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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/02/11

SPONSOR Bandy/Lovejoy LAST UPDATED 02/14/11 HB 88

SHORT TITLE Executive Branch Entity Sunsets SB \_\_\_\_\_

ANALYST Archuleta

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>	*See Fiscal Impact	*See Fiscal Impact	*See Fiscal Impact			

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Finance and Administration (DFA)  
 Regulation and Licensing Department (RLD)  
 Aging and Long Term Services Department (ALTSD)  
 New Mexico Corrections Department (NMCD)  
 Crime Victims Reparation Commission (CVRC)

### SUMMARY

#### Synopsis of Bill

House Bill 88 which was endorsed by the government restructuring task force provides for the sunset or expiration of various boards, commissions and other membership entities within the Executive Branch at specified times between 2013 and 2017. The bill also states that the Sunset Act applies to all boards and other membership entities of the Executive Branch, and also requires the LFC to review all such entities not enumerated or designated in the bill during 2011 and 2012 to then make recommendations to the legislature whether to terminate or extend those entities.

### FISCAL IMPLICATIONS

\*NMCD indicates there will be a huge fiscal impact to department if the parole board is terminated, and NMCD is then unable to release numerous inmates eligible for parole.

However, reducing the number of boards, commissions, councils, task forces and committees will save the State of New Mexico funding. In some cases the savings would be attributed to the mileage and per diem act while in other cases the savings could be significant in terms of salary

and other expenses.

## **SIGNIFICANT ISSUES**

The bill has already set or scheduled sunset dates for numerous entities enumerated or designated in it. Section 12-9-19 NMSA 1978 requires LFC to hold a public hearing and receive testimony and make a recommendation to the next session of the legislature for the termination or continuance of the agency.

NMCD suggests that at least some of the boards and entities scheduled to terminate would clearly be able to continue to provide valuable assistance to the legislature, state agencies and the public beyond their scheduled sunset periods. Both the New Mexico Sentencing Commission (NMSC) and the Sex Offender Management Board (SOMB), scheduled to ultimately terminate in 2016, have provided valuable services to NMCD and New Mexico taxpayers in the past and will likely do so in the future. However, termination of these boards would require review by the LFC.

In addition, the sunset of the Parole Board would be in conflict with existing law, and would jeopardize public safety and the essential operations of NMCD. If the Parole Board, scheduled to sunset in 2016, there will be no entity designated to parole inmates from NMCD prisons. State law, specifically Section 31-21-10 (D) and (E), which will be not repealed under this bill, requires the board to approve a parole plan and the parole conditions for every inmate eligible for parole before they can be released on parole. Inmates will not be able to parole absent this compliance with state law, meaning that prisons will become overcrowded. Further, even if NMCD then releases certain prisoners pursuant to the Corrections Population Control Act, inmates who would otherwise be released on parole will now be released with no parole terms and conditions and thus no parole supervision by NMCD's Probation and Parole Division which may jeopardize public safety. Also, LFC would be required review prior to termination.

ALTSD cites 42 U.S.C. Section 3025 of the Older Americans Act, which requires ALTSD to serve as an effective and visible advocate for older individuals by reviewing and commenting upon all State plans, budgets, and policies which affect older individuals and providing technical assistance to any agency, organization, association, or individual representing the needs of older individuals. It also must seek the views of recipients of supportive services or nutrition services or individuals using multipurpose senior centers. In addition the OAA has emphasized the need for states to reach low-income communities of color. The PAC is ALTSD's mechanism to meet these federal mandates.

ALTSD also indicates Older Americans Act requires the State to promote the development and implementation of a State system of long-term care that is a comprehensive, coordinated system that enables older individuals to receive long-term care in home and community-based settings, in a manner responsive to the needs and preferences of the older individuals and their family caregivers, by, among other things, collaborating, coordinating, and consulting with other agencies responsible for formulating, implementing, and administering programs, benefits, and services related to providing long-term care. Without the interagency committee on long-term care, ALTSD's ability to perform this responsibility might be severely limited. In addition, the ALTSD relies on the Office of Guardianship, which is part of the Developmental Disabilities Planning Council, to identify and pay for corporate guardians for APS clients when no family is available and the individual lacks the financial resources to pay privately for a corporate

guardian. The Office of Guardianship would need to be transferred to another agency if the DDPC ceases to exist.

### **PERFORMANCE IMPLICATIONS**

NMCD cannot adequately perform its essential prison and probation and parole functions without some statutorily authorized, separate entity paroling qualifying inmates and setting reasonable parole supervision conditions designed to protect public safety. The sunset of the above noted committees and council may impact ALTSD's strategic priority areas:

- Access to home and community-based services;
- Zero Tolerance of Abuse, Neglect, and Exploitation;
- Support of caregivers;
- Support of an individual's self-direction of their long-term care services;
- Support of geriatric and adult behavioral health needs;
- Advocacy for economic security;
- Promotion of active and health lifestyles; and
- Promotion of social and civic engagement.

### **ADMINISTRATIVE IMPLICATIONS**

If the legislature decides to repeal a board and the act that created the board and its function, they will need to determine if another board or commission or council will be needed to take on the duties of the repealed board or if its function no longer serves a purpose to the State of New Mexico.

The effect of this bill will force the LFC to review each and every board, commission, council, task force and committee that is listed in the bill in a timely manner to determine its continued usefulness to the State of New Mexico.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Relates to SB 158, Repeal Certain Boards & Commissions.

### **TECHNICAL ISSUES**

If the Public Employee Labor Relations Board is going to sunset, the Public Employee Bargaining Act (which created the PELRB) would have to be specifically repealed as well. In addition, if the State Personnel Board is going to sunset, some entity will have to be created to hear the appeals of disciplined employees pursuant to Section 10--9-18, which will not be repealed by this bill.

### **OTHER SUBSTANTIVE ISSUES**

ALTSD suggest that if HB88 is passed it may be difficult for the department to comply with federal laws in order to receive funding.

The Crime Victims Reparation Commission was created by the Legislature in 1981. At that time a sunset provision was part of that legislation. After many years of having the sunset provision,

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the agency finally had it removed in 2006. To have the Sunset Act again be attached to this agency is going to cause a tremendous amount of administrative work not only for this agency but also for the legislature.

**ALTERNATIVES**

NMCD suggests excluding the Parole Board from the bill.

DA/mew