, and clerical functions. Otherwise, the agencies acted independently of the department secretary, retaining statutory powers, duties, and functions, the preparation of the budget, and personnel responsibilities. (3) Some agencies that were abolished had their powers, functions, and duties transferred to a department. (The latter included certain functions and duties, but not the constitutional powers, of the department of education and the office of land commissioner.)

### **Boards and Commissions**

The major overhauling of 176 boards, commissions, councils, committees, and offices found some entities retained or abolished; many others changed by transferring powers to other agencies; the policy-making powers of some boards were defined, limited, or removed. In the latter case, the plan provided for policy-advisory committees to ensure citizen participation in the making of decisions.

Since the internal structures of the departments were shaped by the special characteristics of each functional area, the process of consolidating agencies with similar functions, eliminating entities, or realigning functions brought different results to different departments—there was no “typical” department. However, the department of natural resources illustrates what happened to existing agencies in the process of building one department. The establishment of five divisions resulted in attaching one commission to a division for administrative purposes; absorbing eight entities (office, staff, department, council, and task force) into divisions; transferring functions to an administrative services division; and abolishing five commissions and committees. One commission retained limited policy-making duties, and one was transferred into a policy-advisory committee.

### **The Initial Master Plan**

The governor's proposals consolidated 206 agencies into 12 departments and 6 singular executive offices; abolished 68, converted 15 policy-making boards into advisory committees, and established an office for 24 licensing boards.

The initial package of 19 bills sent to the legislature generally followed the proposals outlined above, although it was necessary for the draftsmen to revise some proposals after reading the statutes and conferring with the analysts. The bills ranged from 3 to 269 pages—a total of 1,262 pages.

The Executive Reorganization Act (Laws of 1977, Chapter 248, see Appendices) contained the generic language written into the remaining 18 bills, 12 of which created departments and 6 adjunct agencies (the latter replacing the singular offices of the executive). The date when the laws became effective, July 1, 1977, was later changed.

### **Sunset Legislation**

The “sunset” concept, strongly favored by the governor and the chairman of the house ways and means committee, was incorporated in the initial draft of the Executive Reorganization Act. Several departments and offices were to be terminated on July 1, 1980, and the remainder on July 1, 1984, with each body given one year to wind up its business. The entity could be continued or re-established for no longer than 10 years, “should the legislature determine that past performance of the department, board, commission, or office merits its continuation,” with the evaluation occurring in the legislative session immediately preceding the agency’s termination date.

However, the final bill, revised by the house ways and means committee and further revised by a senate floor substitute, contained important changes. The “termination” section described above was deleted, although termination dates were retained in the bills that created departments and offices.

In the meantime, independent action was being taken by a member of the house with the preparation of a bill with sunset provisions for licensing and examining boards. While this was not considered a part of the governor’s reorganization program, the bill was supported by the administration as a vital feature of executive reform.

# IV.

## *Rewriting Bills in House Ways and Means Committee*

1977

When Governor Apodaca addressed the first session of the 33rd legislature on January 18, 1977, the modernization of the executive branch was uppermost in his mind, the first issue listed on his legislative agenda. Encouraged by the results of the merger of a few agencies in 1976, "we need," he said, "to intensify this drive to achieve even more." Now is the time "to reorganize the government into a streamlined . . . responsible . . . and understandable mechanism . . . to get it off people's backs and out of their pockets."

The great majority of legislators responded neither positively nor negatively; they were agitated about coal and uranium taxes, the pricing of natural gas, and energy-related issues—not executive reform. A few judged the plan as "too ambitious" and "too far-reaching," and thought the proposals should be referred to a legislative interim committee and delayed until a special or a succeeding regular session. Several legislators and reporters doubted that the governor, a "lame-duck governor," could muster the necessary votes, while others predicted that the big agencies, such as the highway department would fight the plan. The governor dismissed the idea that reorganization should be put on the back burner; declared the "interest of the people" would prevail over "the



special interests," and was fully confident all of the bills would be approved within the sixty days of the session. The legislature, he thought, might look more kindly on the plan since he was barred from re-election.

On the first legislative day, 15 reorganization bills were introduced in the house—4 the following week—and referred, as planned, to the house ways and means committee.

The 10-man committee, which was to serve as a little legislature, had 7 Democrats and 3 Republicans. The committee members represented districts in the northwestern, central, and southern parts of the state (Fig. 4). The subcommittee was headed by a Republican, the minority whip of the house—the first time in twenty years that a member of the minority party had chaired any subcommittee. One member, with some twenty years' service in the house, and a former chairman of the powerful appropriations and finance committee, served as a bridge between those with background in state government and the freshmen who had a great deal to learn about the executive branch.

Receiving a stack of bills a foot high, the full committee heard from the reorganization staff on the concepts of executive reorganization and the development of the master plan; approved an exacting schedule; set the 35th legislative day as the deadline for reporting to the house (they met their deadline); reached a consensus on the preparation of substitute bills and the avoidance of floor amendments; and commenced what resulted in 16 days and nights of hearings, averaging one to two bills each day.

The committee and the subcommittee, meeting alternately, were briefed by the area specialists as each bill was considered, questioned witnesses, examined each bill section by section, and accepted or revised the provisions. After each session, the committee staff, assisted by the reorganization staff, rewrote the sections which were then reviewed and approved by the full committee. The process ended with the writing and approval of the substitute bills. (Toward the end of the session, the senate substitute bills were prepared by the legislative council service.)

Witnesses invited to testify before the committee or to attend the hearings were members of boards, commissions, and local and state organizations with special interest in the subject. Agency heads answered the committee's questions and, in some cases, identified problem areas.

## The Big Questions

The questions most frequently asked of the reorganization staff had to do with savings, jobs, and salaries. (The same subjects arose during the implementation period in 1978, along with legislators' questions concerning a "new superstructure.")

Q: Would reorganization save any money?

A: (1) Over a period of time, the acceleration and growth of state government would be halted. (2) Fewer people would be employed; the consolidation and centralization of administrative services, now scattered among many agencies, would reduce the number of employees in each of the agencies. The number of employees in exempt, policy-making positions would be halved. (3) Immediate dollar savings would be realized with the elimination of boards and commissions.

Q: Will employees lose their jobs?

A: There will be no layoffs among the employees affected by the legislation. All state employees will still be covered by the Personnel Act—the exempt positions are the heads of departments and heads of divisions within each department. The personnel department will find slots for individuals whose positions no longer exist, classified as "unassigned" personnel. Jobs will be available for such persons because many vacancies caused by the normal rate of attrition will not be filled with new employees. The only positions filled with new employees will be those requiring expertise in some areas (providing that the "unassigned" personnel did not have the qualifications). The personnel department will prepare job descriptions for "new program" positions.

Q: Will salaries be cut?

A: No. It is possible that somewhere down the line an employee might not receive a promotion expected under the old structure, or that reorganization might cause an employee to reach the end of a "salary level" faster than he or she might have otherwise.

### **The Opposition**

The committee had been warned by officials in other states to expect strong, organized opposition to specific proposals from members of boards and commissions, well-entrenched bureaucrats, state employees, and special-interest groups clustered around state offices.

A large sheet of butcher paper was tacked on the wall in the committee room headed: "I'm all in favor of reorganization, but don't reorganize me," with spaces for names of witnesses testifying in that vein. The committee was surprised when less than a handful of names appeared on the list.

Opposition developed, nevertheless, much of which was covert, and reporters covered only the most colorful incidents. When the police board chairman and others objected to the criminal justice department bill, the administration brought in an American Bar Association expert to testify in behalf of the proposal. Data were presented indicating that only 5 states in the country, including New Mexico, retained a policy-making rather than an advisory board. Labor protested the transfer of the unemployment insurance function from the employment security commission to the income support division of the human services department—and won. Pressure groups prevented the elimination of the apprenticeship council. The administration, to a greater degree than the committee, felt the pressures from state employees worried about jobs, salaries, and the relocation of offices. The governor made it clear that he expected the secretaries to explain the legislation, to ward off rumors, and to secure the cooperation of the heads of agencies under their jurisdiction.

### **Concessions and Adjustments**

With a great deal of patience and long hours of work, the committee approved the majority of bills with only minor changes. A few bills, however, contained potentially explosive issues that were resolved when the committee worked out compromises that appeared to satisfy administrators and interest groups, and, they hoped, a majority of legislators in both houses.

**THE HIGHWAY DEPARTMENT BILL**—The highway commission and the department had been under stress since the approval of a constitu-

tional amendment in 1949 that established the commission with members from districts, made it responsible for matters of policy and for the appointment of the chief highway engineer, who was also the chief administrator of the department. Over the years, the commission became embroiled in headline-making controversies involving road construction, priorities, purchasing practices, major policy differences with governors, personal feuds, and conflicts of interest among the commissioners. Although the commissioners were appointed by the governor with senate approval, they could not be removed except by the state supreme court for reasons of incompetence, neglect of duty, or malfeasance of office. The restrictions were intended to keep the highway department out of gubernatorial politics.

By 1967, the voters, disturbed by the turbulence, approved an amendment to the state constitution authorizing the legislature to determine the powers and duties of the commission. The amendment wiped out many constructional details from the highway section in the executive article of the constitution, but it did not affect the supreme court's jurisdiction on removal proceedings. The controversies did not abate, and it seemed there was little any governor could do to influence the policies of a large, powerful, autonomous agency in the executive branch.

During the 1974 campaign, Senator Apodaca promised that if he were elected governor, he would make the department one of his main concerns. "The time has come," he said, "for the governor to take the reins and run that agency the way it's supposed to be" and to make sure that a number of the problems of the agency were alleviated. The 1977 reorganization plan provided the opportunity to move in that direction. The central question was how it was to be accomplished; which of several changes would be politically feasible? While the governor hoped the majority of his proposals would be acceptable to the house ways and means committee and the legislature, his primary concern was that a person with administrative experience head the highway department. In that, at least, he was successful. The results of the 1977 session, after argument and amendment played their parts, were that the chief highway engineer was indeed the chief highway administrator, the requirement that he be a civil engineer had been removed from the law, and the governor had gained the authority to approve or reject the highway commission's appointee to the office.

THE CRIMINAL JUSTICE DEPARTMENT BILL—Under intense pressure from members of the New Mexico state police, the chairman of the state police board, and other lobbyists, to preserve the complete independence of the state police, the house ways and means committee made substantial changes in the system. It established a state police division within the criminal justice department with the division director appointed by the department secretary, and it permitted the division director and secretary to determine the internal structure of the police division. The committee also saw fit to remove certain functions previously performed by the state police. Training, for example, was transferred to a training and education bureau within the department; the information system was transferred to a separate division that serviced the entire criminal justice department. Despite strong objections to making the state police a part of the department, and to changing the functions of the police board from policy-making to advisory, the committee held its ground. It did, however, authorize the director of the police division to consult directly with the governor under certain conditions, and at the director's discretion.

THE COMMERCE AND INDUSTRY DEPARTMENT BILL—The commerce and industry bill created a construction industries division, and administratively attached the construction industries commission to the division with all the functions of the mobile homes commission transferred to the division. The mobile home interests protested the elimination of their commission, charging that the construction industries "had tried to regulate them out of business," while the contractors wanted their commission "left alone." The committee, in this instance, worked out a compromise, the establishment of a regulatory body for mobile homes in the department separate from the industries division and the commission.

THE NATURAL RESOURCES DEPARTMENT BILL—This bill contained three controversial provisions, one of which involved the powers and functions of the long-standing office of the state engineer. With the independent office placed in the division of water resources, the engineer argued that the office would not be able to carry out its legal responsibilities and make independent, expert judgments on technical and scientific matters. The ways and means committee finally decided to write new language into the substitute bill empowering

the state engineer to "independently execute" certain adjudicatory functions of that office, and exempting from the authority of the secretary several statutory functions of the state engineer's office.

Another provision in the department bill placed the game and fish department, an independent agency for some forty years, in a newly created division of wildlife. Hunters, fishermen, and wildlife groups strongly protested the change, insisting that the game protection fund and the commission "be kept free of political interference." The committee voted to take the commission out of the department, restore its powers, and administratively attach the body to the department of natural resources.

A portion of the same bill converted the natural resources conservation commission into a policy-advisory committee and transferred its policy-making powers to a soil and water conservation division. This change was opposed by the officers of the state's 49 conservation districts, and after hearing the arguments, the ways and means committee restored some of the commission's power in the substitute bill.

**OTHER COMPROMISES**—Bills creating the transportation department and the human services department contained provisions that were offensive to the state department of education and local school people. The former bill transferred the department of education's school bus transportation division and the school bus inspection program to the transportation department. The committee compromised by leaving the transportation program in the department of education and approving the transfer of the inspection duties to the transportation department.

The department of human services bill provided for a division of vocational rehabilitation that absorbed the division of rehabilitation presently lodged in the department of education. Confronted with formidable opposition to the transfer, the committee rejected the proposal.

The personnel office bill was withdrawn with the committee's decision to administratively attach the personnel department and the board to the department of finance and administration.

The office of licensing bill was dropped in early January when the committee concluded that the active opposition of numerous occupational and professional organizations to a central clearinghouse might jeopardize the entire plan.

The concept of establishing singular offices, or adjunct agencies, troubled the committee, since it seemed more appropriate to attach at least some of the agencies to departments. Consequently, 3 bills were scrapped, creating offices for the commission on the status of women, the human rights commission, and the commission on Indian affairs. In the substitute bills, the agencies were attached to the department of human services for administrative purposes.

# V.

## *Countdown in the Legislature*

1977

### **House Approves Package**

The package of substitute bills given a “do pass” by the ways and means committee consisted of 14 bills: the Executive Reorganization Act, 12 establishing departments, and one creating the office of military affairs.

