**Core Services Category:** Fiduciary Responsibility and Best Practices

**Study Area:** Efficiency

**High Level Recommendation:** Amend statute to require executive departments to provide administrative and clerical services to some administratively attached agencies, remove language that potentially grants the administratively attached agency total autonomy, and prevent hiring of administrative personnel in those agencies. The bill also makes the Public Defender Department, currently administratively attached to the Corrections Department, an independent (adjunct) agency.

**Problem Statement:** As currently worded, the Executive Reorganization Act potentially allows administratively attached agencies (agencies) to act completely independent from the "parent" departments (departments). This potentially could lead to an inefficient duplication of resources for administrative functions if agencies hire their own personnel to perform these tasks. In some cases, it may also lead to poor financial management due to a lack of financial expertise. Finally, there appears to be a lack of oversight by the departments.

**Background and Findings:** Section 9-1-7 NMSA 1978 (Laws 1977, Chapter 248, Section 7) qualifies the relationship for an agency attached to an executive department for administrative purposes (underlines added for emphasis):

(1) Exercise its functions independently of the department <u>and without approval or control of the department</u>;
(2) Submit its budgetary requests through the department; and
(3) Submit reports required of it by law or by the governor through the department.

The statute also qualifies the responsibilities of the department to the attached agency for administrative purposes:

(1) Provide budgeting, record-keeping and related administrative and clerical assistance to the agency <u>if mutually agreed</u>; and
(2) Include the agency's budgetary requests <u>as submitted and without changes</u> in the departmental budgets.

Requiring the parent departments to provide administratively attached agencies administrative services could reduce duplication of costs and ensure the financial functions are performed adequately. This analysis does not review attached boards and commissions or other agencies that do not have separate agency codes. Their administrative function is already absorbed in the main agency and so there would be minimal savings if any. Table 2 lists these entities.

**Options to Consider:**

**Option 1**: Require the department to provide administrative services to the agency, including all budgetary matters, and prevent the agency from hiring its own administrative staff. Remove the language that allows that agency to exercise its functions independently of the department and without approval or control of the department. Require all attached agencies comply with statute to submit their budgets through the "parent" department.

**Option 2**: Keep status quo.

**Option 3**: Implement Option 1 but move those agencies that are sufficiently large enough or specialized enough to the status of being an adjunct agency. An example would be the Public Defender's Department. Better align the agencies with parent departments. An example would be the New Mexico Health Policy Commission from the Department of Finance and Administration to the Health Department.

Table 1 looks at the 16 agencies that are administratively attached, have their own agency code, and potentially would be affected by Options 1 or 3.

Table 1 – Attached Agencies

| ATTACHED AGENCY | | Administratively Attached To Parent Department | Parent Department Currently Performs Admin Functions | POTENTIAL GF SAVINGS | | |
|---|---|---|---|---|---|---|
| | | | | # Agency Admin FTE | Admin Type | Admin FTE Cost (in thousands) |
| 35500 | Public Defender Department | Corrections | No | 31 | Budget/HR/IT | $1,344.1 |
| 37800 | Personnel Board | General Services Department | No | 5 | Budget/IT | $299.5 |
| 46000 | New Mexico State Fair | Tourism | No | 12 | Budget/HR/IT | $621.5 |
| 46900 | State Racing Commission | Tourism | No | 2 | Budget/Other | $190.0 |
| 49100 | Office of Military Base Planning and Support | Economic Development Department | Yes | | | |
| 49500 | Spaceport Authority | Economic Development Department | Yes for budget; agency does own contracting and purchasing. | 1 | Purchasing/ contracts | $60.0 |
| 51600 | Department of Game and Fish | Energy, Minerals & Natural Resources | No | N/A | N/A | N/A |
| 52200 | Youth Conservation Corps | Energy, Minerals & Natural Resources | Yes | | | |
| 53800 | Intertribal Ceremonial Office | Tourism | No | 0 | N/A | N/A |
| 60100 | Commission on the Status of Women | Human Services | No | 1 | Budget is funded by GF | $55.9 |
| 60300 | Office of African American Affairs | Human Services | Yes for IT but not budget | 1 | Budget | $42.4 |
| 64500 | Governor's Commission on Disability | Department of Finance and Administration | No | 2 | Budget | $133.8 |
| 66800 | Office of the Natural Resources Trustee | Department of Environment | No | 1 | Budget | $39.2 |
| 66900 | New Mexico Health Policy Commission | Department of Finance and Administration | No | 1 | Budget/HR/IT | $37.3 |
| 76000 | Parole Board | Corrections | No | 2 | Budget/Case Tracking | $110.0 |
| 76500 | Juvenile Public Safety Advisory Board | Children, Youth and Families Department | Yes | | | |
| TOTAL POTENTIAL GENERAL FUND SAVINGS | | | | | | $2,933.7 |

**Other Significant Issues**. Various mitigating circumstances argue against implementing Option 1, leading to Options 2 and 3, which would essentially preserve the status quo for most of the agencies. These factors include the size of the agency, potential conflict of interests, the funding source being other than general fund, significantly different accounting issues, specialized financial functions not replicated at the parent department, and high volume or velocity of payments requiring in-house management. In some cases, the Government Restructuring Task Force is already recommending alternative realignment solutions.

