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MOVING NEW MEXICO FORWARD

New Ways to
Save Money and Improve Customer Service
in State Government

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Chapter I

Making New Mexico Better

Chapter I:

Making New Mexico Better

New Mexicans don't want a bigger state government. They don't even necessarily want a smaller state government. What New Mexicans want is a *better* state government.

How could a better state government help build a better New Mexico? It could provide valuable, useful services at a reasonable price. It could avoid wasting tax dollars on programs that people don't use or can get cheaper somewhere else. And it could offer New Mexicans a modern public sector that reflects their traditional values while operating in the context of the new century.

A series of recommendations in this report, mainly in the areas of health and human services and transportation, would enhance New Mexico's long-term development by improving important aspects of both the economic and social infrastructure.

We recommend, for example, the creation of a system using the abbreviated 2-1-1 dialing code for free access to health and human services referrals. Adopting this system in New Mexico could provide a critical link to the appropriate state agencies for families in need of services ranging from child abuse intervention and in-home programs for the elderly to unemployment insurance, child immunizations, and homeless shelters.

Other recommendations include strengthening the state's health and human services by getting Washington to pick up the tab for programs and services currently paid for out of state funds. A series of specific suggestions would maximize federal revenues in the burgeoning Medicaid program, as well as for foster care, elder care, and food and nutrition programs for low-income New Mexico families.

Taxpayers should be able to count on strict accountability measures to make sure ineligible or unqualified recipients don't take advantage of these well-intentioned programs. This report lays out detailed plans for recovering improper public assistance payments so that scarce taxpayer resources will reach only those who truly need them.

Finally, a major series of recommendations in this report addresses the state's transportation infrastructure, a key ingredient in New Mexico's recipe for future economic prosperity. We propose new public-private funding options and other measures to meet the state's growing traffic and transportation needs.

Total recommendations:	**5**
Total five-year savings:	**$19.5 million**

CHAPTER I - MAKING NEW MEXICO BETTER

(Dollars in Thousands)

Issue No.	Recommendation	2004		2005		2006		2007		2008		Cumulative Total	
		General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
HHS 3	Implement a Statewide 2-1-1 Network	-	-	39.0	-	260.7	-	260.7	-	372.7	-	933.1	-
HHS 4	Maximize Federal Revenue - Food Stamp Employment and Training Revenue	318.7	-	318.7	-	318.7	-	318.7	-	318.7	-	1,593.5	-
HHS 2	Maximize Federal Revenue - Performance Bonuses	-	-	-	-	-	-	-	-	-	-	-	-
HHS 12	Maximize Federal Revenue-Title IV-E	-	3,580.0	-	2,238.0	-	2,238.0	-	-	-	-	-	8,056.0
T 7	Create Public-Private Partnerships for Transportation Projects	-	2,000.0	-	7,000.0	-	-	-	-	-	-	-	9,000.0
Total		**318.7**	**5,580.0**	**357.7**	**9,238.0**	**579.4**	**2,238.0**	**579.4**	**-**	**691.4**	**-**	**2,526.6**	**17,056.0**

HHS 3

Implement a Statewide 2-1-1 Network

State agencies that provide health and human services should form public-private partnerships to support existing initiatives to implement a statewide 2-1-1 program.

BACKGROUND

2-1-1 is the national abbreviated dialing code for free access to health and human services information and referrals, and could replace most of the existing toll-free 800 numbers maintained by New Mexico health and human services (HHS) agencies. An easily recognized number, it makes a critical connection for individuals and families in need of services with the most appropriate services. Services that could be accessed through 2-1-1 include child abuse and neglect, in-home programs for the elderly, mental health services, unemployment insurance, child immunizations, and homeless shelters.

Once up and running, 2-1-1 would be an efficient and cost-effective way to support extensive community involvement in service delivery. Access to telephone information and referral services through a toll-free 2-1-1 telephone number would significantly reduce the total of misdirected calls and would help citizens receive appropriate, often critical services immediately and avoid more expensive, less desirable services resulting from the lack of an accurate initial referral. In addition, using 2-1-1 allows agency staff to focus on their primary responsibilities.

The 2003 Legislature designated the Developmental Disabilities Planning Council (DDPC) as the lead agency for implementation of a statewide 2-1-1 initiative, but lawmakers did not provide an appropriation for the initiative. An initial plan has been drafted, and a funding source is all that's needed to make the initiative a reality.

The Department of Health (DOH), the Children, Youth and Families Department (CYFD), the Human Services Department (HSD), and the State Agency on Aging (SAOA) provide most health and human services in New Mexico. Yet, none of these agencies has been actively involved in developing 2-1-1, despite the fact that each could achieve significant taxpayer savings if 2-1-1 were fully implemented.

New Mexico HHS agencies operate 87 toll-free numbers costing $315,860 annually. HSD estimates that its employees spend about 8,200 hours per year on information and referral calls. CYFD estimates about 60 percent of the calls it receives by the statewide abuse and neglect referral center are not for such referrals, but are requests for information on and referrals to health and human services. Finally, about 30 percent of the applicants for CYFD's childcare services are not eligible for such services; potential applicants could be pre-screened and ineligible candidates weeded out before they get too far in the application process via the 2-1-1 network.

In Texas, state lawmakers anticipated sufficient savings from replacing 800 numbers with 2-1-1 systems and they passed legislation preventing state agencies from implementing new toll-free numbers other than 2-1-1 numbers.

In addition to information and referral services, 2-1-1 systems may be eligible to receive funding for disaster-related services so that the systems could be used to identify volunteers, engage communities, and identify gaps in services and duplication of services through a centralized database.

FINDINGS

United Way organizations have been recognized for their work in creating 2-1-1 projects, most by means of public-private partnerships. These programs, often have been implemented and coordinated at community levels with a key national organization, the Association for Information and Referral Systems (AIRS), to develop solutions, including project development, database taxonomy, training, and project coordination. United Way and AIRS have a great deal of expertise and experience in setting up and operating 2-1-1 projects.

At least 20 potential funding sources have been identified to support the 2-1-1 initiative in New Mexico, including Local Public Assistance Cost Allocation Plans, e-government funds, and Community Fund Allocations. Other potential sources include the Bill Gates Foundation which recently supported a 2-1-1 project in Oregon and Washington through a $450,000 donation for the technology development. New Mexico funding sources, which may be available for start-up costs, have also been identified.

New Mexico nonprofit agencies trying to establish 2-1-1 services have found that there is currently no statewide database containing all health and human services, by type and location, and have cited this missing component as a key obstacle to streamlining the process. Such a database, respectful of all state and federal privacy safeguards, could be created through a cooperative effort among New Mexico's HHS agencies.

The state is developing the technology that would allow a database to be hosted through the state's system and available via the Internet. Hosting such a database in the Information Systems Division of the General Services Department would make it accessible for all 2-1-1 centers as well as anyone who has Internet access. Hosting the database would allow agencies and providers to track calls, fill gaps in services, and eliminate duplication, with cost at a mere $50 to $100 per month. It would also reduce the number of 2-1-1 calls, as many citizens would use the Internet to obtain needed information.

In addition to hosting the database, agencies could provide assistance with project coordination, identify external funding for all aspects of implementation, develop and maintain the database content, and provide training for 2-1-1 staff.

RECOMMENDATIONS

The Governor should form a task force made up of state employees with decision-making authority from the General Services Department, Department of Health, Children, Youth, and Families Department, Human Services Department, and State Agency on Aging to establish a public-private partnership with nonprofit agencies already involved in 2-1-1 implementation. As a part of the partnership, clear expectations and strict accountability standards should be set for providing the following services:

- Identify external public and private funding to support the project, including any costs to nonprofit groups associated with developing and hosting a statewide database of services;
- Work with GSD's Information Systems Division to develop and maintain a statewide HHS resources database, and include the project within one of the agencies' FY05 information technology plans. CYFD is the recommended agency to be responsible for the database, although the final decision should be made by the HHS cabinet secretaries in consultation with the Governor;
- Identify one vacant full-time position in CYFD (or whichever agency is ultimately given database responsibility) to be reclassified and funded as a database administrator to help develop and maintain the resource database on the Internet (By FY06, the funding for this position should be replaced with external funding.);
- Identify legislative support for the project, which may include legislation minimizing or eliminating any new 1-800 lines by HHS agencies once the 2-1-1 system is implemented;
- Provide assistance with project and train 2-1-1 staff members; and
- Eliminate 30 percent of the existing HHS toll-free phone lines, beginning in FY06, eliminating 10 percent in each in FY06, FY07, and FY08. A comprehensive study of the usage and staffing for the lines should be conducted to determine the proper plan for eliminating lines.

FISCAL IMPLICATIONS

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004						
2005	84.5	123.5			39.0	
2006		260.7			260.7	
2007		260.7			260.7	
2008		372.7			372.7	
TOTAL	**84.5**	**1,017.6**			**1,107.6**	

- Texas has conducted a detailed cost-benefit estimate for 2-1-1 projects. Since the population of New Mexico is about 10 percent that of Texas, savings were computed for New Mexico at 10 percent of the Texas totals. Cost savings estimates for avoiding placements in foster care, juvenile detention, and nursing homes were based on current New Mexico general fund costs. Additional expected cost savings were based on personnel time and reducing the number of misdirected calls.
- The recommendation provides one-time money from the general fund for a database administrator and challenges the program to find external funding sources for future years.
- Elimination of toll-free lines, beginning in FY06: Nine per year, saving taxpayers $30,249 per year.