On February 21, the 35th legislative day, the committee of the whole house took up the Executive Reorganization Act, with the ways and means committee chairman presenting the plan and answering a broad range of questions. After three hours of discussion, more perfunctory than spirited, the generic bill was approved by a vote of 57-11, with two Democrats and nine Republicans opposed (Fig. 5). A bitter fight ensued on the same day over a uranium tax bill with Democrats split between high and low taxes, and it seemed for a while that the reorganization bills would get cross-wired with the tax votes. The crisis was averted when the governor met with several legislators and persuaded them to let the reorganization bills stand on their own merit.

The vote on the Executive Reorganization Act marked the watershed for the reorganization program, since the opposition could only muster from 5 to 18 votes on any one of the remaining bills in the package. A Republican split was evident when the minority leader announced that they could not reach a consensus in a party



caucus because there were "too many differences of opinion and unanswered questions." The same day (with the senate yet to act) the Democratic caucus supported the reorganization proposal 38-3.

A test for the ways and means committee occurred when an amendment to the bill relating to the commission on Indian affairs was offered, removing the commission from the human services department and putting it directly under the governor. The house backed the committee 36-30, a relief to the committee and the administration since acceptance of the amendment would have opened the gate for consideration of further amendments affecting other commissions that were administratively attached to the department of human services.

As one bill after another was taken up in the house, the ways and means chairman used all but two committee members as floor managers for one or two bills—a strategy that favorably impressed several legislators, since it "created confidence in the system." It was all over in the house on the 46th legislative day, March 4, 1977, with the passage of the last two bills. The 1977 house of representatives had approved a new form of executive management in New Mexico (Fig. 2, March 31, 1977).

### **The Press**

Throughout this period, the governor, his aides, and the press secretary made certain that reporters were kept informed of each development, from the appointment of the quasi-cabinet to the introduction of legislation in the house. Much of the information was considered newsworthy, especially to reporters headquartered in Santa Fe. The stories broke more frequently as bills left the governor's office, as contrasting opinions surfaced in hearings, and as the committee rewrote controversial sections. A high point for most reporters was the February 21 debate in the house committee of the whole on the Executive Reorganization Act. After that their interest subsided as the bills passed with no surprises or major upsets.

The reaction to the governor's proposals by editors and columnists in the leading newspapers swung from skepticism in November 1976, to acceptance at the mid-point of the 1977 session. There was no outright opposition or full-hearted support before or during the session. The lack of endorsements did not disturb administration

officials, but they acknowledged that a steady flow of anti-reorganization articles could have jeopardized the entire program.

Most writers praised the general concept since it offered “monetary savings” and “greater efficiency,” and they thought the bills deserved the legislators’ most serious consideration. The overwhelming majority doubted that the package had any chance to pass, and for various reasons: the multi-package form was too much at one time; the legislature should pass one or two bills, especially the Executive Reorganization Act, and it should postpone the remainder until a later session; the program would be stopped when the public learned more about the details. They underscored the powerful opposition from “bureaucrats who are endangered by a lessening of their status and structural power,” and all the boards and commissions “fighting to retain their separate entities.” An uncommon editor defended the continuation of policy-making boards. Strangely, the spectre of concentrating more power in the hands of the governor, frequently heard in 1969, was seldom raised in 1977.

Doubt gave way to realism the day the Executive Reorganization Act passed the house.

### **Senate Amends and Approves**

In the senate, on March 1, 1977, the committee of the whole took up its first bill, the Executive Reorganization Act, with the chairman of the house ways and means committee explaining the plan and the house committee’s work. After four hours of debate, the bill was tabled, pending separate committee hearings on all of the bills. (In contrast to the pre-session planning for moving the bills through the house, the strategy on the senate side evolved at the last minute.)

The judiciary committee objected to the January 1, 1978 date, when the legislation was to go into effect. Two key members favored July 1, 1978, while the governor preferred the January date. Finally a compromise was reached; March 31, 1978, was accepted by the committee and later by the senate. However, the key vote in the committee occurred on a motion to remove the state police from the criminal justice department and to restore its independence. Removal failing on a tie vote, there was a motion to approve the bill, which passed by one vote. The bill then passed the senate 36-3.

Several other attempts to amend bills failed, such as restoring the school bus inspection system to the department of education and removing the liquefied petroleum gas commission from the construction industries division.

Three days before adjourning, the committee of the whole approved 14 bills and the next day the senate passed the entire package. The administration scored a victory with the deletion of the requirement in the highway bill that the head be a "civil engineer." The sunset bill for licensing and examining boards passed easily. It was speculated that the opponents mistakenly thought the idea dead when the ways and means committee had dropped the provision in the Executive Reorganization Act.

Late in the afternoon of the 58th legislative day, the last of the bills, with senate amendments, passed the house.

The approval of the governor's request for \$250,000 to implement the legislation passed with little discussion and no opposition. Up to this point, the Apodaca administration had spent \$139,000. Not included were salaries for employees borrowed from state agencies, interns, overtime for the reorganization staff, and professionals whose contracts expired before the completion of the project. Comparable data from other states were hard to obtain; most employed larger staffs working regular hours for two to three years in programs costing upwards of \$200,000. New Mexico was unique in having completed the first phase of its program within nine months, and at a modest cost.

Governor Apodaca signed the bills on April 7, and the following day the intense work of transposing the legislation into administrative action by March 31, 1978, was underway.

# VI.

## *Implementing the Legislation*

1977

Carrying out the 1977 laws began with personnel shifts and a closer alignment of the reorganization project staff of thirteen with the governor's office. The project director became an administrative aide to the governor, responsible for implementing the program along with other duties. A budget-management specialist joined the staff to work in tandem with the budget director of the department of finance and administration, correlating the budgetary process with the department's implementation plans, a task that was important to the success of the entire effort. Four analysts, functional area specialists, were continued, along with a smaller number of bill draftsmen.

### **Guidelines**

The reorganization staff concluded from reading reports from other states that New Mexico's reorganized agencies would need a great deal of assistance. As soon as the 1977 legislature adjourned, the staff proceeded to prepare guidelines, statements of policy, forms, and a series of target dates for the acting secretaries whose appointments were announced in early April.

The Guidelines Memorandum (Fig. 21), completed on May 15, was based on a format developed in Georgia for reorganizing the

executive branch (Ref. 5). The activities, stretching over eleven months, consisted of a two-step process: (1) developing the implementation plan for each department by August 15, and (2) executing the plan by the time reorganization went into effect, March 31, 1978. The changes within each department were categorized as projects that could be started immediately and completed by the end of 1978; as projects to be initiated after April 1978 and completed after 1979; and, finally, longer-range projects. (The highway and agriculture departments were not included in the implementation program.)

The principal sections in the memorandum identified the tasks to be undertaken in each department, the office responsible for each task, provided the starting and completion dates for each, and set forth certain personnel and budget policies applicable to reorganization.

The guidelines defined the responsibilities of the governor, reorganization staff, the secretaries, and the service agencies. The staff was responsible for explaining the memoranda, and for coordinating all phases of the implementation program—structure, policies, systems, and procedures. The secretaries had the duty and authority to prepare and execute the implementation plans. They were directed to appoint a coordinator for the department, hold monthly review meetings, and to appoint a task force of administrative and program personnel from agencies within the department that would meet once a week.

Since the secretaries and task forces required assistance in specialized areas, the budget division of the department of finance and administration, and the personnel department assigned at least one person to each department, referred to as coordinators. Three other agencies provided technical assistance: the state records center, the automated data processing division, and the property control division; the two latter agencies were divisions within the department of finance and administration. The reorganization staff was also assisted by a management analysis project intended to establish a central and departmental automated accounting system that was to be continued after March 31.

In sum, the core working group for each department that formulated and carried out the plans consisted of an analyst and the budget expert from the reorganization staff, the coordinator for the department, the task force, and a coordinator each from the budget and personnel offices.

The planning phase started in May with the appointment of the task forces, followed by meetings with the analysts to gain an understanding of the 1977 laws, the cabinet system, and the elements in the planning process.

The first project assigned to the task forces was to inventory: (1) the existing programs within the department; (2) the budgeted positions and staff, by function, for the current fiscal year; and (3) the physical facilities, including equipment, furniture, fixtures, and office space. The project was completed within a month, according to schedule.

### **Developing the Plans**

During June and July, the core groups met constantly and worked out the plans for the bureaus, divisions, sections, and administratively-attached agencies, building up, finally, the implementation plan for the entire department. A by-product of the careful review and planning process was that some problems were uncovered that had existed for some time and should have been corrected before reorganization.

The March 31 deadline posed a major problem for the finance and administration department, because the date did not coincide with the state's fiscal year, which was July 1 to June 30. (The department argued in 1976 for a July 1 date, but the governor preferred to advance the implementation program by three months.) It was necessary, therefore, to audit the books of the reorganized agencies at the end of nine months, and to open a new set of books to be audited at the end of three months. The change affected the contracts entered into by the state auditor, the budget division, the reorganized agencies, and the private firms auditing the books of the reorganized agencies. The problem was solved when the state auditor and budget director worked out an unusual arrangement that provided for the selection of "lead" auditors, and the assignment of responsibilities to other contractors based on their ability to manage the volume of work. The cost of auditing the books was reduced by extending the contract with the lead auditors to fifteen months.

Planning for the establishment of administrative services divisions entailed a considerable amount of work since the change-over affected many offices and a large number of employees. The number and types of administrative services required by the operating units

depended on the functions performed by each department. Two services, for example, were considered essential for natural resources, and six for human services. A systems services was essential to taxation and revenue; special projects to human services; and a general counsel for health and environment. With the divisions structured, the core groups laid out the plans to merge offices, transfer people, revise job descriptions, create new positions, divide equipment, and locate suitable office space.

Splitting the health and social services department into discrete health and social service functions proved so complex for the task force that a national audit firm with considerable expertise and resources was brought in to analyze its functions, budget, equipment, space, and to prepare the implementation plans for the human services, health and environment departments.

The first week in August, the department plans were reviewed and approved by the reorganization staff, and the secretaries, and were sent to the governor on August 15 for his approval.

### **Executing the Plans**

From August, and up to the opening of the 1978 legislature, the core working groups, in a continuous round of meetings and conferences, put the plans into effect, up and down the line and across the board. It was necessary to eliminate bottlenecks, change rules and regulations, cut red tape, and bolster morale in order to complete each task on time. When difficult situations arose that were not covered by the guidelines, the reorganization staff issued a Supplemental Memorandum to the secretaries. When any of the secretaries reached an impasse on the allocation of funds or personnel, the reorganization staff was asked to make a recommendation and, if that was not acceptable, the governor made the decision.

Constant communication among the departments and the service agencies was essential. The automated data processing department, for example, had to evaluate the payroll requirements in the reorganized agencies so that hundreds of employees assigned to different offices and positions received their checks, and with accurate amounts, for the pay period after March 31. Relocating numerous agencies was a major concern of the property control division, along with a member of the reorganization staff, necessitating an examina-

tion of leases, rental costs, moving expenses, building designs, space, and the proximity of divisions and bureaus within a department. Many, but not all, of the changes were effected by March 31. The personnel department found it necessary to review more than a thousand positions (in a state with 12,800 state employees), and to prepare new titles and job descriptions for some 500 individuals.

The reorganization staff carefully monitored the program during every phase of the work. The principal mechanism, supplementing daily contacts with coordinators and task forces, was the monthly progress report prepared by the secretaries on the fifteenth of each month, which the staff summarized and sent to the governor the following week. The governor met often with the aide in charge of reorganization to decide what should be done about directives, differences among the secretaries, foot-dragging by administrators, political pressures to change some of the reorganized agencies, and the legislative agenda for the next session. The governor also used regular cabinet meetings and numerous conferences with key personnel to spur the completion of the program.

The reporters covering the capitol took only slight or casual interest in the work that was being done during the implementation period. Even though hundreds of employees scurried around, some said like ants, attending to reorganization, the details of planning and the mechanics of setting the plans into motion did not attract their attention. It seemed to some observers that the absence of front-page stories gave the impression to legislators and the public that the transition from the old to a new system was proceeding without a hitch.

### **Bills for the 1978 Session**

As soon as the governor signed the bills passed by the 1977 legislature, the bill draftsmen launched a review of the bills passed in the regular and special sessions for the purpose of identifying the bills that affected reorganziation. They found that some of the bills, originating with the legislators, conflicted with the administration bills. Where there were differences, the governor instructed the draftsmen to follow the view of the legislators and “not to diminish, water-down or finesse” their intent in the repealing, amending, and enacting of sections of the law. The draftsmen then proceeded to



draft what were called "housekeeping" bills, incorporating the necessary clean-up language.

The analysts and task forces also encountered legal snags during the implementation period that were referred to the draftsmen. The criminal justice department bill, for example, included such a provision. The state police had a long-standing practice of training their own officers in the law enforcement academy, located in the police complex. The continuation of a completely independent training program conflicted with the intent of the new law that created a training and education bureau in the criminal justice support division which was responsible for all training programs throughout the department. The state police argued, however, that they were still legally authorized to operate an independent program. In order to settle the dispute, it was necessary to draft a bill that clarified the new law's full, original intent.

The draftsmen prepared three pieces of legislation linked to the human services department bill. An intensive staff review of the department after the 1977 session indicated that it was unmanageable because of its size and the vast array of programs with policies, rules, and fiscal and reporting regulations mandated by four federal agencies—thus justifying the doubts that had arisen in the early planning period. The governor approved the plan to allocate some human services functions to the health and environment department, and the labor-employment functions to a new labor department. The bills, revising two department acts and one creating the thirteenth cabinet post, were not completed until the week prior to the convening of the 1978 session, a delay that disturbed the legislative interim reorganization oversight committee, but one that could not be avoided due to the intricate interrelationships in the area of human services.

