Core Services Category: Public Safety, Homeland Security, State Fire Marshal, E-911

Study Area: Reorganization/Efficiency

High Level Recommendation: Repeal sections of the Homeland Security and Emergency Management Department (Section 9-21-1 through 9-28-7, NMSA 1978) and return all emergency management and homeland security, policy development, agency coordination, and implementation functions to the Department of Public Safety.

Problem Statement: The January 14, 2010 report of the Committee on Government Efficiency, indicates an unnecessary dual agency approach to statewide homeland security and public safety functions. The report proposes that the Homeland Security and Emergency Management Department should be merged into the Department of Public Safety. The draft legislation seeks to streamline related functions by transferring administration of the enhanced 911 service program to the newly aligned DPS Homeland Security and Emergency Management Division, and requires the Department of Information Technology to provide the infrastructure for enhanced 911 services. The draft legislation additionally transfers the Fire Marshal Division of the Public Regulation Commission (PRC) to the Department of Public Safety.

The draft legislation indicates the Fire Marshal Division shall consist of functions formerly exercised by the Fire Marshal Division of the PRC public regulation commission and shall include:

(1) the firefighter training academy bureau;
(2) the fire service support bureau;
(3) the fire investigations bureau; and
(4) the fire code enforcement bureau.

As contemplated by the proposed legislation, subsequent to the reorganization of the above functions, DPS "...shall be a cabinet department and shall consist of, but not be limited to, [~~five~~] eight program divisions, an administrative division and an information technology division as follows:

A. the New Mexico state police division;
B. the special investigations division;
C. the training and recruiting division;
D. the technical support division;
E. the administrative services division;
F. the motor transportation division; [and]
G. the information technology division;
H. the homeland security and emergency management division;
I. the fire marshal division; and
J. the enhanced 911 division."

The proposed legislation also seeks to eliminate the Crime Stoppers Advisory Council, the Mounted Patrol Board of Directors, the DNA Identification System Oversight Committee, and

the Intrastate Mutual Aid Committee, and transfers their functions to the Department of Public Safety. While this may streamline government operations, general fund savings will be minimal, as organizational memberships are voluntary and the entities receive no direct appropriations from the general fund. The legislation proposes to sunset the Interoperability Planning and State Emergency Response Commissions. Again, general fund savings will be minimal, as neither commission receives direct support from the general fund.

While no additional comments were provided by agencies associated with the current draft (.182722.5), DPS has provided the following statement in response to the proposed legislation:

> Homeland Security and Emergency Management Department's mission is to respond to an emergency and to assess the magnitude of the incident and coordinate the response and recovery process.
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> Transferring the Administration of E911 Services to Homeland Security and Emergency Management appears logical. Currently, Homeland Security and Emergency Management are charged with interoperability of communications between emergency service agencies. This transfer would provide for a seamless process and would reduce the number of state agencies involved in the decision making process that exists today.
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> Transferring the Fire Marshal's Division to DPS from the PRC is also very logical. As previously stated, the Department of Public Safety is the State's law enforcement agency, tasked with the investigation of criminal violations that occur within the State of New Mexico. The addition of the Fire Marshal Division would provide for an improved response to arson investigations statewide. Currently, the New Mexico State Police and Fire Marshal Division collaborate during these investigations and this will only enhance our ability to do so. Additionally, the Fire Marshal's Office has some regulatory responsibilities as does the Special Investigations Division of the Department of Public Safety. Further, the transfer of the Fire Marshal's Division to the DPS may lead to improved response to the citizens by enhancing collaboration with the DPS Forensic Bureau. Therefore, this proposed draft appears to attempt to move all law enforcement / safety related entities under the Department of Public Safety.

The Homeland Security and Emergency Management Department (DHSEM) has voiced opposition to the proposed legislation, previously suggesting the following considerations associated with merging the agency with the Department of Public Safety:

> 1. DHSEM focus is response and preparation to an emergency regardless of the cause. The agency also is the state's coordinating entity during a disaster. DHSEM coordinates resources, local, state and federal, to effectively respond to the incident. These recourses are Fire, EMS, National Guard, law enforcement and national assets. DPS is one of the many assets utilized. An inherent problem with coordination of a multi jurisdiction response by a law enforcement agency is that territorial battles ensue and unlike agencies (fire, EMS, National Guard, etc) sometimes do not blend well because of the difference in missions;

2. DPS has a mission that is clearly law enforcement. Response to non law enforcement incidents is not within their scope; and

3. Financial management (federal funding, grant and disaster) is more timely and effective out of a smaller more nimble organization. DHSEM is current with regard to federal grant close out and reporting for all grants programs beginning with the creation of the agency (DHSEM) the grant programs managed under the Department of Public Safety (prior to 2007) have yet to be completely reconciled. This speaks to the efficiencies gained after the separation. This is a direct impact to funding for New Mexico as well as a negative impact to the local programs the agency supports. The New Mexico State Police is one of many law enforcement programs funded by federal homeland security grants. This is a competitive process that places local jurisdictions and State Police as equal applicants. If this merger was enacted, DPS becomes the funding agency; therefore placing local law enforcement programs at a disadvantage.