* FTE reductions may be recommended once information is available regarding the number of 800 numbers in state government and associated personnel who primarily respond to 800 number calls.

ENDNOTES

1. Doyle Smith, Medical Assistance Division, NM Human Services Department
2. Senate Bill 422, New Mexico Legislature, 2003
3. Karen Baltzley, Manager, General Services Division
4. Matt Onstott, Deputy Director, Income Support division, NM Human Services Department
5. Tina Soister, Manager, NM Children, Youth and Families Department
6. Donna Donsey, Bureau Chief, Child Care Services Bureau, NM Children, Youth and Families Department
7. Dorenda Morse, MAGportal Project Manager, NM General Services Department

Maximize Federal Revenue - Food Stamp Employment and Training Revenue

The Human Services Department (HSD) should take advantage of changes in federal legislation that allow states to allocate more program and administrative costs to federal grants thereby reducing the burden on state taxpayers.

BACKGROUND

Many of the Human Services Department's (HSD) programs are funded in large part by federal grants. For example, benefits under the Food Stamp Program (FSP) are entirely federally funded, although the federal government pays for 50 percent of administrative costs and 50 percent of employment and training costs if those costs exceed the federal grant award.

New Mexico received a federal grant for employment and training of more than $637,000 in FY03. If the state were to spend over the amount of the federal grant, the federal government would match the amount exceeding the grant at 50 percent. The FSP is an open-ended federal entitlement program; administrative costs are "uncapped," meaning the federal government does not limit the amount it will match.

States are required to develop a federally approved Employment and Training (E&T) program as part of their FSP. New Mexico's E&T program serves food stamp recipients in all 33 counties. Each recipient must participate in the E&T program unless they are determined to be exempt. Failure to comply with the work requirements of the program may result in the loss of benefits.

The federal government also funds nutrition education and many other food assistance programs. In 2003, the food stamp caseload increased by 13.8 percent over April 2002, reaching

75,015. New Mexico's federal fiscal year (FFY) 2003 food stamp program and administrative budgets are expected to exceed $200 million. The program budget is 100 percent federally funded. If the caseload continues to grow at the current rate, HSD expects to issue more than $182 million in benefits. The administrative budget to support the food stamp program is matched by the federal government at a 50 percent match rate. The FY03 total administrative budget is $21,457,603.

The Farm Bill

As a condition of administering a food stamp program, states must operate an approved Employment and Training (E&T) program. Significant changes to the way E&T grants are allocated and how the funds can be spent were made through the Farm Security and Rural Investment Act of 2002 — commonly known as the Farm Bill.

Many complex and cumbersome regulations regarding the participation in federally funded employment and training programs by able-bodied adults without dependents were eliminated. Before the rules were changed, 22 states were unable to spend all of their E&T grant funds. Previously, states funded federally mandated programs with state matched dollars because so many people were ineligible for participation in the entirely federally funded programs. In 2003, New Mexico spent just under $870,000 in state general revenue on such programs because it could not spend all of its $637,470 federal E&T grant.

FINDINGS

Under the Food Stamp program, states must submit expenditure reports to the federal Food and Nutrition Services (FNS) for approval, and the portion of the administrative costs that are funded by the general fund must be appropriated by the Legislature.

The federal government may impose monetary sanctions on states that have error rates exceeding the national average of benefits distributed in error to families and individuals. Washington also awards performance bonuses if quality control errors are below a specified threshold.

Included in the E&T state plan is a two-year operating budget that includes annual costs of the E&T program by category of funding. The categories of funding include the 100 percent federal grant, expenditures that exceed the 100 percent and are matched by the state at 50 percent, and participant-reimbursed costs such as transportation and dependent care, which are matched by the state at 50 percent.

Until the Farm Bill passed, 80 percent of the state's employment and training grant money had to be used to train or employ able-bodied adults without dependents, who were required to work 20 hours a week or participate in an approved activity to maintain their food stamp eligibility. Many states, including New Mexico, applied for and received waivers to exclude some able-bodied adults with dependents from having to participate. For instance, waivers were granted if a county or city had an unemployment rate over 10 percent, as well as for individuals residing on certain Indian reservations or pueblos.

During FY03, 1,844 of 3,460 eligible New Mexico able-bodied adults with dependents were exempt from participation. Between November 2002 and April 2003, the entire population of such New Mexicans qualified for exemption under a federally approved waiver. This made it increasingly difficult for the state to spend its E&T grant money because there were so few required to participate in an approved activity.

During the course of the year, there were 30,138 non-able-bodied New Mexicans participating in mandatory E&T programs. However, only 20 percent of the federal grant money was available to pay for the costs. Although grant money could not be spent on these individuals, the state still had to pay for employment and training services. Not only did the state have to spend money from the general fund to cover E&T services, but the federal government reduced the grant amount from $1,630,421 in FY02 to $637,470 in FY03 because the state had not spent all of its grant money in the two previous fiscal years.

HSD contracts with New Mexico Works regional contractors to provide food stamp E&T services to E&T mandatory work participants. These contractors also serve Temporary Assistance for Needy Families (TANF) eligible recipients. The E&T agreements with regional contractors totaled $1,738,918 during FFY2003. Because of the previous funding restrictions for able-bodied adults with dependents, regional contracts were charged to FNS at the allowable 50:50 match rate. In FFY 2003, $869,457 from the state's general fund will be spent to draw down the additional $869,457 of the federal grant.

Now that federal food stamp regulations have been altered to increase support for E&T programs, state taxpayers are on the hook for less money to fund those programs. That means that a revised E&T plan should be resubmitted to FSN to adjust the budget categories.

RECOMMENDATIONS

HSD should submit the FFY2003 and FFY2004 state plan to FNS for the Food Stamp Program's employment and training efforts to ensure that work program contracts are funded to the fullest extent possible by the federal government — saving New Mexico taxpayers.

The FFY2004 E&T plan must be submitted to FNS by August 15, 2003.

HSD should resubmit FFY2003 quarterly fiscal reports to reflect increased use of federal funds, claim employment and training expenditures and reduce use of general funds for food stamp employment and training programs.

FISCAL IMPLICATIONS

By revising the state plan for E&T, the state can decrease its reliance on the general revenue fund under the Food Stamp program as follows:

Amount currently funded from the general fund	869,459
Total E&T contract expenditures	1,738,918
Less federal funds available under the 100% program	(637,470)
Remaining E&T expenditures	1,101,448
Less federal funds available under the 50% program	(550,724)
Amount needed from the general fund	550,724
Annual savings to the general fund	318,735

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004		318.7			318.7	
2005		318.7			318.7	
2006		318.7			318.7	
2007		318.7			318.7	
2008		318.7			318.7	
TOTAL		**1,593.5**			**1,593.5**	

ENDNOTES

1. Food Stamp Program, FY 2003 E&T Allocation Table: http://www.fns.usda.gov/fsp/rulesmemo/02/fy2003_et_alloct_table.htm
2. New Mexico Works Program, Food Stamp Employment and Training State Plan, Fiscal Year 2003, Revised October 2002. pg.1
3. New Mexico Human Services Department, Monthly Statistical Report, May 2003 Issue, pg. 1.
4. New Mexico Human Services Department, Monthly Statistical Report, May 2003 Issue, pg.48.
5. USDA, Food and Nutrition Services, Program and Budget Summary Statement, Part A Budget Project, August 15, 2002.
6. Federal Register: June 19, 2002 (Volume 67, Number 118)
7. New Mexico Works Programs, Food Stamp Employment & Training State Plan, FY 2003, Table 5.
8. Code of Federal Regulations 273.24(f)
9. New Mexico Works Programs, Food Stamp Employment & Training State Plan, FY 2003, Table 1
10. David Short, FNS, Region VI State Desk Program Manager, New Mexico Management Evaluation, April 2003 Exit Interview.

Maximize Federal Revenue - Performance Bonuses

The Human Services Department should compete more effectively for available federal financial incentives and bonuses to cover the costs of some services currently paid for with state funds.

BACKGROUND

Certain federal programs provide states with the opportunity to compete for financial incentives or bonuses available for programs that exceed or improve specific performance goals. The Temporary Assistance for Needy Families (TANF) block grant, for example, adds the high performance bonus to the annual block grant allocation to be used for any purpose detailed in the block grant regulations. The Food Stamp high performance bonus program also provides revenue to the state that can be matched for additional federal funds.

High or improved performance in either TANF or the federal food stamp program help further the twin goals of improving access by eligible families to these programs and bolstering public support for the programs by ensuring their efficiency and effectiveness.

New Mexico competed in federal fiscal year (FFY) 01 for a high performance bonus under the TANF block grant covering FFY 1999 and FFY00. Out of a total of $200 million awarded to winning states, New Mexico received $6.3 million ranking third among the states competing in the job entry rate measure for the 2001 competition.

States can compete on the following four rates:

- Job entry - unduplicated number who enter employment for the first time in the fiscal year;
- Success in the work force - combination of job retention rate and earnings gain rate;

- Increase in the job entry - comparing FFY 2000 to FFY 1999; and,
- Increase in the work force - comparing FFY 2000 to FFY 1999).

Section 4120 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171) authorized $48 million each fiscal year, beginning in FFY 2003, to be awarded to states with high or improved performance in the administration of the Food Stamp Program (FSP). The USDA Food and Nutrition Service (FNS) was charged with setting the criteria for the performance measures. States can be awarded bonuses for more than one category.