Thus, although Table 1 shows that 16 attached agencies, representing approximately $3 million general fund for administrative personnel, only three agencies are likely to have their administrative functions performed by the parent department as proposed under Option 1: Office of African American Affairs (OAAA), Governor's Commission on Disability (GCD) and Office of the Office of Natural Resources Trustee (ONRT). Other bills before the Government Restructuring Task Force would deal alternatively with these agencies, effectively eliminating potential savings achievable through this bill.

**Fiscal Implications:** Theoretically, savings could accrue from the elimination of administrative-type positions in the administratively attached agencies. Parent departments most likely could absorb the added workload. However, where workloads are substantial due to the number of vouchers, transactions, and contracts or the size of the agency, adding or transferring personnel to the department to cover these functions may be required. In this case, the savings would be offset. Based on the potential savings presented in Table 1, savings could range as high as $3 million by eliminating financial personnel in all 16 agencies. However, based upon further analysis, Option 1 and Option 3 would impact three agencies, with a total general fund savings of about $215 thousand beginning in FY12. It appears that most of these costs could be absorbed by the associated parent departments, although making an allowance for 2 FTE being added presents a more realistic picture and reduces the projected savings by an estimated $120 thousand to $95.4 thousand.

**Estimated Savings, Option 1 and Option 3 (in thousands of dollars)**

| FY11 | FY12 | Recurring or Nonrecurring | Fund Affected |
|---|---|---|---|
| | $215.4 | Recurring | Elimination of ASD positions in the three attached agencies: OAAA, GCD, ONRT. |

**Cost to Implement, Option 1/Option 3 (in thousands of dollars)**

| FY11 | FY12 | Recurring or Nonrecurring | Fund Affected |
|---|---|---|---|
| | $120.0 | Recurring | General Fund |

There would be no saving or cost differences in Option 2.

It appears that the proposal would not lead to significant savings. Most agencies already have their administrative functions performed by the departments and do not retain that staffing within their own budgets. For the few cases where administrative staffing is located within the agency, it appears that the agency is sufficiently large or complex enough to require substantial administrative support—in which case moving those FTE or adding FTE to the parent department would not lead to substantial cost savings. In addition, there may be specialized

expertise unique to that agency that could be curtailed, leading to less efficient management of the financial functions. Potential conflicts of interest, such as between the Public Defender Department and Corrections, also need to be considered.

**Table 2**
**Attached Agencies Without Budget Codes**

| Attached Agency | "Parent" Department |
|---|---|
| Acequia Commission | Department of Finance and Administration |
| State Board of Finance | Department of Finance and Administration |
| Land Grant Council | Department of Finance and Administration |
| Disability Adv Council | Department of Finance and Administration |
| Health Care Providers Licensing & Credentialing Task Force | Department of Finance and Administration |
| Health Policy Commission | Department of Finance and Administration |
| Domestic Violence Leadership Com | Children, Youth and Family Department |
| Juvenile Public Safety Advisory Bd | Children, Youth and Family Department |
| Youth Alliance | Children, Youth and Family Department |
| Human Rights Comm | Workforce Solutions |
| Labor and Industrial Com | Workforce Solutions |
| Workforce Dev Board | Workforce Solutions |
| Fort Stanton Dev Com | Cultural Affairs |
| Tourism Commission | Tourism |
| Economic Dev Comsn | Economic Development Department |
| NM-Chihuahua Comsn | Economic Development Department |
| NM - Sonora Comsn | Economic Development Department |
| Small Business Regulatory Advisory Comsn | Economic Development Department |
| Gov Residence Adv Comsn | General Services Department |
| Public Education Comsn | Public Education Department |
| Law Enforcement Academy Board | Public Safety |
| Athletic Commission | Regulation and Licensing |
| Tribal Infrastructure Board | Indian Affairs |
| Interoperability Planning Comsn | Homeland Security |
| Education Trst Bd | Higher Education |
| Higher Education Advisory Bd | Higher Education |
| Compulsive Gambling Council | Health |
| Gov's HIV & AIDS Policy Comsn | Health |
| Telehealth Comsn | Health |
| Trauma System Fund Authority | Health |