Another area for the draftsmen dealt with the provisions in the 1977 laws that substantially reduced the policy-making powers of the New Mexico arts commission, the board of regents of the museum of New Mexico, and the international space hall of fame commission. A former arts commission chairman objected to the loss of power, its attachment to the educational finance and cultural affairs department, and, with others, urged its restoration as an independent agency. The president pro tempore of the senate demanded the board of regents regain some of its lost authority, and Alamogordo civic leaders who were actively associated with the space hall pressed for a

strong policy-making commission. While maintaining that heads of agencies and departments should be directly responsible for the conduct of boards and commissions, the governor faced political realities and agreed to submit bills augmenting the powers of the three bodies.

A bill to amend the 1977 highway department bill was proposed by the governor after a protracted and well-publicized power struggle involving the governor, highway commissioners, and the chief highway engineer (also the department head) who was a cabinet member for a brief period. It was not classified as a reorganization measure; the administration said the proposal would have to “stand on its own feet” in the legislative session. The bill was drafted by the reorganization staff early in the 1978 session and it incorporated three principal features: (1) the governor was authorized to appoint the highway administrator; (2) the governor appointed commissioners from the state as a whole, rather than from districts; and (3) the commissioners served at the pleasure of the governor. With an emergency clause, the bill would become effective when signed by the governor, thereby becoming geared to the March 31 deadline.

The governor and staff seriously thought about writing a bill that offered a good mechanism for carrying out the sunset provisions in the reorganization bills that terminated or continued the departments; a process that entailed holding hearings, assembling data, establishing criteria, auditing, evaluating performance records, and submitting recommendations to the legislature.

One approach under discussion was the appointment of a continuing review board in the executive branch with legislators included in the membership, but this was ruled out as a violation of the separation of powers. (The New Mexico supreme court had ruled earlier that the appointment of legislators to the state board of finance in the executive branch was unconstitutional.) Also considered was establishing an executive body with legislators serving as advisers, or a legislative interim committee with advisers from the executive branch. That route was discarded since neither branch relished the idea of serving in an advisory capacity. Another approach—that of assigning the job to the legislative finance committee—was also ruled out because the committee and its staff were already burdened, perhaps overburdened, with budget and appropriation functions and, since 1977, with “sunsetting” the licensing and examining boards. The subject was set aside.

### Legislative Review

The Executive Reorganization Act, considered by the house ways and means committee in early 1977, did not provide a mechanism for legislative review of reorganization other than the customary role of the legislative finance committee in the budgetary process. Midpoint in the session, with the house ready to approve the act, some legislators became concerned that the legislation did not provide for any council involvement in the reorganization process. The legislative council service and the reorganization bill draftsmen took care of the problem by adding a Review Section to the act, and gained necessary support for the passage of the Executive Reorganization Act. The section read that the legislative council "shall review all procedures in reference to the executive reorganization, and, in conjunction with the representatives of the governor's office, may hold public hearings" and report its findings and recommendations to the governor and the legislature meeting in 1978. The section went on to say that the governor's office, department of finance and administration, and the legislative finance committee shall "work in close cooperation in the preparation of all budget procedures pertaining to reorganization implementation."

Shortly after the 1977 session, the legislative council created a special reorganization oversight committee as its agent in the review process. During the next few months, the legislative finance committee and the oversight committee met with the governor's aide, staff members, and the budget director of the department of finance and administration for briefings in the implementation plans. Provided with copies of the Guidelines Memorandum, they raised questions about personnel policies in transferring employees, the consolidation of agencies, the size of the proposed human services department; many of the same questions raised the previous year by the house ways and means committee. Members of both committees wanted figures on the savings that resulted from reorganization and the operating costs in the fiscal year compared with costs before reorganization. Supplying the legislators with precise comparative cost figures was impossible. By starting reorganization in the last quarter of a fiscal year, the accounting system was unable to yield complete, accurate data at that particular time—later, yes. (This was one more problem created by the March 31 deadline, and it gave the

legislative finance committee a chance to criticize the figures prepared by the executive branch.)

The reorganization budget expert testified before the committees that reorganization would not reduce current expenditures but, if implemented properly, could reduce future expenditures. The estimated cost for the next fiscal year was considered a modest one-and-one-half percent increase in the base budget recommendations, and a fifteen percent increase in expenditures if the implementation expansion program were approved, and that there would be a 26.8% decrease of employees in the agencies brought together in the new departments.

Pressed time and again for savings and cost figures, the budget director for finance and administration advised the legislators that he doubted anyone could put a solid quantitative figure on what reorganization would cost, but certainly not any more money than before it took place.

The oversight committee reviewed the bills drafted by the reorganization staff, starting in October and extending into January with the completion of the human services bill. The committee's policy was announced as the 1978 session began; it sponsored all the housekeeping bills, but took no position on the remainder of the proposals.

# VII.

## *Reorganization Continued by 1978 Legislature*

On January 17, 1978, Governor Apodaca delivered the State of the State Message at the opening of the regular thirty-day legislative session. Executive reorganization was again a matter of primary concern. "We have spent the greater portion of 1977 working on the implementation of the long-awaited state government reorganization. After the close of the 1977 session, we had a legal skeleton into which we had to breathe substance and life. The process was not routine, it was tricky and time-consuming, but the cabinet structure offers an opportunity for manageable, accountable and efficient government." He wanted the next governor to inherit a more "coordinated and responsible structure. . . . I do not want the next governor to 'preside' over state government. I want him to manage it, motivate it and direct it." Looking ahead to the day of implementation, he asked the legislators to supply the last building blocks to the structure.

### **A Report on Reorganization**

The legislators had on their desks a reorganization staff publication, 'Responsive Government 1978', bringing up to date the previous year's report. It summarized the legislative history of reorganization, compared administration proposals with the bills approved in 1977,

described the policies and procedures employed in implementing the laws, detailed the internal structure of the twelve departments, described the administration's proposals for the 1978 session (Ref. 6).

### The Governor's Proposals

The legislators received 106 reorganization bills, the sunset recommendations of the legislative finance committee, along with education, tax, and revenue measures. The bulk of the reorganization bills, ninety-nine, were housekeeping or conforming bills. Three bills modified the policy-making powers of the museum's board of regents, the New Mexico arts commission, and the international space hall of fame commission. Three revised the 1977 laws of the highway, human services, and health and environment departments. One proposed establishing a labor department.

The housekeeping bills came out of committees and both houses with minor revisions, but not without strenuous questioning by legislators seeking evidence from the bill draftsmen that the governor was violating legislative intent—offering substantive changes under the guise of “simply cleaning up the language.” This was not the case, and the legislative council service assured the dubious members that the proposals were bona fide, and that the bill draftsmen had “played it straight” in revising the chapter laws.

The legislature passed, unanimously, the bills revising one board and two commissions. The museum's board of regents regained substantial power. Appointed by the governor with senate consent, it held title to all property, acted as the trustee of collections, and the contracting authority with individuals and organizations. It appointed the director of the museum division, with the consent of the secretary of educational finance and cultural affairs and the governor. The director controlled budget, personnel, purchases, and equipment.

The authority of the New Mexico arts commission was broadened. The commission advised the director of the arts division and the secretary of the educational finance and cultural affairs department; it was consulted by the director prior to the distribution of federal and state program funds. The governor received “general counsel on the arts from the commission and the division.”

The international space hall of fame commission (appointed by the governor) assumed the characteristics of a locally-administered entity. It established policies, operated the facility, employed the staff, and supervised the director.

The highway department proposal, introduced the second day of the session, was similar to those defeated in 1975 and 1977. It ran into trouble within a week in senate hearings. Since the bill vested additional powers in the office of the governor, many senators insisted on inserting some built-in restraints. Within days, a number of key compromises were negotiated, and a substitute bill, approved by senate committees, reached the floor on February 7, and passed 34-7. Five days later, the house approved the bill 52-18, after a thirty-minute debate. It was signed by the governor on February 13. The governor aided its passage by lobbying a number of representatives in a series of meetings in his office over a three-day period prior to the final vote.

The day the senate approved the bill, the chief highway engineer resigned, effective March 31, allowing the governor to send the name of his replacement to the senate; the nomination was confirmed shortly before the legislature adjourned. The new department head was the first non-engineer to administer the department in two decades. An experienced administrator, he formerly headed the bureau of revenue, the state energy board, and served as a member of a highway task force appointed by the former governor.

Under the newly enacted law, the chief administrator of the highway department, a cabinet member, was appointed by the governor with the approval of the commission and the advice and consent of the senate. The state highway engineer, the executive officer (without civil engineering qualifications), "had all the powers necessary for the efficient management of the department." The highway commissioners could only be removed for incompetence, neglect of duty, or malfeasance in office, but the governor was required to gain prior approval of the senate. (The bill did not touch on the subject of highway districts.) The only complaint lodged against the legislation was the lack of procedures for removing the department head, or for the governor to gain the approval of a senate that might not be in session at a critical time. The bill's sponsor said the ambiguities were "deliberate"; the compromises, he thought, allowed the governor and a commission to cooperate.

The prevailing attitude in the press was that the bill might put an end to the bickering that had gone on for years. One widely-read newspaper in the state clung to its position that the highway department should be "insulated" from political pressures. However, a reporter for the same paper expressed an opinion shared by some seasoned political observers: "Governor Apodaca," he wrote, "may yet go down into the state's archives as the governor that turned the state highway department into a model of governmental efficiency. Although it would have seemed unlikely a month ago, the highway commission-Apodaca 'war' could end with neither side losing, and the people of New Mexico emerging as victors."

So far, so good, for the administration's reorganization proposals, but the legislature, working at break-neck speed, reached the 30th legislative day, unable to agree on the remainder of the governor's bills. It adjourned February 16.

### **Governor Calls Special Session**

Calling a meeting of the cabinet and his aides that afternoon, the governor set the agenda for a special session to begin the following morning. The constitution mandates that all business transacted in a special session called by the governor must be related to the items specified in the proclamation. Therefore, the governor listed seven items, including three reorganization measures: human services, health and environment, and labor.

The outlook on February 17 was discouraging. Human services was tied up in house ways and means and senate finance. The health and environment bill, passed in the regular session, did not contain an emergency clause and would go into effect in June, not March 31. To complicate the situation, legislators wanted an amendment tacked onto the human services and health and environment department bills that was unrelated to reorganization, and pitted the legislative branch against the executive. The amendment empowered the legislature to review rules and regulations adopted by state agencies, and to repeal any rule, effective in sixty days. Since it did not permit the governor to veto a repeal, the governor's legal counsel declared the amendment unconstitutional—violating the separation of powers. Nevertheless, the two department bills passed both houses with the amendment attached to each.



The labor department bill was caught up in a bitter dispute on a wage-rate amendment. Sponsored by the senate majority whip, it changed the method for determining wages paid workers on public works projects. Rather than determining the average wage on the findings of a state survey, as in the past, it required the state labor commissioner to base the average on local surveys conducted in the city or county where the work took place. With feelings running high the 7th day into the session, the senate, 19-21, refused to strike the amendment approved by the finance committee, and the department bill passed the senate 39-1. The debate raged in the house ways and means committee where labor unions, the state labor commissioner, and some contractors testified that the amendment was a device to lower the average rate by excluding union wages paid in Albuquerque-Bernalillo county, and would bring out-of-state contractors into New Mexico with illegal aliens as workers. The supporters, the building contractors' association and some road construction companies, countered that it would do no such thing, but would be a decided economic benefit to the state. The sponsor threatened to introduce a right-to-work amendment or remove the emergency clause, if the amendment was stricken. Another senator speculated that he might offer an amendment repealing the Minimum Wage Public Works Act. The governor's legal counsel testified that the amendment provided an alternative method for determining wages and constituted a change in policy. As such, it was not related to reorganization and not germane to the session call.

The house ways and means committee gave a "do pass" to the bill with the wage amendment, and the emergency clause, and sent the only remaining bill on the calendar to the full house where it reached an impasse. The labor department bill was dead.

At 6 p.m. on the 8th day, the session ended; the longest special session in many years, lengthened in part by the large number of reorganization proposals.

### **First Cabinet Installed**

When the legislature left Santa Fe, the governor had less than a month to put all the machinery in place by the effective date of reorganization. He vetoed the human services department bill, and the health and environment department bill, and allowed the 1977

department acts to stand. Two weeks later, the human services department was reconstructed, which completed the formation of the cabinet (Figs. 6-19) and the modernization of the executive branch, at a total cost of \$434,000 (Fig. 20).

On March 31, the secretaries of the twelve departments were sworn into office by the chief justice of the New Mexico supreme court in the capitol rotunda. The governor told a large group of people that "reorganization is not anything we invented but something we took the initiative on," and looked on the occasion as "only the beginning of reorganization of state government." He expressed the hope that "future administrations would see this as an opportunity to keep New Mexico current."

## VIII.

### *How Did It Happen?*

Governor Apodaca took office firmly convinced that a governor in New Mexico could not direct or administer the executive department as it existed. The idea of reforming the department captured his imagination and absorbed much of his time for the next four years.

He did not have to plow fresh ground, since New Mexicans were familiar with the constitutional and management problems in the executive branch. The seeds of change had been sown in recent years by the constitutional revision commission, the constitutional convention, and the governor's committee on reorganization. The latent interest of the voters was rekindled in 1976 with more and more people in the state and across the country demanding less government, more efficient government, and a government more responsive to the people—a return to the good government and populist ideals of an earlier era.