The following are the four criteria FNS has identified to measure states' performance:

- Payment accuracy. $24 million divided among seven states with the highest accuracy rate and three states with the most improved payment accuracy rate.
- Negative error rate. $6 million divided among four states with the lowest and two states with the most improved negative error rate.
- Participation rate. $12 million divided among four states with the highest and four states with the most improved participation rate.
- Application processing timeliness. $6 million divided among the six states with the highest percentage of timely processed applications.

FNS tested the performance calculations based on FFY02 data and determined that if there had been financial incentive awards given out that year, New Mexico would have received an award for the lowest negative error rate in the nation. This means that New Mexico had the highest rate in the nation (99.67 percent) for correctly denying or closing food stamp cases based on federal quality control data. But there was no monetary award tied to winning the Food Stamp award at that time. The Farm Bill now measures states' achievements in this category, and state leaders are hopeful that New Mexico will receive such an award in FFY03.

FINDINGS

New Mexico Human Services Department (HSD)/Income Support Division (ISD) has excelled in two federal program performance measures and, as a result, may be eligible for financial performance bonuses. HSD/ISD may also be able to qualify for additional federal revenue including high performance bonuses, enhanced funding, and grants, thereby reducing the need to spend state general revenue funds and expanding capacity to serve more clients. By exceeding federal performance measures, the state demonstrates improved accuracy and timely issuance of benefits while helping more clients leave the public assistance rolls when they find jobs.

In June 2002, the federal Health and Human Services Secretary congratulated New Mexico for moving assistance recipients into jobs and announced that the state had been awarded a high performance bonus of $6.3 million for FFY00. TANF high performance bonuses are awarded by means of an award letter that increases the State Financial Assistance Grant (SFAG). This means the $6.3 million is added to the TANF SFAG and can be used in the TANF program.

Food stamp high or improved performance bonuses are awarded by means of a warrant issued to the state. These bonuses supplement the state's general fund unless otherwise appropriated. If the bonuses were to be appropriated to the administering agency for food stamps, the funds could be used to increase the amount of federal funding the state receives through awards. For example, if HSD were to receive a $500,000 high performance bonus and that bonus were added to the general fund then appropriated to the Department of Transportation to build a new highway, the value of the bonus would remain at $500,000. If the $500,000 were appropriated to HSD, the value of the award could become $1 million because it could qualify for an additional federal match.

Texas was awarded $29.8 million from FNS in FFY02 for the Food Stamp program's highest payment accuracy rate in the nation. The Lone Star State also received $19.8 million in bonus TANF funds for reducing the state's out-of-wedlock birth rate and $24.8 million for helping welfare recipients find jobs. Including the TANF and Food Stamp bonuses in FFY02, Texas has received $190 million since 1999.

Louisiana was awarded $1.3 million from FNS for its accuracy in administering the Food Stamp program in FFY02. This was the fourth year that Louisiana has received a Food Stamp payment accuracy bonus. The Bayou State also won a TANF high performance bonus in FFY02 for being the second-highest state in the nation for placing TANF recipients in the job entry category. Louisiana has added a total of $9 million dollars to the state coffers this way since 1994.

Louisiana used the enhanced fund to help maintain and improve Food Stamp accuracy rates by providing for salary adjustments for the Office of Family Support (OFS) employees and information technology (IT) enhancements, such as Y2K, video conferencing and equipment upgrades. In FFY04, $1.3 million of the funds will be used to substitute state general fund within the OFS and will be matched to draw additional federal funds. Approximately $318,000 was appropriated to agencies other than OFS, namely the Office of Community Services and the Louisiana Rehabilitation Services for IT projects and various other programs.

RECOMMENDATIONS

HSD should support a work environment that encourages personnel to exceed federal performance standards by vigilantly monitoring monthly performance and using accepted best practices.

The Legislature should adopt legislation during the session in 2004 that appropriates to HSD any performance bonus or incentive award related to HSD programs that is eligible for additional federal match. Legislation should provide statutory authority for HSD to match any current or future awards to maximize use of federal revenue in lieu of state general funds.

All of this incentive money should be returned to HSD to be used as the state match to draw down additional federal funds. Incentive money should be used to reinvest in staff and other administrative resources that meet federal administrative guidelines.

FNS bonuses should be invested in the agency. Specifically, incentive funds should be added to or supplant existing appropriations to the information technology contract category that supports the current ISD2 system or its replacement eligibility and benefit issuance system.

By appropriating a portion of the federal incentive money to HSD, the department can use these funds to draw down an equal amount in federal dollars. This approach not only generates more federal funds to replace existing state general fund dollars, but it also provides a meaningful financial reward to employees. This would improve the working environment with better equipment and supplement the financing of a state-of-the-art eligibility and benefit issuance system.

Specific to the TANF program, HSD should develop a plan to increase needed support services for TANF recipients that will reduce barriers to employment and increase educational opportunities while obtaining, maintaining, and promoting higher wage employment.

FISCAL IMPLICATIONS

The increased revenues from these recommendations cannot be determined precisely at this time because the state does not know whether it will receive an incentive bonus or, if so, how much it will total. If an award is received, it should total several hundred thousand dollars. FFY03 performance awards will be announced June 2003.

ENDNOTES

1. HSD Press Release, July 3, 2002
2. ACF Office of Planning, Research & Evaluation, High Performance Bonus States Ranked in Each Category: July 9, 2002 http://www.acf.hhs.gov/programs/opre/hpb/fy2000/table2.htm
3. USDA/FNS – Implementing Information & Instructions: Food Stamp High Performance Bonuses by Kate Coler, Deputy Administrator, Food Stamp Program, October 9, 2002. http://www.fns.usda.gov/fsp/rules/Legislation/2002_farm_bill/performance _measures.htm
4. APHSA Reauthorization Roundup Vol. 11, No.21 Food Stamp Program
5. El Diario Sin Nombre, Vol. 2, Issue 12, December 2002, pg. 2
6. DHHS Grant of Award Letter, July 10, 2002
7. Texas Press Releases, May 03, 2002 and October 1, 2002
8. LA Department of Social Services Press Release, September 4, 2002
9. LA Office of Family Support email from David Leblanc, May 22, 2003

Maximize Federal Revenue – Title IV-E

The State should provide taxpayers millions of dollars in savings by contracting for the services of a revenue maximization expert to identify available Title IV-E federal revenue that can be used to reimburse the state for part of the cost of foster care programs currently covered by the state.

BACKGROUND

As part of the first stage of the New Mexico Performance Review, a revenue maximization consulting company conducted a preliminary analysis to determine whether the Children, Youth, and Families Department (CYFD) has been receiving the maximum amount possible of Title IV-E federal revenue reimbursement for foster care services.

Under Title IV-E federal regulations, states are entitled to be reimbursed for a significant percentage of the cost of maintaining eligible children in foster care. CYFD is the state agency that provides foster care for abused and neglected children.

Our analysis determined that federal revenue is not currently being maximized in the area of foster care maintenance — the actual costs of maintaining a child in foster care, such as the room and board paid to foster parents.

FINDINGS

The preliminary New Mexico Performance Review analysis indicates that New Mexico is almost certainly entitled to additional Title IV-E reimbursement.

These preliminary findings include:

- CYFD may be entitled to retroactively recover between $1 million and $2 million for expenses incurred by the state over the past two years for foster care maintenance.

- Over the next three years CYFD may be entitled to recover between $2 million and $3 million per year for foster care maintenance costs incurred by the state.
- Recovery of these Title IV-E reimbursements from the federal government would cost the state general fund nothing.

CYFD currently has a contract in place with a revenue maximization consulting firm that could begin more in-depth analysis of the issues in the immediate future and obtain additional federal reimbursement to which CYFD is entitled under the Title IV-E program.

RECOMMENDATION

CYFD should immediately complete a comprehensive analysis to determine whether it is entitled to any retroactive Title-IV funds and, if so, collect any allowed funds.

This analysis should be completed under the current consulting contract with CYFD. If it is determined that CYFD can be reimbursed for additional Title IV-E funds in the future by using different processes, those processes should be defined.

If CYFD is able to realize additional net increases in federal funding, additional appropriation authority from the New Mexico Legislature to spend the additional revenue may be required.

FISCAL IMPLICATIONS

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004				3,580.0		
2005				2,238.0		
2006				2,238.0		
2007						
2008						
TOTAL				**8,056.0**		

- All estimates were based on preliminary analysis conducted by Strategic Government Solutions.
- The analysis estimated $1 million to $2 million could be recovered retroactively, so the average amount of $1.5 million was used for FY04. Also included for FY04 was one-third of the estimated amount that could be recovered proactively for each of the next three years. The amount was reduced by 10.5 percent, which is the contingency fee CYFD pays to the consulting firm under the existing contract for any funds recovered.
- The analysis estimated $2 million to $3 million per year could be recovered for the next three years. The amount of $2.5 million per year (the average) was used for FY04, FY05, and FY06.

ENDNOTES

1. Joe O'Hara, Strategic Government Solutions, June 11, 2003.
2. Danny Sandoval, Financial Services Division, NM Children, Youth & Families Department.

Create Public-Private Partnerships for Transportation Projects

The state's Department of Transportation should expand the use of public-private partnerships to complete more highways and other transportation infrastructure by sharing the costs with the business community for projects that promote economic development.

BACKGROUND

Revenue from the state road fund has remained flat for the past six years. Gasoline tax and other dedicated state revenue sources have fallen short of traditional growth patterns by about three percent, while operating expenses and inflation have increased costs by about 4.5 percent.