It should be noted that the adjusted FY11 general fund appropriation to DHSEM is about $2.7 million with federal funding of $35.4 million. The majority of federal funds (some $26 million) is passed though as grants to various state and local agencies to support homeland security-related initiatives.

The adjusted FY11 general fund appropriation to the Department of Public Safety is approximately $88 million and federal funding of $20.8 million, with some $6 million being passed though as grants to various state and local agencies in support of various law enforcement initiatives. Considering that DPS has an FY11 FTE count of 1,259, contrasted with Homeland Security's 66 FTE, it appears that the homeland security function could be absorbed back into DPS at the program level with the grants management function being assumed by existing DPS infrastructure.

Since the homeland security function is primarily directed to coordination and consultation – with no actual incident operational control – it would support the primary DPS mission to "...protect and secure the people of New Mexico in their lives, homes, and communities." This realignment could not only streamline chain of command issues, but could potentially result in the reduction of 12 FTE – including five GOVEX positions – and save approximately $779.8 thousand from the general fund. It should be noted that the new program alignment will present a return to the original DPS organizational structure that existed prior to the elevation of homeland security responsibilities to cabinet-level status while maintaining the current level of service.

Background: The New Mexico Office of Emergency Management was first created in 1959 as the Civil Emergency Preparedness Division (CEPD) of the Office of Military Affairs. The State Civil Emergency Preparedness Act redefined the purpose and function of the Division. In 1979, the Federal Emergency Management Agency (FEMA) and CEPD were reorganized to meet the FEMA structural requirements. In 1987, the office was moved from Office of Military Affairs to the Department of Public Safety. In 1990, the name of the agency was changed to the Office of Emergency Management, Department of Public Safety. In 2003, the governor created the Governor's Office of Homeland Security that worked in conjunction with the Office of

Emergency Management. In 2007, Chapter 291 (House Bill 227) created the Homeland Security and Emergency Management Department. The law removed the Emergency Management and the Homeland Security Support Program from the Department of Public Safety from DPS and the Office of Homeland Security from the Governor's Office to create a separate Homeland Security and Emergency Management Department (DHSEM). The purpose of the new department was to:

- Consolidate and coordinate homeland security and emergency management functions to provide comprehensive and coordinated preparedness, mitigation, prevention, protection, response, and recovery for emergencies, disasters and acts of terrorism, regardless of cause;
- Serve as the central primary coordinating agency in response to emergencies, disasters, and acts of terrorism; and
- Serve as the conduit for federal assistance and cooperation in response to emergencies, disasters and acts of terrorism.

Fiscal Implications: Because the draft legislation transfers the budget of the Homeland Security and Emergency Management Department, Fire Marshal Division and the Enhanced 911 Service Program to the Department of Public Safety, DPS does not anticipate the merger would create a fiscal impact to DPS. However, DPS suggests that the legislation should include specific language transferring staff of the above departments, programs, and divisions to the Department of Public Safety. DPS further notes that, "There may be additional fiscal impact if there are administrative personnel currently assisting these potentially merged departments, which will not be transferred to DPS. Further discussion and coordination with PRC, DFA and the Homeland Security and Emergency Management Department will be necessary to accurately determine any administrative and personnel impact that will be incurred by the current DPS Administrative Services Division from this merger." The following spreadsheet provided an initial financial overview of the proposed organization structure.

Combined Department of Public Safety, Homeland Security Department, State Fire Marshal and E-911 Cost Projections

Based Upon Adjusted FY11 Operating Budget (3.2 percent reduction)

Account Code	Account Title	Department of Public Safety	Homeland Security Department	E-911 Program	State Fire Marshal Program	Total Combined Operating Budget for FY11	Potential GF Cost Savings	New Combined Budget
200.0	Personal Services/Benefits	90,052.9	4,091.1	487.9	2,634.8	97,266.7	(779.8)	96,486.9
300.0	Contractual Services	5,808.2	1,799.1	30.9	321.7	7,959.9	(36.0)	7,923.9
400.0	Other	35,434.9	32,577.2	19,481.2	1,250.3	88,743.6	(80.0)	88,663.6
Total		131,296.0	38,467.4	20,000.0	4,206.8	193,970.2	(895.8)	193,074.4
	Less 3.2 percent GF reduction	(2,953.8)	(90.9)	-	-	(3,044.7)		(3,044.7)
Adjusted		128,342.2	38,376.5	20,000.0	4,206.8	190,925.5	(895.8)	190,029.7

Cost Savings Detail

200.0	**Personnel Services**	
	Elimination of 12 duplicative General Fund, primarily administrative FTE currently employed by Homeland Security Department	
	(General Fund Savings)	(779.8)
	Total 200	**(779.8)**
300.0	**Contractual Services**	
	Independent Financial Audit (General Fund Savings)	(36.0)
	Total 300	**(36.0)**
400.0	**Other Costs**	
	Supplies and other general support costs (General Fund Savings)	(60.0)
	In-State Travel (General Fund Savings)	(20.0)
	Total 400	**(80.0)**