Governor Apodaca's decision to make reorganization the centerpiece of his administration was linked to the adoption of a novel and untried approach in New Mexico. He intended to redesign the maze of agencies by writing new laws and, by doing so, divorced himself and the project from the highly volatile issue of reducing the number of elected state officials—leaving the next phase of consolidation to future governors.

The administration's remarkable success in 1977 was due to a combination of unusual and interrelated factors that included bill drafting (the single-package tactic), individuals (the speaker and the house ways and means committee chairman), the legislative process

(a single committee with full jurisdiction over reorganization), timing (introducing the package on the opening day of the session), and legislative politics (reorganization was noncontroversial) in the sixty-day session.

In 1978, when the legislators met, there was scant time to dispose of budget, appropriations, and revenue measures, and all the administration's substantive proposals. The same legislators had approved the basic framework for the executive, and the governor, approaching the end of his term, sought passage of more than a hundred reorganization bills. The circumstances provided the legislators with an opportunity to use the department bills for their own purposes, and to deny the governor what he wanted to complete the centerpiece.

Health and social services was the trouble spot from the beginning, when the staff had six months in 1976 to merge, split and to rearrange functions in one of the most complex areas in state government. A task of such magnitude probably required a larger staff with additional program specialists, and more than the initial \$100,000 appropriation—a lesson to be learned by other states engaged in a similar venture.

The single event that energized the executive was the election of a governor who decided that it was time to cure a festering sore. A strong governor, a rarity in New Mexico politics, Apodaca took charge of the reorganization project, masterminded the plan, participated in the process, made the vital decisions, and used the power, prestige, and resources of the office to gain the understanding and support of administrators, state employees, legislators, and special-interest groups. He explained the goals and proposals to reporters, community leaders, and the public from the day he took office to the swearing-in ceremony of the cabinet.

In his inaugural speech, Governor Apodaca promised to transform the executive branch into "a creative and sensitive instrument to help people improve their lives and to realize their goals." The old system was uprooted and a new era opened in state government in New Mexico.

# *Appendices*

# *Appendix 1*

## LAWS OF 1977 CHAPTER 248 AN ACT

RELATING TO THE REORGANIZATION OF THE EXECUTIVE BRANCH OF GOVERNMENT; CREATING AN EXECUTIVE CABINET; CREATING CABINET DEPARTMENTS; DEFINING POWERS AND DUTIES OF DEPARTMENT SECRETARIES; PROVIDING FOR THE ALLOCATION OF FUNCTIONS; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. **SHORT TITLE.**—This act may be cited as the “Executive Reorganization Act”.

Section 2. **PURPOSE OF ACT.**—The purpose of the Executive Reorganization Act is to allow for more efficient management of the executive branch by creating an executive cabinet composed of secretaries of departments; to eliminate overlapping and duplication of effort; and to provide for administrative and budgetary controls within this organizational structure. It is also the intent of the legislature to provide for an orderly transfer of powers, duties and functions of the various state agencies to such departments with a minimum of disruption of governmental services and functions and with a minimum expense; and to this end, the governor shall begin immediately making such studies and preparations and taking such actions as are necessary to implement the provisions of all reorganization legislation enacted by the first session of the thirty-third legislature.

Section 3. **CABINET CREATED—MEMBERS—POWERS AND DUTIES.**—

A. There is created the "executive cabinet" headed by the governor and consisting of, but not limited to, the lieutenant governor, and the secretaries of such departments as are hereafter created and designated as "cabinet departments" pursuant to law.

B. The cabinet shall:

- (1) advise the governor on problems of state government;
- (2) establish liaison and provide communication between the executive departments and state elected officials;
- (3) investigate problems of public policy;
- (4) study government performance and recommend methods of inter-agency cooperation;
- (5) review policy problems and recommend solutions;
- (6) strive to minimize and eliminate overlapping jurisdictions and conflicts within the executive branch; and
- (7) assist the governor in defining policies and programs to make the government responsive to the needs of the people.

C. The governor shall call meetings of the cabinet at his pleasure and shall seek the advice of the cabinet members.

#### Section 4. CABINET DEPARTMENTS—STRUCTURE.—

A. Except as otherwise provided by law for its internal structure, the executive branch shall adhere to the following standard terms:

- (1) the principal unit of the executive branch is a "department", headed by a "secretary", who shall be appointed by the governor with the consent of the senate and who shall serve at his pleasure;
- (2) the principal unit of a department is a "division", headed by a "director", who shall be appointed by the secretary with the approval of the governor and who shall serve at the secretary's pleasure;
- (3) the principal unit of a division is a "bureau", headed by a "chief", who is employed by the secretary and who is covered by, and subject to, the provisions of the Personnel Act; and
- (4) the principal unit of a bureau is a "section", headed by a "supervisor", who is employed by the secretary and who is covered by, and subject to, the provisions of the Personnel Act.

B. An appointed secretary shall serve and have all of the duties, responsibilities and authority of that office during the period of time prior to final action by the senate confirming or rejecting his appointment.

Section 5. SECRETARY—DUTIES AND GENERAL POWERS.—

A. The secretary is responsible to the governor for the operation of the department. It is his duty to manage all operations of the department and to administer and enforce the laws with which he or the department is charged.

B. To perform his duties, the secretary has every power expressly enumerated in the laws, whether granted to the secretary or the department, or any division of the department, except where authority conferred upon any division therein is explicitly exempted from the secretary's authority by statute. In accordance with these provisions the secretary shall:

(1) except as otherwise provided in this act, exercise general supervisory and appointing authority over all department employees, subject to any applicable personnel laws and regulations;

(2) delegate authority to subordinates as he deems necessary and appropriate, clearly delineating such delegated authority and the limitations thereto;

(3) organize the department into those organizational units he deems will enable it to function most efficiently, subject to any provisions of law requiring or establishing specific organizational units;

(4) within the limitations of available appropriations and applicable laws, employ and fix the compensation of those persons necessary to discharge his duties;

(5) take administrative action by issuing orders and instructions, not inconsistent with the law, to assure implementation of and compliance with the provisions of law with the administration or execution of which he is responsible, and to enforce those orders and instructions by appropriate administrative action or actions in the courts;

(6) conduct research and studies that will improve the operations of the department and the provision of services to the citizens of the state;

(7) provide courses of instruction and practical training for employees of the department and other persons involved in the administration



of programs with the objective of improving the operations and efficiency of administration;

- (8) prepare an annual budget of the department;
- (9) provide cooperation, at the request of heads of administratively attached agencies and adjunct agencies in order to:
  - (a) minimize or eliminate duplication of services and jurisdictional conflicts;
  - (b) coordinate activities and resolve problems of mutual concern; and
  - (c) resolve by agreement the manner and extent to which the department shall provide budgeting, record-keeping and related clerical assistance to administratively attached agencies;
- (10) appoint, with the governor's consent, for each division, a "director". These appointed positions are exempt from the provisions of the Personnel Act. Persons appointed to these positions shall serve at the pleasure of the secretary;
- (11) give bond in the penal sum of twenty-five thousand dollars (\$25,000) and require directors to each give bond in the penal sum of ten thousand dollars (\$10,000) conditioned upon the faithful performance of duties, as provided in the Surety Bond Act. The department shall pay the costs of such bonds; and
- (12) require performance bonds of such department employees and officers as he deems necessary, as provided in the Surety Bond Act. The department shall pay the costs of such bonds.

C. The secretary may apply for and receive, with the governor's approval, in the name of the department, any public or private funds, including but not limited to United States government funds, available to the department to carry out its programs, duties or services.

D. Where functions of departments overlap, or a function assigned to one department could better be performed by another department, a secretary may recommend appropriate legislation to the next session of the legislature for its approval.

E. The secretary may make and adopt such reasonable and procedural rules and regulations as may be necessary to carry out the duties of the department and its divisions. No rule or regulation promulgated by the

director of any division in carrying out the functions and duties of the division shall be effective until approved by the secretary unless otherwise provided by statute. Unless otherwise provided by statute, no regulation affecting any person or agency outside the department shall be adopted, amended or repealed without a public hearing on the proposed action before the secretary or a hearing officer designated by him. The public hearing shall be held in Santa Fe unless otherwise permitted by statute. Notice of the subject matter of the regulation, the action proposed to be taken, the time and place of the hearing, the manner in which interested persons may present their views and the method by which copies of the proposed regulation, proposed amendment or repeal of an existing regulation may be obtained shall be published once at least thirty days prior to the hearing date in a newspaper of general circulation and mailed at least thirty days prior to the hearing date to all persons who have made a written request for advance notice of hearing. All rules and regulations shall be filed in accordance with the State Rules Act.

F. If this section conflicts with the powers and duties specifically given by statute to a particular secretary, the specific powers and duties shall control. If this section conflicts with other statutes specifically limiting the powers of a secretary, the specific limitations shall control.

Section 6. **ADJUNCT AGENCIES.**—“Adjunct agencies” are those agencies, boards, commissions, offices or other instrumentalities of the executive branch, not assigned to the elected constitutional officers, which are excluded from any direct or administrative attachment to a department, which retain policy-making and administrative autonomy separate from any other instrumentality of state government.

Section 7. **ADMINISTRATIVELY ATTACHED AGENCY—RELATIONSHIPS.**—

A. An agency attached to a department for administrative purposes only shall:

- (1) exercise its functions independently of the department and without approval or control of the department;
- (2) submit its budgetary requests through the department; and
- (3) submit reports required of it by law or by the governor through the department.

B. The department to which an agency is attached for administrative purposes only shall:

- (1) provide, if mutually agreed, the budgeting, record-keeping and related administrative and clerical assistance to the agency; and
- (2) include the agency's budgetary requests, as submitted and without changes, in the departmental budget.

C. Unless otherwise provided by law, the agency shall hire its own personnel in accordance with the Personnel Act.

Section 8. CREATION OF AGENCIES—PROHIBITION.—Unless otherwise provided by law, neither a department secretary nor any other employee of the executive branch of state government, or any agency, may, by administrative action, create an agency, board, commission or any other entity of state government. This section shall not apply to:

A. advisory committees created in accordance with Section 9 of the Executive Reorganization Act; and

B. units within the internal structure of a department established under Subsection A of Section 4 of the Executive Reorganization Act.

Section 9. CREATION OF ADVISORY COMMITTEES—WHO MAY CREATE—FILING—APPLICATIONS—COMPOSITION—LIFE SPAN—TITLE—QUORUM—COMPENSATION.—

A. Advisory committees may be created. Advisory shall mean furnishing advice, gathering information, making recommendations, and performing such other activities as may be instructed or delegated and as may be necessary to fulfill advisory functions or to comply with federal or private funding requirements, and shall not extend to administering a program or function or setting policy unless specified by law.

B. The governor or a department secretary, with approval of the governor, may create advisory committees.

C. Each creating authority must file with the governor and the secretary of finance and administration a record of the advisory committee created, showing the committee's:

- (1) name;
- (2) composition;
- (3) appointed members' names and addresses; and
- (4) purpose and term of existence.

D. The secretary of each department created by the Executive Reorganization Act shall, upon the effective date of the Executive Reorganization Act, file a record of each advisory committee within the department not abolished. Upon the filing of such a record, the provisions of this section shall apply to each such advisory committee.

E. The creating authority shall prescribe the composition and functions of each advisory committee created; appoint its members, who shall serve at the pleasure of the creating authority; and specify a date when the existence of each advisory committee ends.

F. No advisory committee may be created to remain in existence longer than two years after the date of its creation or beyond the period required to receive federal or private funds, whichever occurs later, unless extended by executive order of the governor. If the existence of an advisory committee is extended, the extension shall not be for more than two years.

G. Each advisory committee created under this section shall be known as the “\_\_\_\_\_ advisory committee”.

H. A majority of the membership of an advisory committee shall constitute a quorum.

I. Each member of an advisory committee may receive compensation for travel and per diem expenses incurred in the performance of their duties within budgeted amounts and in accordance with the provisions of the Per Diem and Mileage Act.

Section 10. REORGANIZATION PLAN—NO ABATEMENT OF ACTIONS.—No suit, action or other proceeding lawfully commenced by or against the head of any agency or other officer of the state, in his official capacity or in relation to the discharge of his duties, shall abate by reason of the taking effect of any reorganization plan under the provisions of the Executive Reorganization Act. The district courts may, on motion or supplemental petition filed at any time within twelve months after the reorganization plan takes effect, showing a necessity for a survival of the unit, action or other proceeding to obtain a settlement of the questions involved, allow the same to be maintained by or against the successor of such head of agency or officer of the state under the reorganization effected by the plan or, if there is no successor, against such agency or officer as the governor shall designate.

Section 11. REVIEW.—The legislative council shall review all procedures in reference to the executive reorganization, and, in conjunction with the representatives of the governor's office, may hold public hearings as deemed necessary and shall report its findings to the governor together with recommendations for consideration by the second session of the thirty-third legislature in 1978.

The representatives of the governor's office, together with the department of finance and administration, shall, in the interim, work in close cooperation with the legislative finance committee in the preparation of all budget procedures pertaining to reorganization implementation.

Section 12. APPROPRIATION.—There is appropriated from the general fund two hundred fifty thousand dollars (\$250,000) to the office of the governor for expenditure in the sixty-fifth and sixty-sixth fiscal years. This money shall be expended pursuant to the purpose of this act and for the purpose of employing, engaging and compensating personnel for preparations of matters pertaining to executive reorganization legislation enacted by the first session of the thirty-third legislature. Any unexpended or unencumbered balance at the end of the sixty-sixth fiscal year shall revert to the general fund.