Current practice provides direct revenue to the local government road fund, administered by the Department of Transportation (DOT) as part of the state road fund. Revenue also goes to the Indian road fund, administered through the Bureau of Indian Affairs; to Forest Service funds; and to other special funds, such as gross receipts tax and severance tax, that are designated to local and tribal governments for capital improvements.

Federal revenue is administered through the Federal Highway Administration (FHWA) and is primarily considered "dedicated" revenue. That is, the money can only be used for interstate highways, congestion mitigation, bridge replacement, and other designated highway projects. The money from Washington is also earmarked through the Statewide Transportation Improvement Program (STIP), which is contingent on FHWA certification and approval. The state is required to match all federal funds.

Because this federal revenue is dedicated to construction, all DOT operating costs must be paid with state funds. Moreover, state highways not eligible for federal funds and all highway maintenance improvements are funded entirely by state taxpayers.

Increased operating costs and increased maintenance costs continue to affect the ability of the state road fund to match federal funds. Without the state match, infrastructure improvement projects are placed at risk.

FINDINGS

Studies consistently show that economic development is enhanced when transportation infrastructure is available or included as part of a comprehensive economic development strategy.

For FY03-FY04, the DOT reached an agreement with the city of Rio Rancho and the Intel Corporation whereby the city and Intel each contributed $5 million and the DOT contributed $10 million to advance improvements to NM 528, a critical project with economic development implications in Rio Rancho. This $20 million project was made possible by the 50 percent public-private support.

In FY04, the DOT will negotiate an agreement with the Acoma Tribal Business Group to build an interchange project at Interstate 40 and Acoma Pueblo. In this agreement, Acoma and the DOT are expected to each contribute half of the costs of the $14 million project.

These two projects combined represent $17 million in non-state contributions to highway improvements that would otherwise not have been completed. When properly promoted and implemented, public-private partnerships like these can help New Mexico meet the growing traffic and roadway needs of the state.

RECOMMENDATIONS

The state should help facilitate the continued development of public-private partnership initiatives to share the costs of highway infrastructure improvement projects. The state should also identify new opportunities in long range planning and STIP for using public-private partnerships to advance highway construction.

FISCAL IMPLICATIONS

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004				2,000.0*		
2005				7,000.0		
2006				**		
2007				**		
2008				**		
TOTAL				**9,000.0**		

* In FY03, the DOT collected $8 million of the $10 million public-private contribution for NM528. The remaining $2 million is scheduled for collection in FY04.

** The DOT must develop processes to encourage public-private partnerships for infrastructure improvements. This process should demonstrate economic advantages gained through investment in the transportation system. Future contributions will be based on participation of public and private entities.

ENDNOTES

1. COMPASS (Measurement 5c, Percent of 6 year STIP funding compared to needs), NMSHTD Performance Management Plan
2. Road Fund Outlook, NMSHTD State Revenue Report
3. Operating Budget, NMSHTD OpBud in Brief, FY04

BILL RICHARDSON
NEW MEXICO PERFORMANCE REVIEW

Chapter II
Putting Customers First

Chapter II:

Putting Customers First

One of government's most common mistakes is to lose track of its true mission: to provide high-quality, low-cost customer service. This most basic of all business principles too often gets set aside as public agencies succumb to a perceived pressure to define their customers as the Legislature or powerful elected officials or important interest groups.

No wonder so many have stopped shopping at the government store. State government has too often forgotten that taxpayers are its employers *and* its customers.

The *New Mexico Performance Review*'s recommendations in this area focus on several major concerns. First, we take a close look at the range of community programs designed to increase public access to vital services. We also make suggestions for co-locating state offices in the same building to make interactions with state government easier and less time-consuming for citizens in local communities.

Recommendations are designed to streamline the state bureaucracy and cut the bureaucratic red tape that often adds time and money to the cost of doing business with New Mexico government. From improved management of outside contracts to the use of "reverse auction" and other innovative purchasing procedures, this report tries to put state government's customers first.

One way to streamline the state bureaucracy is to bring it down to size. We begin that process with recommendations to eliminate duplicative or outmoded state agencies and consolidate their remaining functions with others, starting with the Office of Interstate Natural Gas Markets, the Coal Surface Mining Commission, and two key divisions within the Labor Department.

Total recommendations:	**13**
Total five-year savings:	**$64.8 million**

CHAPTER II - PUTTING CUSTOMERS FIRST

(Dollars in Thousands)

Issue No.	Recommendation	2004		2005		2006		2007		2008		Cumulative Total	
		General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
HHS 1	Provide Community-Based Services	-	-	107.1	-	(148.2)	1,450.0	(148.2)	1,450.0	(41.1)	1,450.0	(230.4)	4,350.0
HHS 10	Expand Electronic Benefit Transfer	-	-	-	4,163.0	-	4,163.0	-	4,163.0	-	4,163.0	-	16,652.0
CM 6	Improve Contract Management	672.6	4,683.3	1,589.7	4,683.3	1,626.7	4,683.3	1,626.7	4,683.3	1,626.7	4,683.3	7,142.4	23,416.5
CM 10	Implement Reverse Auction	(455.9)	-	686.1	1,593.2	686.1	1,593.2	686.1	1,593.2	686.1	1,593.2	2,288.5	6,372.8
CM 4	Co-locate Offices	(532.0)	-	(532.0)	-	(532.0)	-	(532.0)	-	(532.0)	-	(2,660.0)	-
IT 11	Improve Planning for a Statewide Portal	-	-	-	-	-	-	-	-	-	-	-	-
A 1	Eliminate filing broker papers	-	-	-	-	-	-	-	-	-	-	-	-
A 3	Perform Construction Industries Licensing In-House	385.0	-	840.0	-	850.0	-	850.0	-	850.0	-	3,775.0	-
A 16	Perform Periodic Regulation and Licensing Department Fee Reviews	-	-	472.0	-	472.0	-	472.0	-	481.0	-	1,897.0	-
A 10	Consolidate the Mining Commissions	-	5.0	-	20.0	-	10.0	-	20.0	-	10.0	-	65.0
A 17	Consolidate Labor Department Divisions	-	-	-	123.3	-	123.3	-	123.3	-	123.3	-	493.2
T 1	Reform Motor Vehicle Fee Agent Agreements	(230.0)	-	370.0	-	470.0	-	470.0	-	470.0	-	1,550.0	-
T 10	Improve Motor Vehicle Call Center	(274.0)	-	-	-	-	-	-	-	-	-	(274.0)	-
Total		**(434.3)**	**4,688.3**	**3,532.9**	**10,582.8**	**3,424.6**	**12,022.8**	**3,424.6**	**12,032.8**	**3,540.7**	**12,022.8**	**13,488.5**	**51,349.5**

Provide Community-Based Social and Human Services

Agencies providing health and human services in New Mexico should improve accountability and increase federal revenue available for community-based services by coordinating their efforts and blending their funding streams.

BACKGROUND

State agencies providing health and human services in New Mexico include the Department of Health (DOH), the Children, Youth, and Families Department (CYFD), the Human Services Department (HSD), and the State Agency on Aging (SAOA).

While these agencies and their staffs provide many critical services, there is no overall system in place to coordinate their efforts, avoid gaps in services or duplication at the community level, and maximize the federal revenue available to fund programs. The sheer number of state and local agencies involved in the delivery of health and human services, and the confusing array of programs within each agency, makes it difficult for ordinary New Mexicans to figure out what programs they need, especially in times of personal crisis.

This lack of coordination and accountability in the current piecemeal system not only affects families in their day-to-day lives but costs state taxpayers dearly.

The consequences are often tragic. For example, some New Mexico children are placed in foster care because their parents have failed to meet their basic needs. Yet, this neglect by parents is often the result of not knowing how or where to seek assistance. If these families were referred to appropriate services (Temporary Assistance for Needy Families, food stamps, medical care, immunizations) in a timely manner, many child neglect referrals and subsequent costly foster care placements might be avoided — and many families might be helped to stay together.

In addition, there are numerous examples of New Mexico families without adequate access to or knowledge of community-based mental health services, whose children, untreated when their mental problems first surfaced, have ended up in in-patient care, at a significant financial cost to the state and emotional cost to the family and child. In too many cases, these juvenile detention placements, costing state taxpayers $50,000 per year each, could have been avoided if families had been referred to appropriate mental health services in the community.

FINDINGS

New Mexico has not developed an efficient, effective system to coordinate health and human services within communities. Approximately 40 percent of families referred to CYFD as victims of child abuse and neglect are currently denied services because their cases have been judged to not meet the definition of "high-risk." Many of these children end up back in the state system later, when their needs and the cost of providing services are greater.

In a coordinated, community-based system with stronger accountability measures, families such as these would be referred to other community services rather than be screened out altogether. Providing front-end services ultimately reduces the high costs of foster care, juvenile detention, and nursing home placements.

Two urgent reforms are required to improve accountability and increase federal funding through better coordination. First, improve accountability through better coordination. The state should set up local resource centers in schools, community centers, and other appropriate locations. These resource centers should be staffed by existing agency or contract staff members trained to conduct assessments and refer families to appropriate services and programs. This reform can be implemented quickly, without the need to wait for new state legislation or additional federal funding. The four state agencies previously cited (DOH, CYFD, HSD, SAOA) should reach an immediate cooperative agreement to improve the coordination of community resources and access to preventive services. This effort should also incorporate a mechanism for increased community involvement.

Additional funding for future support of community resource centers should be available from multiple sources, including the Clark Foundation, Casey Foundation, Children's Trust Fund, Family Preservation Grant, Child Abuse Prevention and Treatment Act, World Primary Health Care Act, and others. Some of these grants, such as those provided by the Clark Foundation, do not require matching funds.

The second reform: increase available revenue by blending funding streams. By blending federal, state, and private funding streams to support community-based services, communities in many states are able to target services to the diverse and changing needs of families and children without being hindered by fragmented or narrow bureaucratic rules and categories. This proposed reform may require changes to the state Medicaid plan and, possibly, new state legislation.

Some of the most frequently used federal funds in blended programs are Social Security Act Title IV-E and IV-B funds, Mental Health Services Block Grant, Substance Abuse Block Grant, Social Security Act Title V, Title XIX (Medicaid) and Title XX (social services block grant). These programs: use creative financing for blending or combining funds and building community capacity through training and other assistance; feature built-in performance and accountability measures; and include incentive systems to reward efficiency. The National Governor's Association has issued helpful guidelines for decentralizing decision-making based on other states' experiences.

For example, New Jersey's Children's Initiative has implemented flexible funding mechanisms. One of their steps was to amend the state Medicaid plan to include rehabilitation services, which allowed for additional Medicaid revenue by transferring state funds to Medicaid. By adding $10 million of state revenue and changing the state Medicaid plan, New Jersey was able to draw down $29 million in additional federal revenue.

Iowa has successfully implemented a program that blends funding streams to provide coordinated services at the community level. This reform required no new state revenue and produced the following results:

- 21 percent decline in out-of-state placements between 1994 and 1998,
- $15.5 million in savings in out-of-home placements, and
- 60 percent reduction in juvenile institutional placements over a three-year period.

The success of the Iowa program is based on consolidation of separate funding streams at the county level to make funding more flexible and shift expenditure authority to the local level. Services are created based on community need (and community responsibility for outcomes) rather than on traditional regulations associated with various separate funding sources. Services are no longer based on centralized decision-making in state bureaucracies in isolation from neighborhoods and communities, and bound by inflexible rules and regulations.

RECOMMENDATIONS

The secretaries of the state's Health and Human Services agencies should collaborate to form a cross-agency task force to implement a pilot community resource center in a high-need Albuquerque location.

The work of the task force should include:

- Identification of existing and future funding sources for the project;
- Deciding whether to use outside contractors or state employees for the project, whichever is determined to be more cost-efficient and effective;
- Development and delivery of training to community providers, agency staff, and volunteers; and
- Establishment of measurement criteria for evaluating results and determining whether additional community resource centers should be established in other areas of the state.

The existing Interagency Coordinating Council should develop a plan to blend funding streams with the twin goals of increasing federal revenue and improving community-based services. The Council, which includes representatives from DOH, CYFD, HSD, and SAOA, is the logical forum from which to implement this initiative.

When addressing this issue, the Council should:

- Include information from agency staffers who have extensive knowledge of federal funding sources and requirements;
- Recommend legislative changes necessary to accomplish the blending of funding streams in the most effective way to obtain additional federal revenue and improve community-based services;
- Pursue both a model to obtain new federal funding using new state fund expenditures and a model that is revenue-neutral;
- Use other states' experiences (especially Texas and New Jersey) to establish benchmarks for blending funds for community services and should consider guidelines issued by the National Governor's Association; and
- Coordinate all program changes, including increasing local control to communities providing the services.

These reforms should occur in the 2005 legislature with a target implementation date of FY06.

Any new programs implemented should be implemented initially on a pilot basis, beginning with one New Mexico county.

FISCAL IMPLICATIONS

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004						
2005		107.1			107.1	
2006	362.5	214.3		1,450.0	(148.2)	
2007	362.5	214.3		1,450.0	(148.2)	
2008	362.5	321.4		1,450.0	(41.1)	
TOTAL	**1,087.5**	**857.1**		**4,350.0**	**(230.4)**	

- General fund costs represent the state match (25 percent) required to draw down additional federal Medicaid money used to develop community-based services through blended funding.
- General fund savings represent the cost-avoidance of a conservatively estimated number of placements in foster care, juvenile detention, and nursing homes through improved access to timely, community-based services.
- Other fund savings represent federal revenue available through blended funding and changes to the state Medicaid plan.
- Additional grant money may be obtained to fund the recommendations. These potential funds are not included in the fiscal impact statement

ENDNOTES

1. Texas Performance Review: HHS 31, Increase Local Control of Health and Human Services Spending
2. Compendium of Comprehensive, Community-based Initiatives: A Look at Costs, Benefits, and Financing Strategies. Prepared for the Finance Project. (http://www.welfareinfo.org/compend.htm)

Expand Electronic Benefit Transfer

New Mexico's Human Services Department should expand its use of electronic benefits transfer technology to include additional programs or vendor payments made by other agencies to better serve clients and reduce administrative costs.

BACKGROUND

The Human Services Department (HSD) provides public assistance benefits to one out of every three New Mexico citizens. More than 196,000 New Mexicans receive food assistance through the federal Food Stamp program. Some 43,000 New Mexicans benefit from the Temporary Assistance for Needy Families (TANF) and General Assistance (GA) programs for low-income families. Many New Mexico families participate in two or more of these programs simultaneously.

Of these programs, Food Stamp and cash assistance benefits are delivered to families by means of Electronic Benefits Transfer (EBT) technology, a financial data processing system in which state public assistance benefits are distributed electronically through the commercial banking system via ATM-like cards. These cards are equipped with magnetic stripes allowing them to be used by qualified recipients to withdraw cash from commercial ATMs or by making debit card purchases of eligible food items from certified grocers.

The New Mexico Performance Review team has concluded that any kind of regular payment issued by the state could be handled through this EBT system. It's simple, safe, and smart.

Additional programs that may be candidates for participation include:

- HSD's Child Support and Medicaid programs;

- The Labor Department's Unemployment Insurance (UI), Workforce Investment Act (WIA), and other related employment and training payments to participating individuals;
- The Children, Youth and Families Department's Child Care vendor payments;
- The Department of Health's Women, Infants, and Children (WIC) program; and
- The Department of Highway and Transportation's individual transportation subsidies.

The EBT system was initially developed more than a decade ago through the federal food stamp program to reduce widespread fraud and abuse associated with the old paper food stamp coupon system. New Mexico was one of five pilot projects initiated by the U.S. Department of Agriculture (USDA), Food and Nutrition Service (FNS) in 1986 and was one of the first three states to convert its Food Stamp program entirely to EBT in 1990. Subsequently, HSD has converted all of its cash assistance programs to EBT as well. The system has consistently proven cost effective.

EBT reduces administrative workloads and taxpayer costs such as printing, storing, handling, shipping and disposing of coupons and postage. Each EBT transaction provides an electronic audit trail, in turn providing extensive information beneficial to fraud investigators and program staff for compilation of statistical reports and other administrative responsibilities.

Sixteen other states have moved to issue multiple benefits on a single EBT card. Their experience shows that issuing a variety of benefits through a single EBT system in New Mexico would save taxpayers money by eliminating the cost of operating multiple systems and simplify access to benefits for eligible recipients.

FINDINGS

HSD is currently contracting with Citicorp to operate its EBT system. The existing contract allows HSD to add additional programs to the EBT system, including those administered by other entities.

The system benefits eligible recipients in several ways:

- Rapid availability. EBT benefits are available the day after they are authorized. Depending upon the agency and its mail handling abilities, benefits issued by check take several days to arrive in recipients' hands after authorization.
- Security. EBT cards are password protected. As long as the recipient doesn't divulge his or her password, loss or theft of the card cannot result in loss or theft of the benefits.
- Conversion to cash. Low-income families frequently have difficulty cashing checks and pay a fee to get their money. Recipients do not pay a fee to obtain an EBT card or to use it as long as cash is withdrawn from grocery stores. Grocery stores are required to allow recipients to withdraw cash using EBT cards and are not allowed to charge for the withdrawal. If recipients withdraw cash from an ATM, the fee is deducted from their benefits.
- Taxpayer accountability. Food stamp benefits are spent only on food because recipients can no longer receive cash back from coupons.
- Recipient dignity. The EBT card removes the stigma associated with paper food stamp coupons and brings recipients into the electronic banking mainstream.

EBT costs occur in three areas:

- Contracts. The Citicorp contract authorizes the company to charge HSD for a variety of services, including fiscal and accounting, related to establishing and maintaining recipient accounts and cards, as well as processing and assuring the accuracy of benefit files and expenses to enhance the system. Annual costs for the EBT contract, during FY02, totaled $2,775,122 for issuance of $230,756,370 in benefits through EBT, an average monthly issuance of $19,229,697.

- State staff. HSD's Income Support Division (ISD) has 43 staff members working in field offices to support the EBT system. Their primary responsibility is the issuance and management of EBT cards. Under federal program security regulations, people responsible for setting up cases and authorizing payments cannot also issue cards.
- ISD Central Office staff. HSD/ISD has a total of seven staff positions responsible for managing the EBT contract, as well as overseeing development of enhancements and assuring correct operation of the system.

HSD's existing EBT system was created largely using federal Food Stamp funding. USDA-FNS currently meets more than 77 percent of the annual cost, while the federal TANF program covers just under 21.5 percent. The remainder is paid for by state-funded programs such as General Assistance (GA) and Education Works (EW). Depending upon what programs are added and how their addition would benefit USDA, additional federal funding could be available from FNS for the expansion of EBT in New Mexico.