Section 13. SEVERABILITY.—If any provision of the Executive Reorganization Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Executive Reorganization Act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 14. EMERGENCY.—It is necessary for the public peace, health and safety that this act take effect immediately. \_\_\_\_\_

*Appendix 2*

Figure 2

THE CABINET—NEW MEXICO

MARCH 1975; JANUARY 1976; JANUARY 1977; MARCH 31, 1977

MARCH 1975	JANUARY 1976	JANUARY 1977	MARCH 31, 1977
Created by Executive Order	Created by Executive Order	Governor's Proposals	Adopted by Legislature
<p>QUASI-CABINET (13)</p> <p>Governor Lieutenant-Governor (Vice Chr)</p> <p>SECRETARIES &amp; DEPARTMENTS</p> <p>Justice Ecology Economic Development Human Resources Education</p> <p>Transportation Administration Planning Public Affairs Manpower Appointments, Boards &amp; Commissions Personnel Executive Branch Administration</p>	<p>CABINET (12)</p> <p>Governor Lieutenant-Governor (Vice Chr)</p> <p>SECRETARIES &amp; DEPARTMENTS</p> <p>Public Safety Natural Resources Commerce &amp; Industry Labor Education &amp; Cultural Affairs</p> <p>Transportation Administration Health &amp; Social Services Energy Taxation &amp; Revenue Corrections Hospitals &amp; Institutions</p> <p>ADVISERS FOR:</p> <p>Planning Personnel</p> <p>Economic Development</p>	<p>CABINET (12)</p> <p>Governor Lieutenant-Governor</p> <p>SECRETARIES &amp; DEPARTMENTS</p> <p>Criminal Justice Natural Resources Commerce &amp; Industry Human Services Educational Finance &amp; Cultural Affairs</p> <p>Transportation Finance &amp; Administration Health &amp; Environment Energy &amp; Minerals Taxation &amp; Revenue Agricultural Affairs Highway</p> <p>SINGULAR OFFICES:</p> <p>Women Licensing</p> <p>Human Rights Military &amp; Veteran Affairs</p> <p>Indians Purchasing Personnel</p>	<p>CABINET (12)</p> <p>Governor Lieutenant-Governor</p> <p>SECRETARIES &amp; DEPARTMENTS</p> <p>Criminal Justice Natural Resources Commerce &amp; Industry Human Services Educational Finance &amp; Cultural Affairs</p> <p>Transportation Finance &amp; Administration Health &amp; Environment Energy &amp; Minerals Taxation &amp; Revenue Agriculture (NMSU) Highway</p> <p>ADJUNCT AGENCIES:</p> <p>Military Affairs Alcoholic Beverage Control Records &amp; Archives Occupational Licensing Boards</p>

**Figure 3**  
**EXECUTIVE REORGANIZATION STAFF—NEW MEXICO**  
**January 1975—March 31, 1978**  
**Governor Jerry Apodaca<sup>1</sup>**

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**NAME AND TITLE**

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Nick Franklin, Administrative Assistant to Governor and Legal Counsel  
Chris Brown, Administrative Aide to Governor  
Judi Ross, Director, Cabinet Secretariat  
Mark Michael, Staff Assistant to Governor  
Chris Krahling, Project Director; Administrative Assistant to Governor  
Beverly Ortiz, Research Coordinator  
Jean Lawson, Research Analyst  
Roy Nord, Research Analyst  
Robert Ruth, Research Analyst  
Johnny Taylor, Research Analyst<sup>2</sup>  
Danielle Wilson, Research Analyst  
Joe Daley, Research Analyst  
Art Locker, Bill Drafter Coordinator<sup>2</sup>  
John Jasper, Bill Drafter<sup>2</sup>  
Joff Pollon, Bill Drafter<sup>2</sup>  
Chris Carlson, Bill Drafter<sup>2</sup>  
Joan Ellis, Bill Drafter<sup>2</sup>  
Joan Burdeau, Technical Writer  
Richard Marr<sup>2</sup>  
Richard Tonigan<sup>2</sup>  
Bob Laurence, Legal Intern  
George Foster Hannett, Legal Intern  
Robert Rivera, Legal Intern  
Fernando Macia, Legal Intern  
Aggie Baldizan, Secretary  
Christine Anaya, Secretary

Jan Schooley, Secretary

Glenda Bailey, Secretary

Priscilla Carr, Secretary

1. From January 1975 through June 1976, reorganization duties were assigned to members of the governor's staff. The full-time reorganization project staff was assembled July 1, 1976, the beginning of the fiscal year. There were shifts in personnel and assignments from July 1977 to March 31, 1978. The largest number of full-time employees and consultants at any time was 16.

2. Consultant.

**Figure 4**  
**HOUSE WAYS AND MEANS COMMITTEE**  
**AND SUBCOMMITTEE (S)**  
**NEW MEXICO LEGISLATURE**  
**1ST SESSION, 1977**

NAME	PARTY	DISTRICT	OCCUPATION
David Rusk—Chairman	D	BERNALILLO	Insurance Agent
Leo C. Watchman—V. Chairman	D	McKINLEY—SAN JUAN	Health Administrator
John F. Bigbee	R	DE BACA—GUADALUPE—LINCOLN—TORRANCE	Rancher
Fred E. Mondragon	D	BERNALILLO	Regional Hospital Administrator
Boyd F. Scott	R	SAN JUAN	Allen Theatres, Inc.
S) Maurice Hobson—Chairman	R	LINCOLN—OTERO	Bank President
S) John J. Mershon	D	LINCOLN—OTERO	Farmer
S) I. Russell Autry	D	DONA ANA—LUNA	Investigator
S) Daniel Lyon	D	BERNALILLO	Attorney
S) Jack L. Skinner	D	EDDY	Manager, The Mine Supply Co.



**Figure 5**  
**HOUSE & SENATE VOTES ON REORGANIZATION BILLS—NEW MEXICO**  
**FROM JANUARY 18, 1977, FIRST LEGISLATIVE DAY TO MARCH 16, 1977,**  
**58TH LEGISLATIVE DAY**

BILL (SUBSTITUTE)	HOUSE (70)			SENATE (42)	
	LEGISLATIVE DAY INTRODUCED	LEGISLATIVE DAY APPROVED	VOTE	LEGISLATIVE DAY APPROVED	VOTE
H.B. 4 GENERIC	1	35	57-11	58	38-0
FINANCE & ADMINIST. DEPT.	1	36	62-5	58	36-1
TAXATION & REVENUE DEPT.	1	37	49-8	58	38-0
TRANSPORTATION DEPT.	1	38	43-16	58	37-0
HIGHWAY DEPT.	1	46	61-5	58	36-3
HUMAN SERVICES DEPT.	1	45	58-8	58	37-0
HEALTH & ENVIRONMENT DEPT.	1	46	53-4	58	38-0
NATURAL RESOURCES DEPT.	1	32	59-9	58	36-1
ENERGY & MINERALS DEPT.	6	38	49-18	58	36-0
COMMERCE & INDUSTRY DEPT.	6	44	52-12	58	34-4
AGRICULTURE DEPT.	6	35	63-0	58	39-0
CRIMINAL JUSTICE DEPT.	1	39	45-18	58	32-6
EDUCATIONAL FINANCE & CULTURAL AFFAIRS DEPT.	6	41	47-13	58	37-2
LICENSURE OFFICE	1	...			
COMMISSION ON STATUS OF WOMEN OFFICE	1	...			
PERSONNEL OFFICE	1	...			
MILITARY & VETERAN'S AFFAIRS OFFICE	1	46	60-0	58	39-0
PURCHASING OFFICE	1	...			



Figure 7  
COMMERCE AND INDUSTRY DEPARTMENT

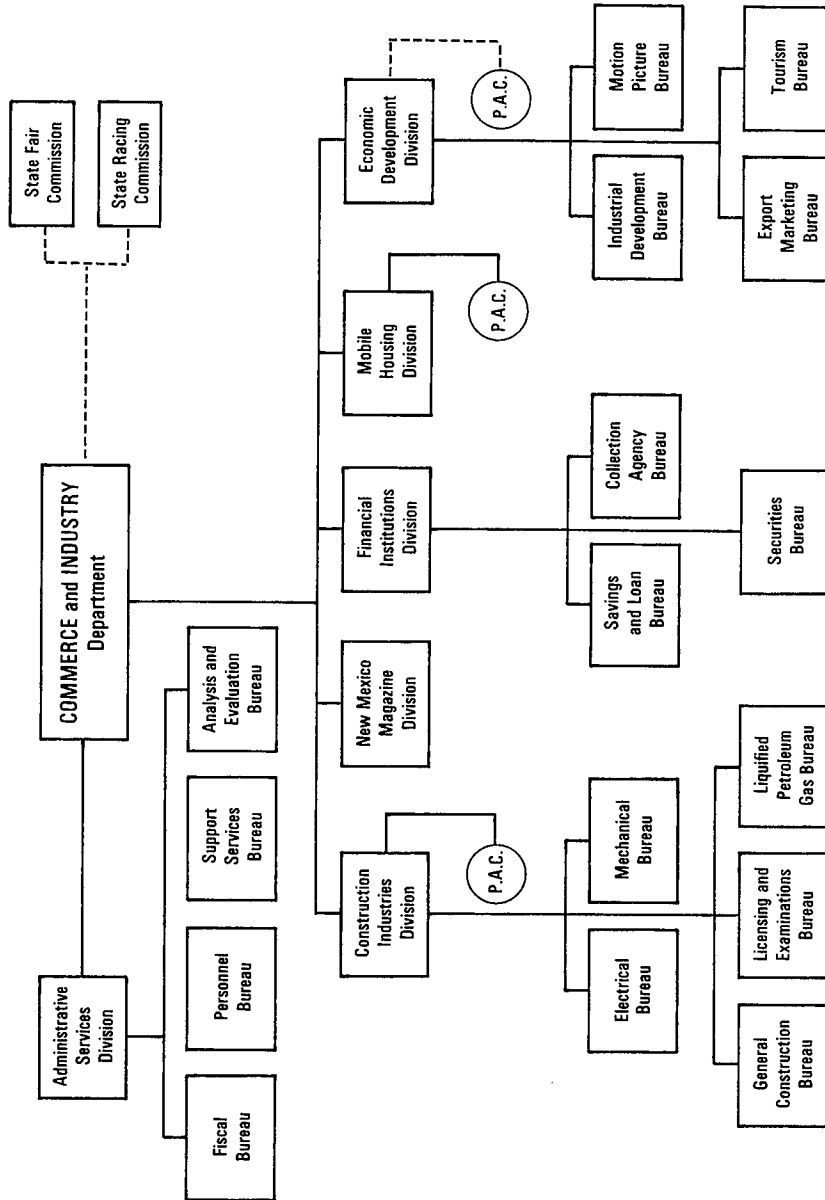
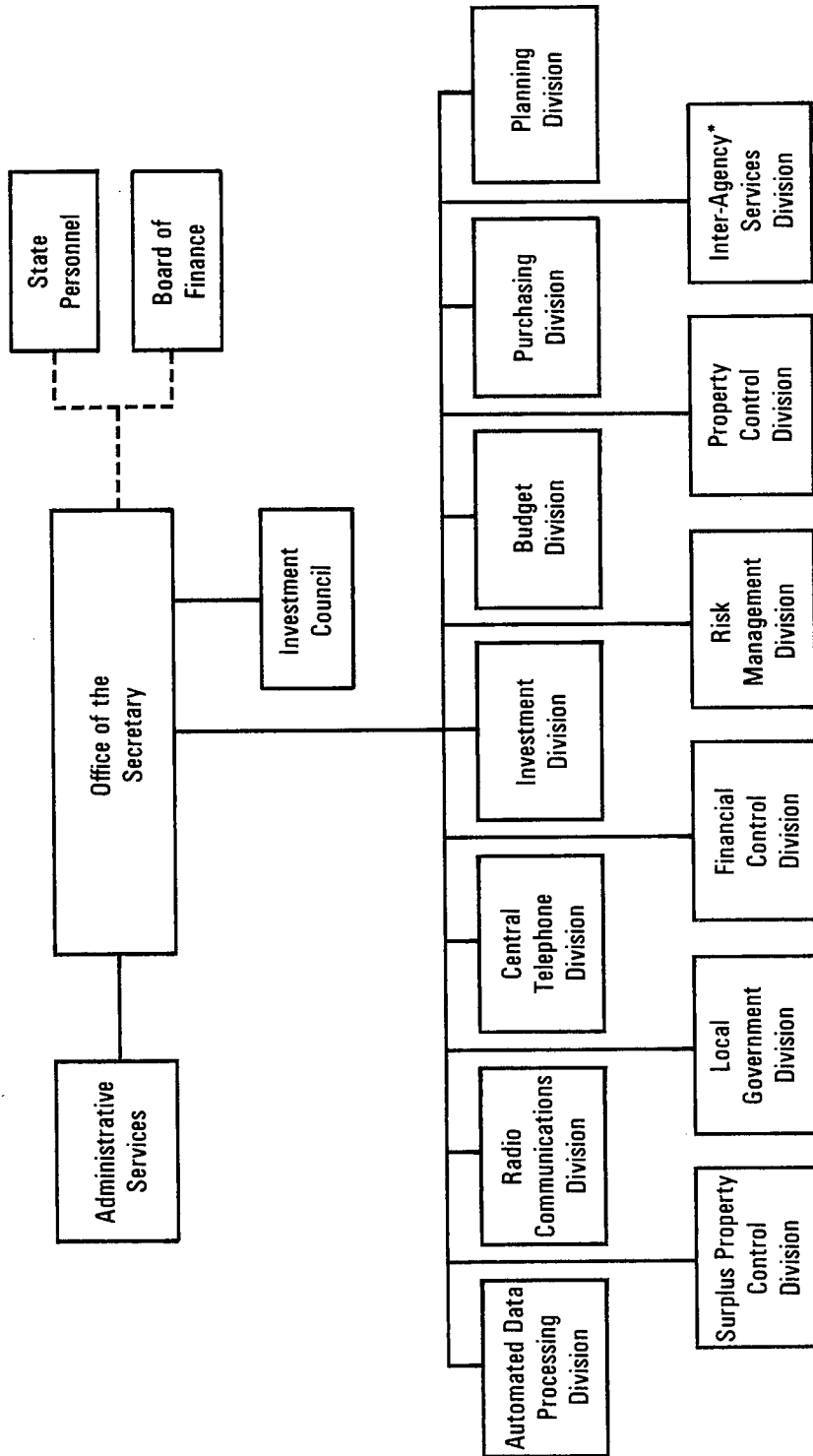
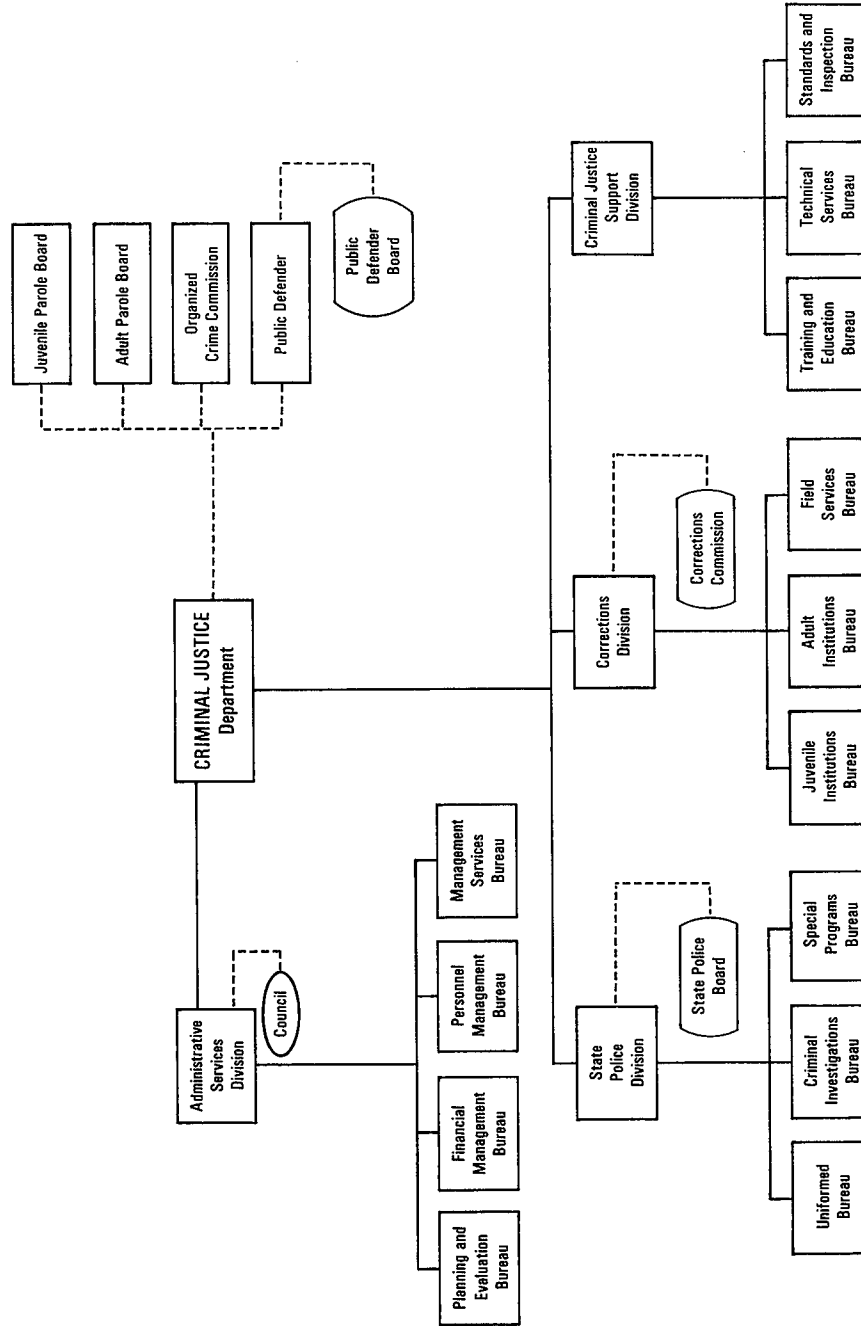