Under USDA-FNS rules, the state would have to seek prior approval from FNS for all proposed expenditures related to the addition of new programs to EBT.

Under New Mexico's existing contract for EBT with Citicorp, this technology could be expanded to include a variety of other programs. HSD has held initial discussions with staff members in the Women, Infants, and Children (WIC) program as well as staffers at the Department of Transportation to explore ways to include their programs under EBT. Each has expressed some interest, although WIC administrators prefer smart-card technology, which employs a computer chip in the card — a technology unavailable in the state's current magnetic stripe system.

A logical program to be included in any expansion of the state's EBT system would be Unemployment Insurance (UI). New Mexico Department of Labor (DOL) issued more than 715,000 intrastate UI claims in FY02 totaling nearly $134 million. DOL expects to issue more than 900,000 warrants in 2003. The average duration, the average length of time a claimant receives benefits, was 17 weeks in December 2002. The 12-month moving-average weekly benefit amount for the state was $204.87, while the maximum weekly benefit amount was $277 in FY02.

If a New Mexican were living in a three-person household and receiving the maximum weekly benefit amount of $277, it is probable that the household would also be eligible for federal Food Stamps given that their total monthly income ($277 x 4.3 weeks = $1,191) is below the federal guideline of 130 percent of the federal poverty line or $1,627 per month.

In addition, the cost per unemployment check issued in FY02 was $18.99. This amount includes labor costs such as personal services and benefits, administrative services, training, intake, process validation, and eligibility determination. Although UI benefits and administrative costs are federally funded, savings of several million dollars could be realized.

RECOMMENDATIONS

HSD should expand the EBT system to include additional client benefits and or vendor payments with other agencies. Specifically, HSD should initially expand the card to include delivery of UI benefits.

After UI benefits are added into the EBT delivery system, the next program to be considered should be child support enforcement. The Child Support Enforcement Division is currently posting child support enforcement pass-through payments to TANF recipients on EBT.

HSD should also expeditiously proceed with developing the hybrid card, which combines the magnetic stripe with smart card chip technology so that, ultimately, Medicaid eligibility can be placed on the EBT card.

FISCAL IMPLICATIONS

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004						
2005				4,163.0		
2006				4,163.0		
2007				4,163.0		
2008				4,163.0		
TOTAL				**16,652.0**		

The cost to process a UI benefit check is approximately $5.00, resulting in an annual cost to taxpayers of $4.5 million. Providing UI benefits using an EBT card would reduce that per-case fee to just under $1.50. The case fee would be charged only once a month regardless of the number of checks issued each month. Based on the total number of UI checks currently issued — about 900,000 — the total cost to provide UI benefits using an EBT card would be $337,050. Assuming the recommendation is fully phased in during FY05, the net taxpayers' savings would be $4.2 million in federal funds each year.

ENDNOTES

1. Human Services Department, Monthly Statistical Report, May 2003, pg. 2, pg. 48 and 49
2. American Public Human Services Association: Reauthorization http://www.aphsa.org/reauthor/fsebt.asp pg.3
3. USDA FNS EBT Alternative Analysis, MAXIMUS Phoenix Planning and Evaluation
4. USDA FNS Applicants and Recipients Frequently Asked Questions About EBT, March 31, 2003, pg.2 http://www.fns.usda.gov/fsp/ebt/FAQ.HTM
5. Email from James Weber Citicorp dated May 9, 2003 referencing Rod Cullison.
6. 7 CFR – Chapter II – Part 277.18
7. New Mexico Department of Labor – Unemployment Claims and Payments Report
8. Sharon Regensberg, Bureau Chief, Policy & Program Development, Income Support Division, HSD
9. Robin Horowitz, Health and Human Services Consultant to the New Mexico Performance Review

Improve Contract Management

The state should restructure its procurement system to streamline operations, improve performance, enforce sanctions, and achieve cost savings.

BACKGROUND

States are paying an estimated average of 15 to 20 percent more than the private sector for purchased goods and services. Like most states, New Mexico lacks adequate information and analysis of purchasing patterns, fails to take advantage of leveraged buying power, and allows suppliers to drive the market.

With the use of improved technology in the purchasing process, states have an opportunity to implement new systems to purchase goods and services that support the state's ability to manage and control the process.

States are turning to the following purchasing strategies:

- Competitive bidding - using multiple rounds of competitive bidding,
- Demand management - rationalizing specifications by standardizing and grouping purchases,
- Spend reduction strategies - identification of areas for purchasing policy changes,
- Negotiations with incumbent providers,
- Reverse auctions, and
- Up-front rebates from vendors for volume commitments.

These strategies, sometimes used in combination, are making it possible for states to deliver significant savings to their taxpayers.

FINDINGS

Governing Magazine gave New Mexico a grade of only C+ for financial management in February 2001, arguing that "Contracting is very decentralized, leaving problems with the potential to fester unnoticed." This respected magazine had a point.

Purchasing of goods and services in New Mexico is too process-oriented, with few management systems in place to ensure that the state receives the best price for the highest quality goods and services. Agencies haven't capitalized on the full potential of price agreements and have not used these agreements as a starting point for competitive negotiation and statewide volume savings. There has been little active implementation of management and information systems to oversee contract execution, vendor performance, or spending management. The Legislative Finance Committee (LFC) expressed its concern about this by sponsoring performance contracting legislation in the 2001 and 2003 legislative sessions.

New Mexico state agencies have broad discretion in contract administration and management. There are no requirements to include performance measures or deliverables in contracts, and no mandate to consolidate purchasing power. Vendors sell solutions to problems the vendor has identified rather than agencies prioritizing problems and determining what resources are needed or available before procurement is initiated.

Contracts for goods and services (except professional services) are processed through the Purchasing Division (PD) of the General Services Department (GSD). GSD administers price agreements and manages access to federal contract information and the Western States Contracting Alliance (WSCA). The State Purchasing Agent settles disputes, though binding arbitration is not mandatory. Professional service contracts are processed through the Contract Review Bureau of the Administrative Services Division (ASD) of the Department of Finance and Administration (DFA) with a high level clerical review, and analysis of only sole source contracts. Communication among agencies has not been effective, especially for the identification and use of new, cost-saving initiatives such as the use of purchasing cards (see Recommendation CM9).

In FY02, the state purchased goods and services totaling $3.1 billion. More than 35,000 vendors do business with 113 state agencies. A growing number of companies are developing expertise in helping states with contract and vendor management, saving them -- and their taxpayers -- between 14 and 23 percent.

RECOMMENDATIONS

A performance contracting system should be implemented, in phases, to capitalize on private-sector expertise and build capacity within state government.

The state should engage a vendor to provide immediate assistance in producing an initial analysis of current contract spending, and provide guidance to PD on implementing new initiatives such as reverse auctions, competitive bidding, demand management, incumbent negotiations, and spend management.

The state should build capacity within PD by taking the following steps:

- The DFA Contract Review Bureau and one attorney should be incorporated into PD. The attorney should be charged with developing standardized performance-based boilerplate requests for proposals (RFPs), contracts, and contract amendments for use by all agencies. These would require binding arbitration for dispute resolution and contract renegotiation when adding similar scopes from other governmental entities. PD should be proactive, service-oriented, and provide hands-on guidance to agencies in developing specifications, deliverables, and results statements.

- A contract development, support, and audit function should be added to PD's statute and funded for four or five high-level contract analyst positions and a data administrator.
- PD should develop a contract management strategy for price agreements to maximize high quality at the best price, encourage negotiation among competitors on price agreements, and guard against practices that circumvent competition and reduce accountability. Providing contracts and services from regional centers, consolidating human needs RFPs to facilitate provider participation and federal reporting, and other innovative solutions to agency needs should be included.
- The state's purchasing system should be automated as quickly as possible, and in a way that facilitates participation in e-procurement and other aspects of the enterprise accounting system being developed.

To facilitate communication among agencies, an ASD Council of directors or deputy directors should be established and meet at least quarterly to share plans for contract initiatives, new ideas, common concerns, and lessons learned.

Penalties for violating the Procurement Code and contract management requirements should be enforced, and should include a financial obligation to repay the state for misspent money. The Attorney General should be removed from the contract approval process and focus on assisting agencies with contract compliance problems.

A task force should be created to develop performance contract management requirements and should include the State Purchasing Agent, the DFA contracts review attorney, the chief of the Risk Management Division Legal Bureau, a business management professor appointed by the Governor from one of the state's universities, the Governor's strategic planning director, and representatives from the Chief Information Officer (CIO), the Attorney General, and the LFC.

The state should consider requiring concept approval before time is invested in RFP development. Concept review should include an evaluation of in-house resources, alignment with the agency's strategic plan and performance measures, and contract management and reporting strategy, as well as review by PD and the CIO of potential statewide impact. The contract manager's performance and development plan should include related requirements.

FISCAL IMPLICATIONS

The first year cost of $1,344,100 in the fiscal impact chart below is for a spend-management vendor contract.

The second year cost of $427,000 reflects the addition of a six-person contract development and support bureau to the Purchasing Division, which includes start-up costs of $37,800 and recurring costs of $390,000.

Estimated savings are $6.7 million a year, with 30.1 percent in the general fund and 69.9 percent from other revenue. The net general fund savings over five years is estimated to be $7,142,400.

These cost and savings estimates are based on past purchases of computer and information technology hardware, telecommunications services, temporary services, office equipment, office supplies, food, furniture, uniforms, janitorial supplies, and lab supplies.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004	1,344.1	2,016.7		4,683.3	672.6	
2005	427.0	2,016.7		4,683.3	1,589.7	+6
2006	390.0	2,016.7		4,683.3	1,626.7	
2007	390.0	2,016.7		4,683.3	1,626.7	
2008	390.0	2,016.7		4,683.3	1,626.7	
TOTAL	**2,941.1**	**10,083.5**		**23,416.5**	**7,142.4**	**+6**

ENDNOTES

1. Manilal W. Patel, Audit Manager, Legislative Finance Committee
2. Rep. Luciano "Lucky" Varela, Vice-Chair, Legislative Finance Committee
3. Edward J. Lopez, Jr., Cabinet Secretary, General Services Department
4. Silver Oak Solutions - "Leveraged Purchasing Power ^{SM}" Cost Savings Opportunity for New Mexico, May 14, 2003.

Implement Reverse Auction

New Mexico should amend state law to allow state agencies to use the innovative 'reverse auction' procurement process as a tool to save money by purchasing bulk items at reduced costs.

BACKGROUND

The traditional rising-price, or English, auction has had competition in recent years from an innovative approach to purchasing goods and services known as a "reverse auction." This new methodology has been put to use by private purchasers and public agencies because it offers buyers an opportunity to seek real time competitive bids from multiple vendors with the goal of driving prices down and saving customers -- or taxpayers -- money.

Reverse auctioning is a pricing technique facilitated by the advent of the Internet. Rather than the purchaser bidding up the price of a product, vendors bid down the price in a competition for the final sale. Successful reverse auctions are based on a clear, concise statement of requirements and are particularly useful when initial price proposals, obtained from potential vendors or sources of goods and services that have been determined to be in the competitive range.

FINDINGS

Reverse auctions are typically most suited for large, bulk purchases for which specifications can be detailed and when the quality of products is consistent among a variety of vendors. While the reverse auction concept may not apply to all purchasing challenges, some benefits can be:

- Dynamic real-time competition resulting in savings that reflect true market pricing;
- Web-based capability to purchase goods and services;

- Pre-approved suppliers who will participate in the auction;
- Suppliers who can bid down the price, bid more than once while their identities are unknown to each other;
- Lower transaction costs;
- Established auction start and end times;
- Potential reduction in acquisition cycle time;
- Competition in an automated environment;
- Minimal training for purchaser or vendor; and
- A better chance for new suppliers of competing against established companies.

As a result of the increased popularity and potential of reverse auctions, more and more vendors are offering services to potential reverse auction clients. Sellers are charged a transaction fee ranging from one percent to three percent, and buyers normally pay the auction vendor fees ranging from a nominal amount up to an average of 20 percent of the savings.

New Mexico's current bid process for goods and services is based on traditional procedures of issuing a request for proposals (RFP), accepting written bids, and determining the lowest-cost bid that substantially meets the stated requirements.

RECOMMENDATIONS

State law should be amended to allow state agencies to use the 'reverse auction' procurement process to save money by purchasing bulk items at the lowest price available.

Once the law is amended, the state should develop rules for the use of 'reverse auction' across state government.

FISCAL IMPLICATIONS

Savings from the use of reverse auctions typically range from two to 25 percent, with an average of about 18 percent. Minnesota saved about $35,000 a year over five years for the purchase of aluminum for license plates. Pennsylvania cut spending for license plate materials and heating coal by 10 percent and office furniture by 31 percent. The United States Postal Service expects to save 10 percent on the cost of envelopes, more than $5 million on fuel, and $3 million on trailers using reverse auction. In the private sector, Owen Corning has saved seven percent on a single construction project, and 47 percent overall on tank cleaning services.

Based on past state purchases of items such as office equipment, office supplies, food, furniture, uniforms, janitorial and lab supplies, New Mexico could save $2,279,300 a year through reverse auction procurement. These savings are based on cutting costs by 14 percent and paying 20 percent of the estimated first-year savings as part of a vendor contract paid out of general revenue fund.

Because state statutes would have to be amended, savings would begin in FY05. In subsequent years, savings would total 30.1 percent from the general fund and 69.9 percent from other revenue sources. The state's Purchasing Division would administer the reverse auction program in years two through five, once the system was in place, saving taxpayers additional money. Total savings over four years would be $9,117,200, with an investment in the first year of $455,900.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004	455.9				(455.9)	
2005		686.1		1,593.2	686.1	
2006		686.1		1,593.2	686.1	
2007		686.1		1,593.2	686.1	
2008		686.1		1,593.2	686.1	
TOTAL	**455.9**	**2,744.4**		**6,372.8**	**2,288.5**	

ENDNOTES

1. ABM Online, Business Practices, "Reverse Auctioning" May 13,2003
2. Ronn Jones, Deputy Director, State Purchasing Division, General Services Department, April 17, 2003
3. GSA, Reverse Auction Enabler Services
4. Entrepreneur.com Competitive Pricing", August 2002
5. E-Texas, Recommendations of the Texas Comptroller "Use Reverse Auctions to Reduce Procurement Costs", December 2000
6. News Release "State launches reverse auction purchasing initiative", Admin Minnesota, Department of Administration, State of Minnesota, June 29, 2001
7. Ecom-Ohio Success Story, Owens Corning, "Purchase Pro Pioneer Reverse Auction", July 2002
8. Silver Oak Solutions, "Leveraged Purchasing Power Savings Assessment for New Mexico", April 29, 2003

Co-Locate Offices

The State should seek to decrease the use of leased office space, increase state-owned office space, and use this redistribution as an opportunity to co-locate offices throughout the state, thereby providing improved customer service to local citizens seeking state services.

BACKGROUND

In 2001, the Legislature enacted the State Office Building Acquisition Bonding Act (Section 6-21C-2, NMSA 1978), an effort designed to support the acquisition of state-owned property for use by all state departments and agencies, thus reducing reliance on leased space. Nearly $4 million is spent each year for capital projects to support the needs of state departments and agencies, including the possible acquisition of property.

FINDINGS

Except for Santa Fe, state offices throughout the state are set up based upon the availability of leased space rather than according to any planned development. This does not always provide the best customer service for local taxpayers and too often forces New Mexicans seeking services to visit several different office locations.

The state currently leases about 50 percent of its office space at a rate almost twice as high as the cost of state-owned space. The state owns few buildings in cities other than Santa Fe and relies on the private-sector lease market to find office space. Taxpayers currently foot the bill, $36 million a year in lease costs, for office space throughout New Mexico. Of that total, $28.5 million is spent in the state's three major metropolitan areas: Santa Fe, Albuquerque, and Las Cruces where 13,138 state employees are located.

The Property Control Division (PCD) of the General Services Department (GSD) has agreed that it could use part of its funding to achieve this objective through the purchase of state owned space and has identified eight departments that could benefit from a co-location initiative:

- Human Services
- Department of Health
- Children, Youth and Families
- Department of Public Safety
- Public Defender
- Taxation and Revenue
- Regulation and Licensing
- Labor

RECOMMENDATION

The Property Control Division of the General Services Department should decrease leased office space by increasing state-owned office space and co-locating state offices in Santa Fe, Albuquerque, and Las Cruces.

FISCAL IMPLICATIONS

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004	2,400.0	1,868.0			(532.0)	
2005	2,400.0	1,868.0			(532.0)	
2006	2,400.0	1,868.0			(532.0)	
2007	2,400.0	1,868.0			(532.0)	
2008	2,400.0	1,868.0			(532.0)	
TOTAL	**12,000.0**	**9,340.0**			**(2,660.0)**	

The PERA and NEA buildings located in the Capital campus may be prime possibilities of buildings the state should consider purchasing. Each building is currently leased to the state at an annual cost of $2.6 million. The average cost to maintain a state-owned building is $6 per square foot. Taking into account the 116,000 square feet the state currently leases in these buildings, the maintenance cost for these buildings would be $696,000 a year. This would leave an annual taxpayer savings of nearly $1.9 million if these buildings were owned by state government.

PCD is already authorized to use the bonding authority of $75 million to purchase buildings currently being leased. The PERA building is appraised at about $25 million, the NEA building at about $5 million. The total $30 million appraised value could be paid through the authorized bonding authority, and the debt service would be reimbursed at the amount of $2.4 million annually over 15 years. At the end of that time, the state would earn annual savings of $1,868,000 in general revenue funds — and own two buildings.

ENDNOTES

1. Capitol Buildings Planning Commission
2. Capitol Buildings Master Plan, Briefing to Legislative Finance Committee, January 9, 2000
3. Capitol Buildings Master Plan, Recommended Short-Term Moves, May 23, 2002
4. Edward J. Lopez, Jr., Cabinet Secretary, General Services Department
5. Bill Taylor, Director, Property Control Division, GSD
6. Larry C. Miller, Adjunct Director of Energy Conservation & Planning, Building Services Division, GSD

IT 11

Improve Planning for a Statewide Portal

The state should develop an Internet portal for computer users to make it easier and more cost-effective to obtain government services on-line and access a full range of public information.

BACKGROUND

A portal is a tool that provides information to customers and allows them to conduct transactions via the Internet. Portals differ from web sites in that their content is dynamic and built upon an architecture that allows the user to interact with many applications, from databases to spreadsheets where web site content is static, letting the user interact with one application at a time.

The greatest advantage of a portal: users can retrieve information and conduct business without having to know the organizational structure of an entity. This feature is particularly valuable for state government, whose organizational structure is large and complex.