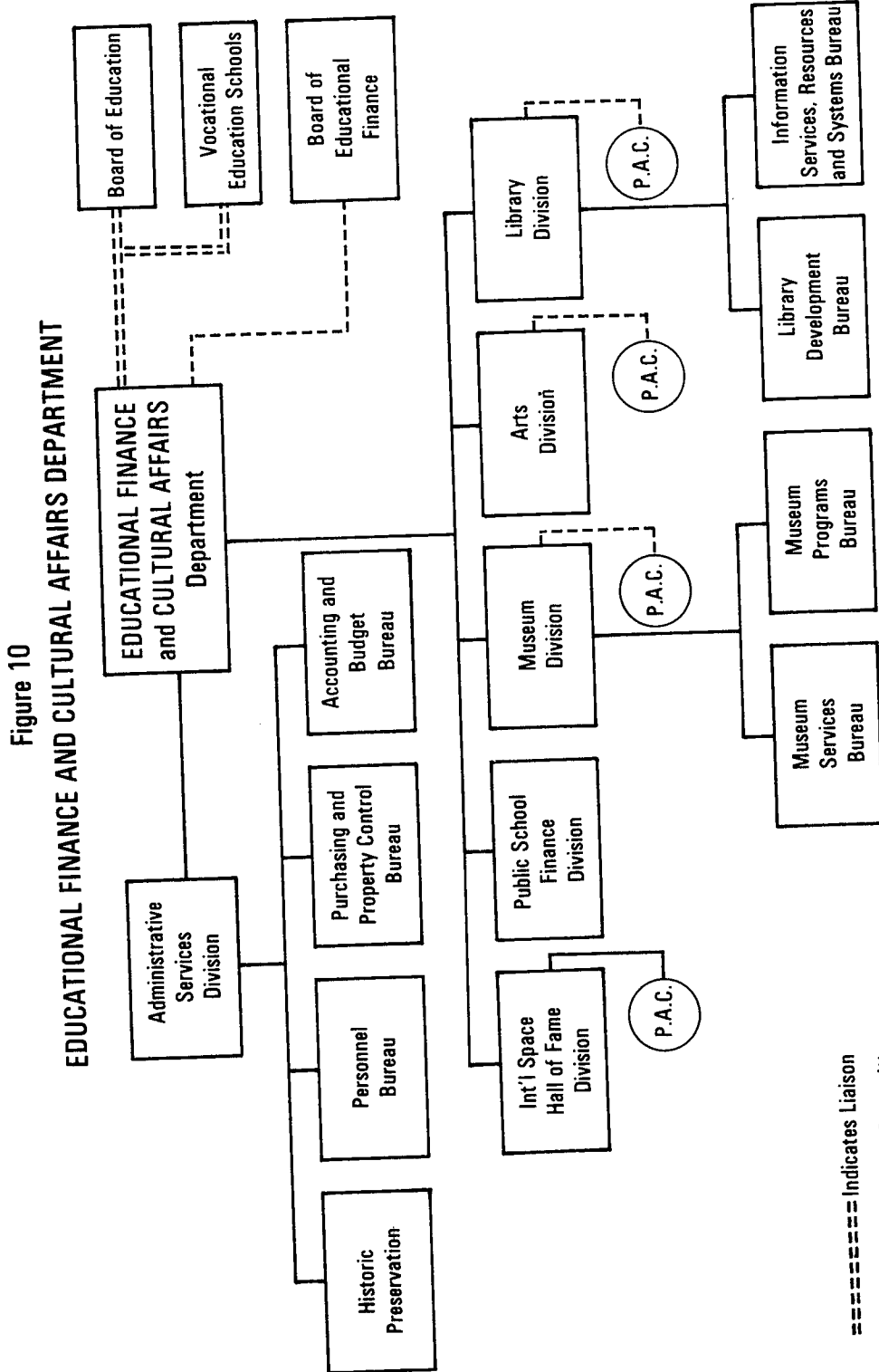
Figure 8  
DEPARTMENT OF FINANCE AND ADMINISTRATION



\*Executive Order Creation

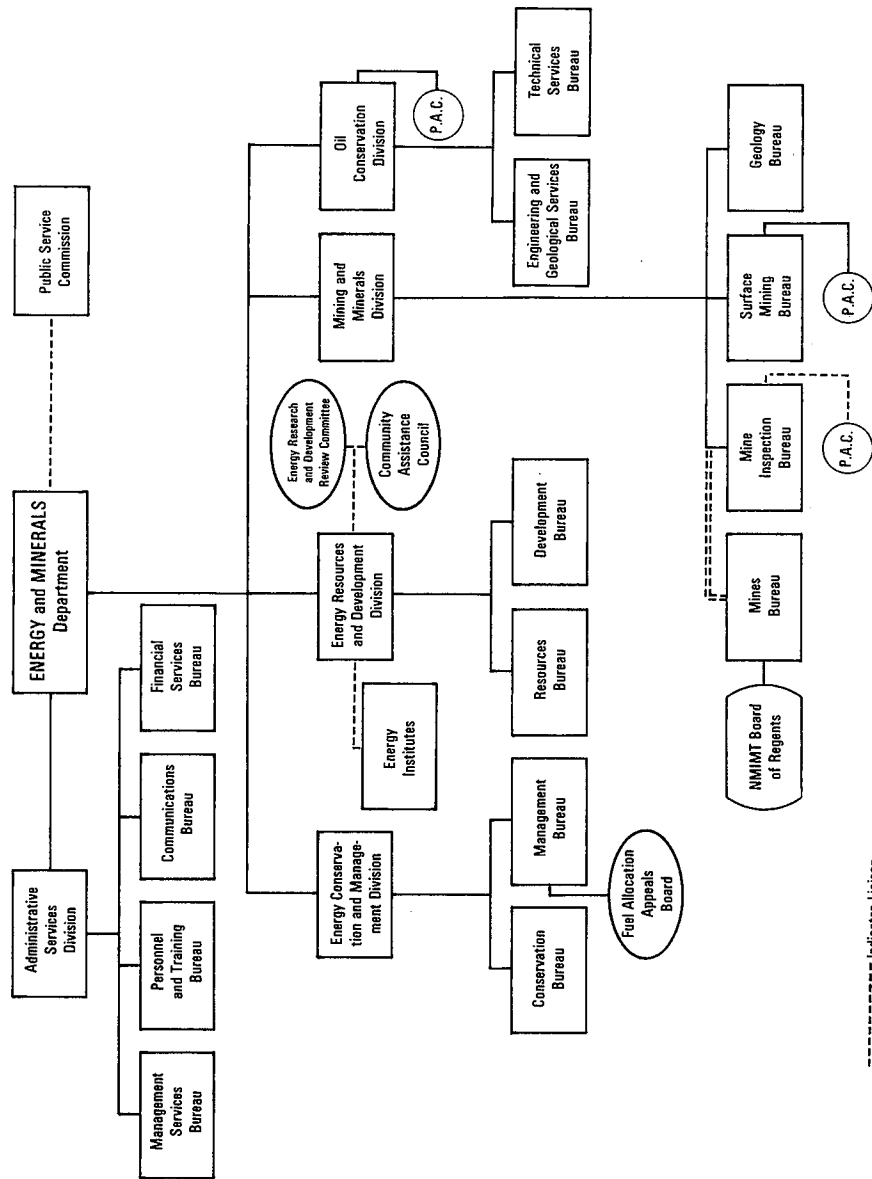
Figure 9  
CRIMINAL JUSTICE DEPARTMENT





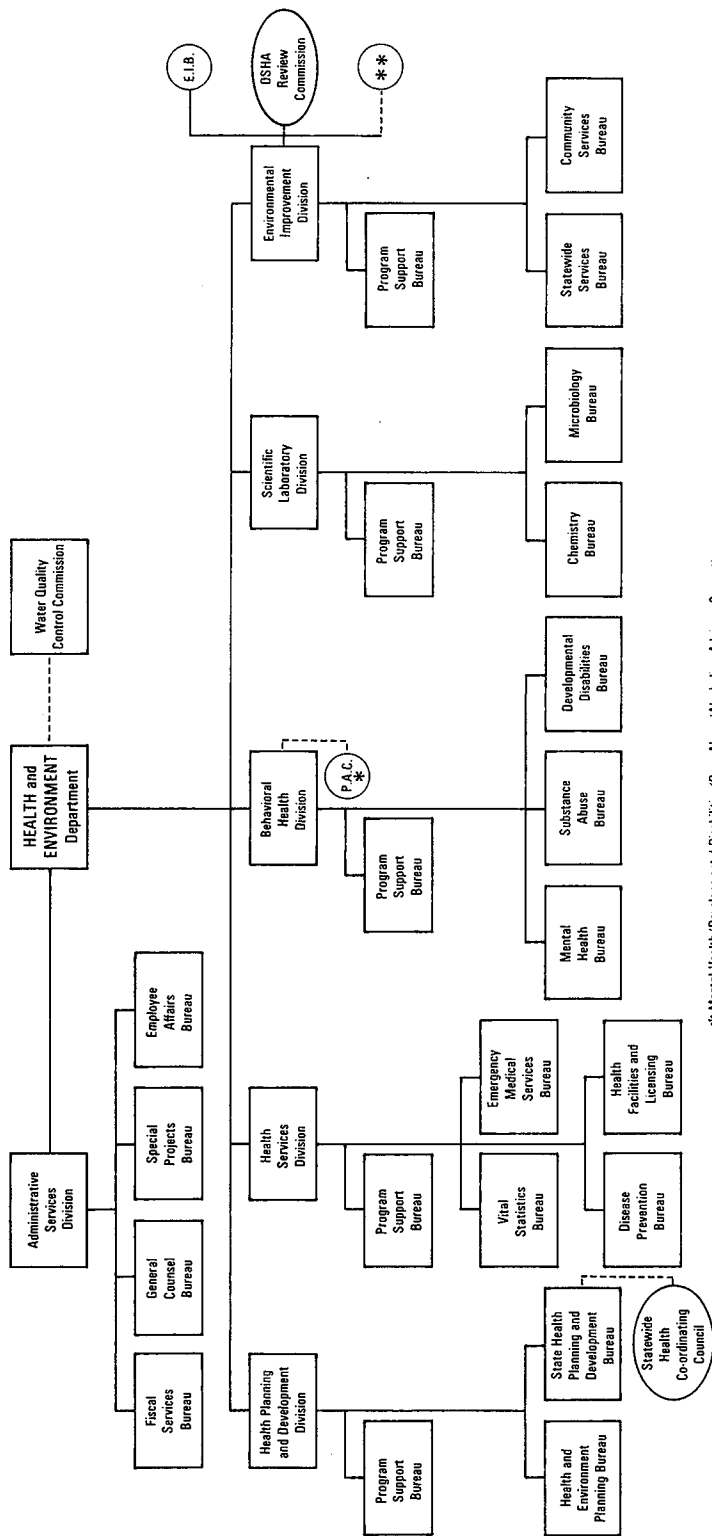
===== Indicates Liaison  
PAC: Policy Advisory Committee

Figure 11  
ENERGY AND MINERALS DEPARTMENT



===== Indicates Liaison

Figure 12  
HEALTH AND ENVIRONMENT DEPARTMENT



\* Mental Health/Developmental Disabilities/Drug Abuse/Alcoholism Advisory Committee  
 \* \* Radiation Technical Advisory Council



Figure 13  
HIGHWAY DEPARTMENT

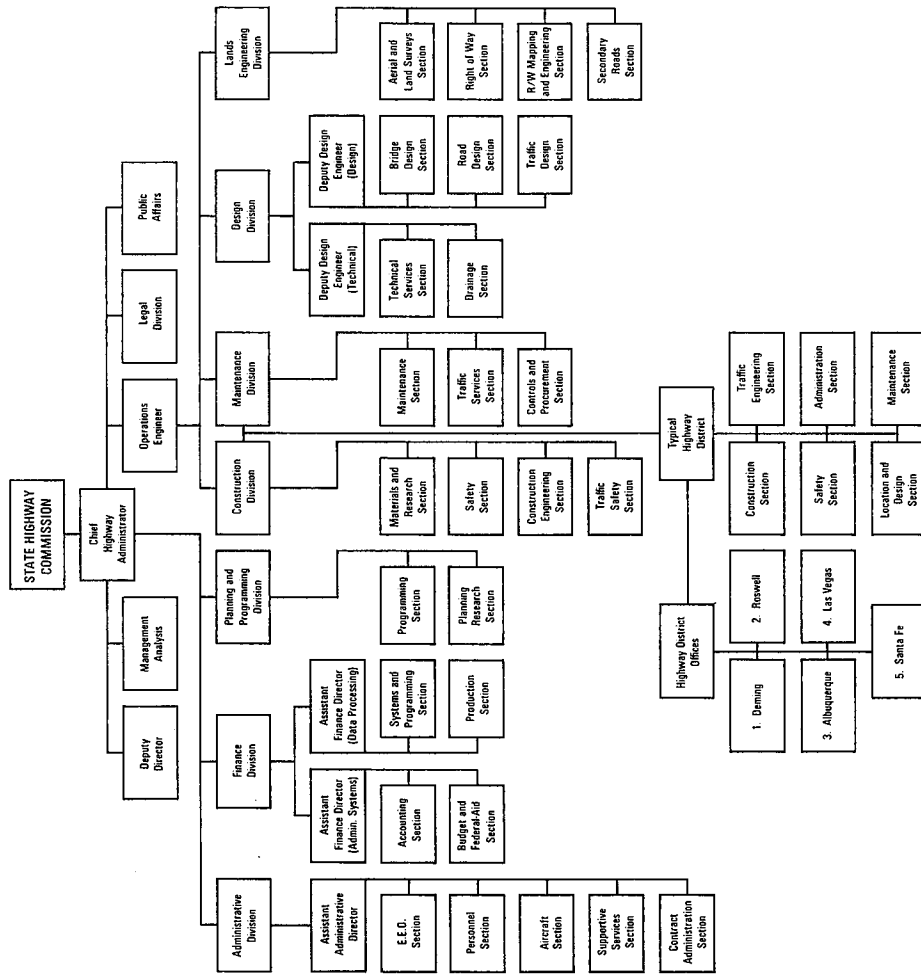


Figure 14  
HUMAN SERVICES DEPARTMENT

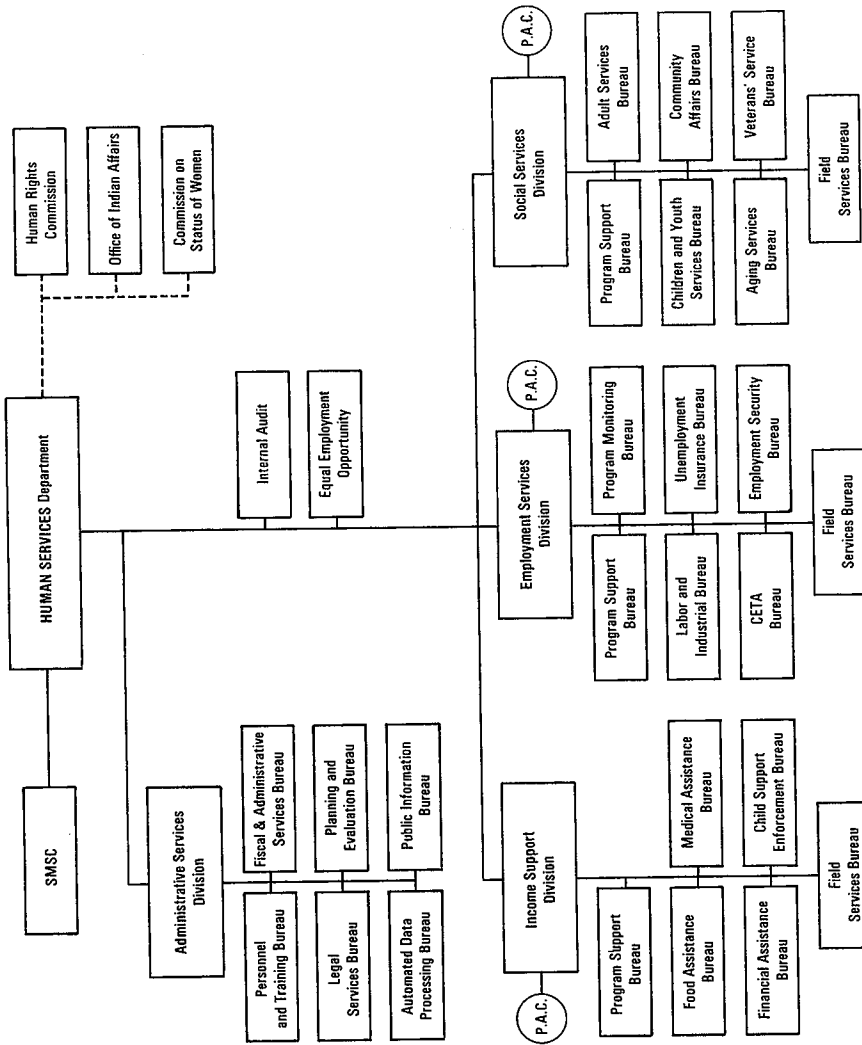


Figure 15  
NATURAL RESOURCES DEPARTMENT

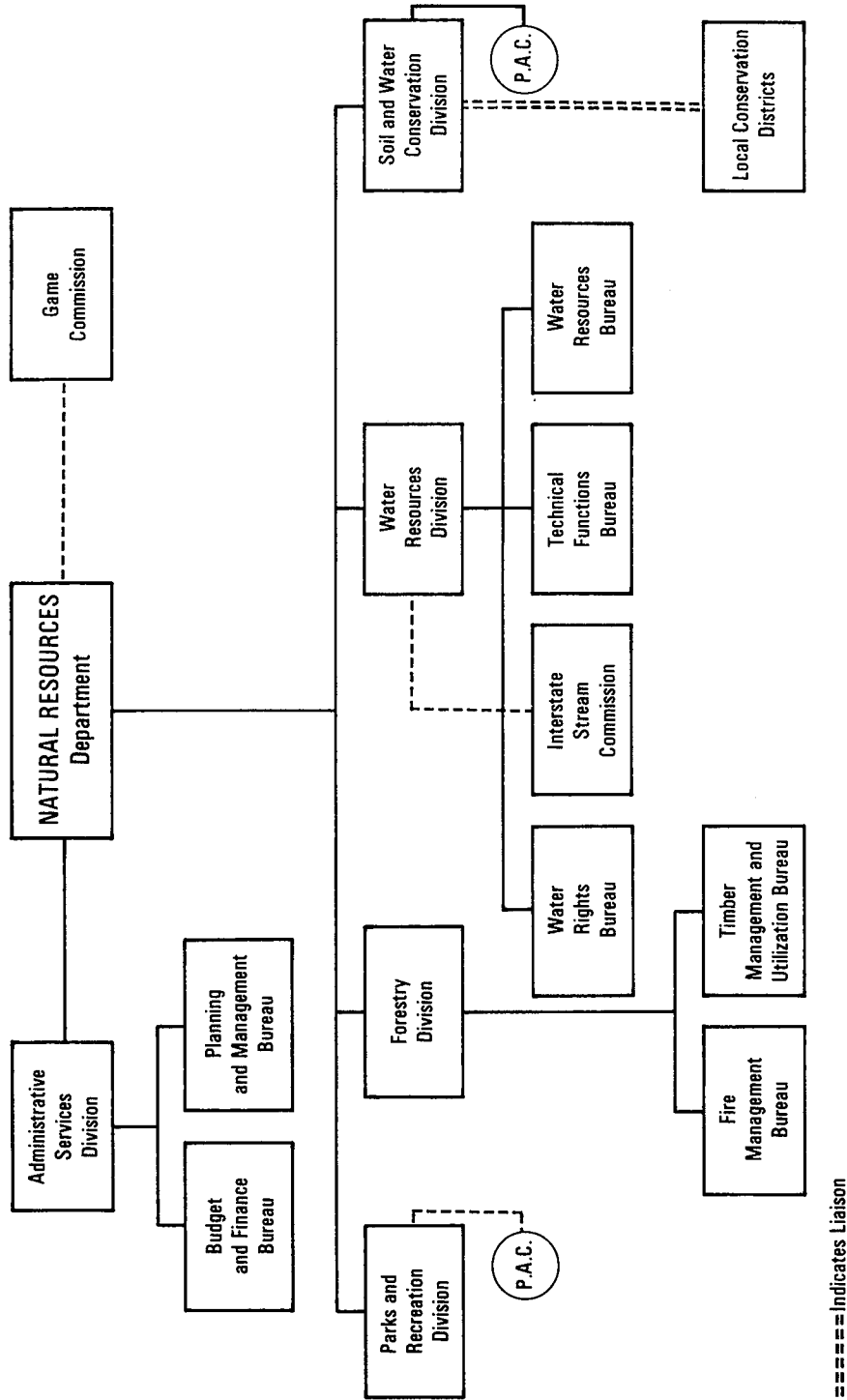


Figure 16  
TAXATION AND REVENUE DEPARTMENT

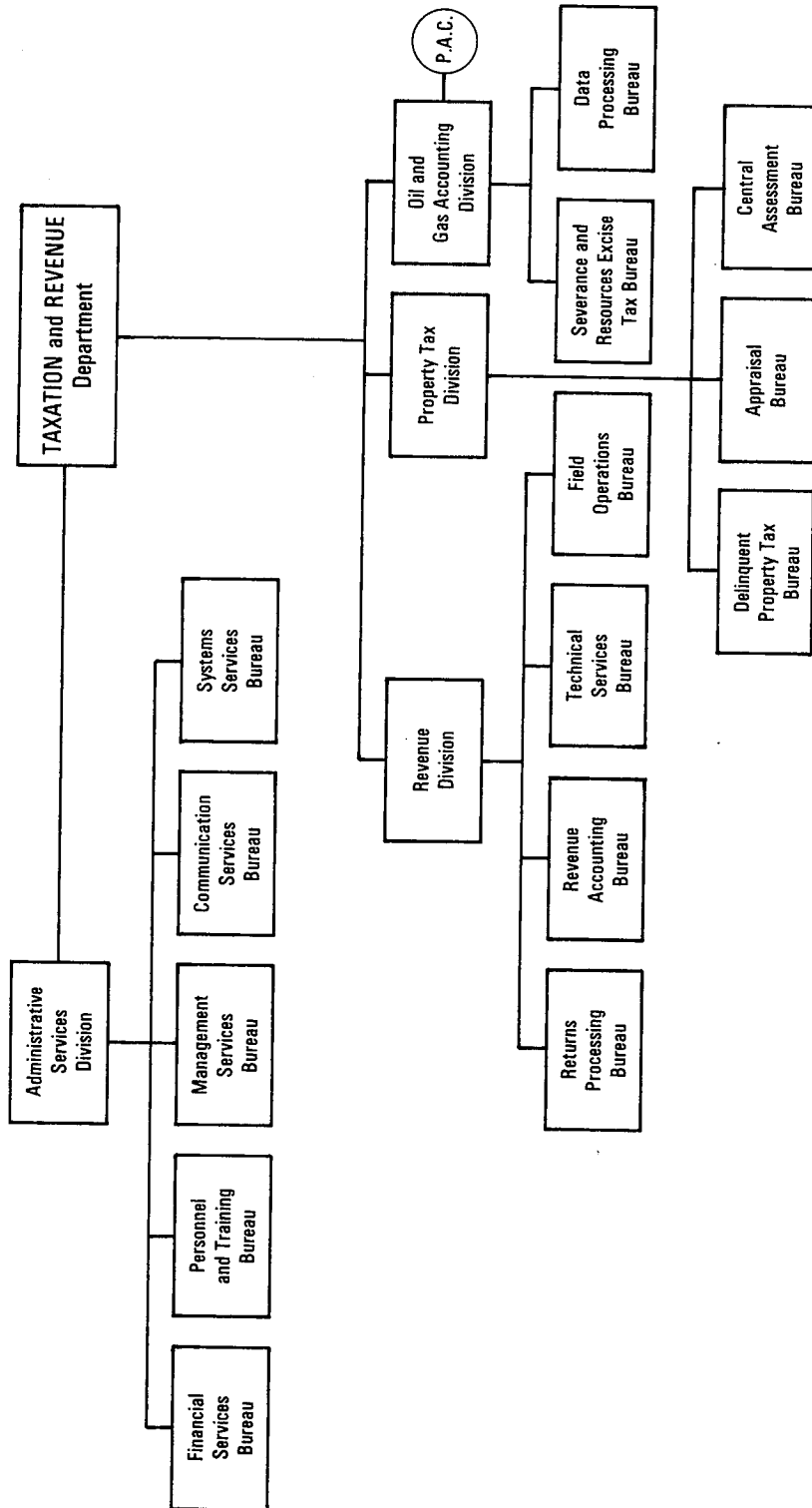


Figure 17

TRANSPORTATION DEPARTMENT

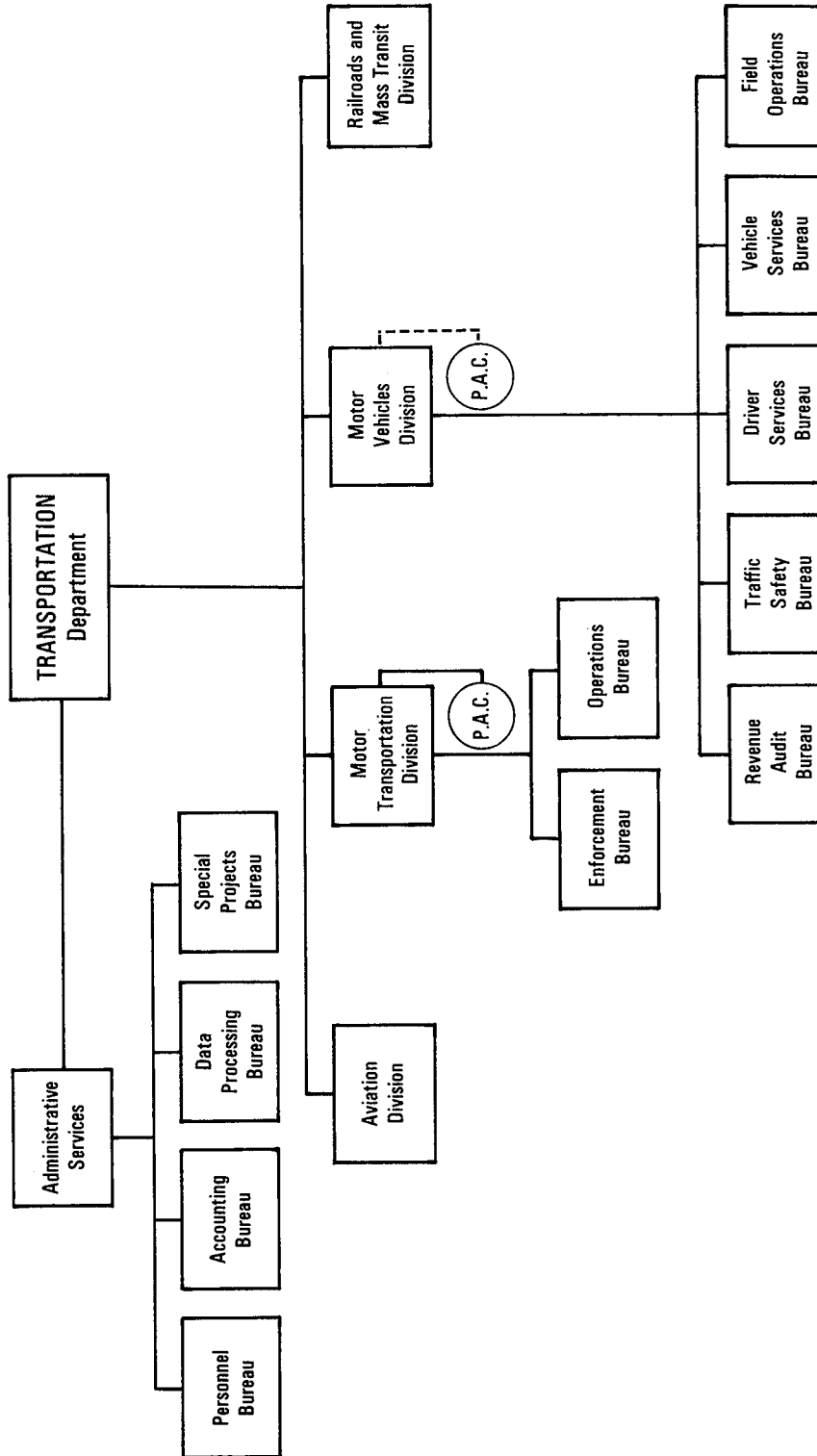


Figure 18  
NEW MEXICO STATE DEPARTMENT OF AGRICULTURE  
NEW MEXICO STATE UNIVERSITY

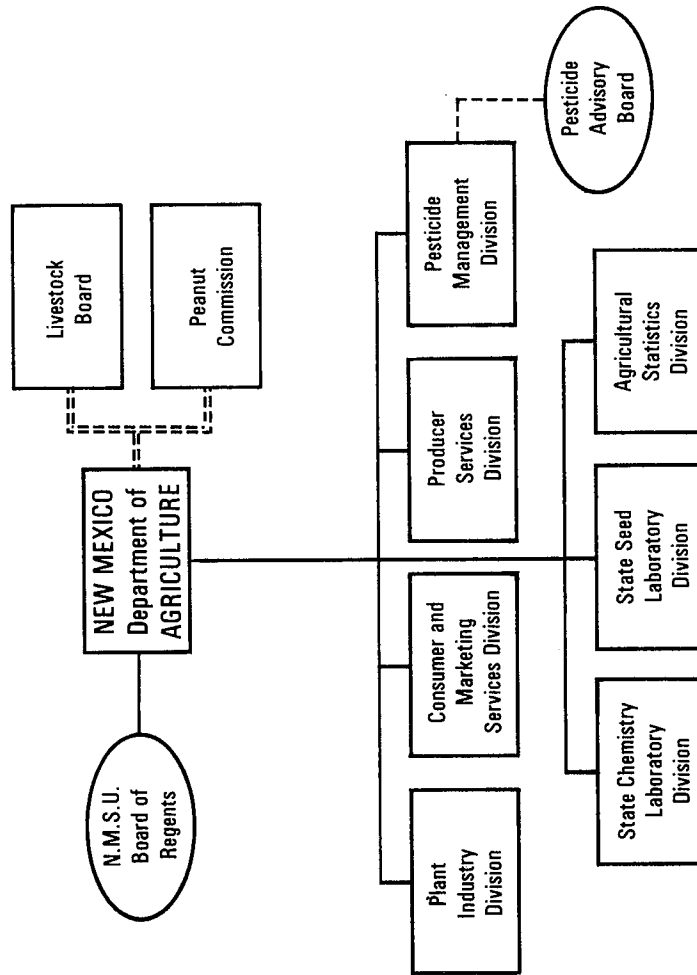
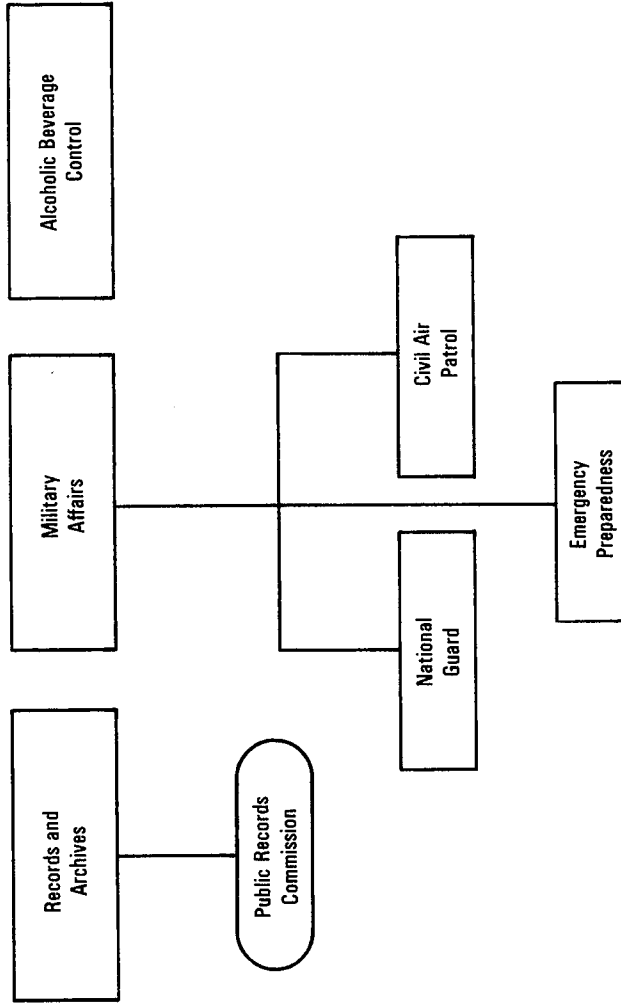


Figure 19  
ADJUNCT AGENCIES

(Each agency reports directly to the Governor—see figure 6)



- \* Board of Public Accountancy
- \* Barber Examiners
- \* Cosmetologist Board
- \* Dry Cleaning Board
- \* Embalmers and Funeral Directors
- \* Polygraphy Examiners Board
- \* Real Estate Commission
- \* Employment Agency Board
- \* Board of Chiropractic Examiners
- \* Dental Examiners Board
- \* New Mexico Board of Medical Examiners
- \* Nursing Board
- \* Board of Optometry
- \* State Board of Osteopathic Medical Examiners
- \* Pharmacy Board
- \* Physical Therapists' Board
- \* State Board of Podiatry
- \* State Board of Psychologist Examiners
- \* Board of Veterinary Examiners
- \* Massage Board
- \* Nursing Home Administrators Board
- \* Board of Hearing-Aid Dealers and Fitters
- \* Architect Examiners Board
- \* State Board of Professional Engineers and Land Surveyors

Figure 20  
COST OF REORGANIZING THE EXECUTIVE BRANCH  
NEW MEXICO 1976-1978

<i>Source of Funds</i>	<i>Amount</i>
Appropriations	
1976	\$100,000
1977	250,000
Planning grant, HUD	25,000
Planning grant, EDA	9,000
Technical assistance, LEAA	5,000
Partnership grant, HEW	45,000
Total	\$434,000



## Figure 21

**CONTENTS OF REORGANIZATION GUIDELINES MEMORANDUM****Introduction****General Implementation Policies****Operating Budgets—66th fiscal year (1977-1978)****Appropriation Request Budgets—67th fiscal year (1978-1979)****Personnel Policies****Implementation Assistance****Overall Implementation Plan****Reorganization Executive Orders****Supplemental Memorandum****Relocation or Acquisition of Office Space****Records Management and Systems****Legislative Filing Requirements****Executive Reorganization Act, Chapter 248, Laws 1977****Real and Personal Property Inventory Guidelines****State Rules, Format and Style****Style and Format of Official Reports****Manual of Procedure Style and Format****State Government Reorganization and Data Processing Functions****Executive Budget Calendar****Chart of Accounts for Reorganized Agencies****Account Codes (by Departments)****Budget Process****Appendix****Sample Department Implementation Plan****Sample Forms****Monthly Progress Reports****Department Implementation Plan****Project Implementation Plan**

## *Appendix 3*

### REFERENCES

1. *Agencies, Boards, Commissions, Councils, Created by Constitution, Statute, Executive Order, or Governor's Letter.* (Santa Fe: Office of the Governor, n.d.)
2. *The Executive Branch of New Mexico State Government 1976.* (Santa Fe: Office of the Governor, Appendix B, Vol. 1., pp. 1-178; Appendix B., Vol. II, pp. 179-358. December 15, 1976).
3. *A Cabinet for New Mexico: Governor Jerry Apodaca,* n.d. Released April 1975.
4. *Responsive Government New Mexico 1977.* (Santa Fe: Office of the Governor, n.d.) A short version appeared in *New Mexico State Government Reorganization 1977.* (Office of the Governor, Appendix A, n.d.)
5. *Contents of Reorganization Implementation Guidelines Memorandum:* (Office of the Governor) May 6, 1977 (See Fig. 21).
6. *Responsive Government New Mexico 1978* (Santa Fe; Office of the Governor) January 17, 1978.