An effective government portal would improve customer service, and the relationship between government and its customers. Besides providing an efficient way for the state's customers to get information and transact daily business with the state, the portal could help the state identify services its customers need and how they want those services delivered. Offering information and services on the portal would also save taxpayers money.

Successful portals have been defined by the degree to which they achieve overlapping goals. These include savings, increased revenue, boosts in productivity, improved customer service, accelerated business processes, a favorable return on investment, and a more efficiently functioning enterprise.

By these measures, New Mexico's portal is not successful. Despite having committed significant resources to its development, neither state government nor taxpayers have reaped the benefits. Lawmakers appropriated $1.7 million for planning and development costs in FY02 and FY03, but the lack of a clear mission and project planning during the first two years have hampered progress. Four state agencies have contributed financial resources of $245,000 and staff time to continue development through FY04. If no future funds are appropriated, the portal may be put on hold indefinitely or abandoned altogether.

Still, support for the portal is widespread among agencies. About 20 agencies provide input and will make the content of their own web sites available on the portal if it becomes fully functional. Pilot agencies have been identified, and the portal team is working to integrate their web sites.

With additional funding, the next step would be to integrate high volume, revenue-generating services to the portal, from registration renewals at the Motor Vehicle Division or tax forms at the Taxation and Revenue Department to licensing at the Game & Fish Department, and other functions.

FINDINGS

The state operates approximately 1,200 web sites, most of which provide level-one information; that is, customers can retrieve information but have few opportunities to conduct interactive business. New Mexico offers few on-line services beyond the ability to file personal and corporate income taxes, renew vehicle registrations, or purchase fishing licenses.

Funding for web site development in state government is highly decentralized. The resources for each of the 1,200 existing state web sites is provided separately, with the General Services Division offering web hosting services, and design and maintenance for some 52 agencies. Another 27 agencies maintain their own web sites.

The table below shows the annual costs associated with Web site maintenance and hosting for the 1200 state sites totaling $5.4 million a year.

	Maintenance	Hosting	Total
GSD	2,433,600	673,920	3,107,520
Internal	466,560	349,920	816,480
Contract	1,209,600	272,160	1,481,760
TOTAL	$4,109,760	$1,296,000	$5,405,760

A state government portal would allow agencies to manage their information and workflow without the need to pay a Webmaster for the service. The state could save up to $5.4 million each year once a portal was fully functional.

Rates for posting on the portal have not yet been developed. The portal team is considering a rate of $45, plus costs of $150 to $200 a month for equipment updates, network and database administration, governance, and archiving. Further charges may be necessary for application development.

The portal would also significantly reduce the amount of staff time currently spent answering telephones, processing paperwork, entering data, and correcting errors. Additional savings would be possible from a reduction in the postage to mail information to customers. Given sufficient consolidation, the state could realize additional savings from reduced costs for physical office space.

- The Taxation and Revenue Department saves $1.714 per tax return from processing personal income taxes on-line. If the department were to process all its personal income taxes on-line, the state could save about $1.25 million each year.
- The Arkansas Department of Education reported savings of $300,000 a year on paper and postage.

Application development can be expensive, but there are companies that provide states an extensive range of software applications at no cost to taxpayers. In exchange, a convenience fee is charged in addition to any fee set in statute. Convenience fees are minimal and range from $1 to $2. One company provides about 250 applications including services currently provided on-line. One advantage of this process, known as the reverse revenue model, is that the state can forego the cost of developing an enormous number of applications for each agency.

The state can also use the portal to go after revenue it does not currently collect. Motor vehicle records are sold in many states to insurance companies or telemarketing companies. The state currently contracts with two firms that pay the state $70 per month for the data, or $820 a year. This data is then sold for about $15 per record. Assuming that about 40 percent of all records could be sold, and assuming that New Mexico had the software to retrieve this kind of data itself, the state could generate nearly $9.8 million in additional revenue a year. In fact, New Mexico may currently be in violation of federal law because it has failed to offer citizens an opt-out opportunity before selling this data.

Developing a portal can be expensive. Data from eight states shows that state spending in 2001 for portal development ranged from $800,000 in Montana to $18 million in Georgia. The average expenditure was $3.8 million.

Finally, General Services Department personnel currently lack the training to manage the portal. Although top line hardware and software has been purchased, the department's staff will require training in these technologies to provide the services.

RECOMMENDATIONS

The state should stop the portal project as it is currently proceeding and conduct a cost-benefit analysis to determine if the savings, revenue, and efficiencies generated from the portal will exceed costs. If benefits outweigh costs, the state should fully implement the portal and add more on-line services.

If the project proceeds, the state's Chief Information Officer should develop a thorough, comprehensive plan to implement the portal, including detailed phase-by-phase plans outlining specific goals, deliverables, and costs for each phase. All state agencies should be required to make the content of their web sites available on the portal.

FISCAL IMPLICATIONS

Fiscal implications are impossible to determine at this time, although a fully functioning state government portal will save money in the long run and improve customer service. Savings noted above do not account for additional costs including technical upgrades, costs associated with ensuring that the state forms are updated every year and compatible with federal forms.

ENDNOTES

1. Gartner Research Note. Six Degrees of Failure or Success in Portal Projects. September 24, 2002.
2. Taxation & Revenue Department, Regulation & Licensing Department, General Services Division, Environment Department

Eliminate Filing Broker Papers

The Securities Division of the Regulation and Licensing Department should eliminate the requirement that broker dealers and investment advisors provide annual audited financial reports to the Securities Division.

BACKGROUND

State law and regulations require that all licensed broker dealers and investment advisors provide the Securities Division, within the state's Regulation and Licensing Department (RLD), with audited annual financial reports. Some 2,000 firms submit these annual reports to RLD.

In 1986, state lawmakers passed the Securities Act to enable verification that brokerage and investment firms were fulfilling their capital requirements. The Securities Act is based on a statute developed by the National Conference of Commissioners on Uniform State Laws in 1985.

Brokerage firms are required by the federal Securities Exchange Act to electronically file these same reports with the Securities Exchange Commission (SEC), enabling near real-time federal oversight and, if necessary, intervention.

FINDINGS

Submitting audited annual financial reports to the Securities Division imposes an unnecessary, undue burden on licensed brokerage firms and investment advisor licensees.

Thirteen states no longer require broker dealer and investment advisor licensees to file audited annual financial reports (Alaska, Colorado, Idaho, Kentucky, Maine, Massachusetts, Minnesota, Mississippi, New York, Pennsylvania, South Dakota, Utah, and Washington) according to the North American Securities Administrators Association (NASAA).

"The trend clearly is toward more uniformity and requiring less documentation," said Mark Davis, Associate General Counsel for NASAA.

The Securities Division spends time and tax dollars filing and storing these reports, including a total of more than 55 hours each year for three full-time state employees to log and file the reports. Moreover, staff members in the State Records Center and Archives spend time archiving and eventually destroying the reports.

Despite all this effort, RLD does not review firms' audited financial reports, because the SEC serves in an active review and enforcement role. The result is that affected licensees spend time and money meeting a regulatory requirement that has become duplicative, technologically outdated, and unnecessary.

Elimination of this reporting requirement would have no effect on the state's authority to require firms to provide their financial reports upon request.

RECOMMENDATIONS

Repeal Section 58-13B-12, NMSA 1978 to eliminate the statutory requirement that broker dealers and investment advisors provide annual audited financial reports to the state's Securities Division.

Amend NMAC 12.11.2.21.A and 12.11.5.21.A to eliminate the regulatory requirement that broker dealers and investment advisors provide annual audited financial reports to the state's Securities Division.

FISCAL IMPLICATIONS

Eliminating the annual audited financial report requirement would maintain the current accountability system while saving the Securities Division and Regulation and Licensing Department more than 55 staff hours each year, totaling approximately $1,000. It would also save about $400 currently spent on materials and supplies. The State Records Center and Archives would save an additional $25 annually.

Brokerage and investment firms would also save an estimated $36,000 a year cumulatively by reducing paperwork, postage, and labor (assuming $18 postage — most reports were sent FedEx — for all 2000 plus licensees).

ENDNOTES

1. NMSA Section 58-13B-12
2. NMAC 12.11.2.21.A and 12.11.5.21.A
3. Fedelina Morales, Licensing Manager, Securities Division, Telephone Conversation
4. Mike Vargon, Deputy Director, Securities Division, Telephone Conversation
5. North American Securities Administrators Association Uniformity Project Results on State Broker-Dealer Requirements
6. Mark Davis, Associate General Counsel, North American Securities Administrators Association
7. Shannen Garcia, Purchasing, Regulation and Licensing, Telephone Conversation
8. Don Padilla, Division Director, Records and Archives
9. Mark Aragon, former RLD Mailroom Clerk, Telephone Conversation

Perform Construction Industries Licensing In-House

The Construction Industries Division of the Regulation and Licensing Department should perform its licensing function internally to save money and improve customer service.

BACKGROUND

The Construction Industries Division (CID) currently outsources its licensing function at a cost of 40 percent of licensing fee revenues. The licensing contract contains no customer service controls or other performance-based criteria.

The CID licensing function was outsourced in 1997 because CID was unable to support a significant increase in hardware maintenance costs. The original contract contained a requirement that all new and add-on licensing revenue generated above an earning cap be remitted to the state, as well as all income from license renewals. That contract did not include performance criteria, required thresholds, or regular performance assessments. The current contract contains no such earning caps.

FINDINGS

CID's contract for outsourcing its licensing function significantly reduces revenue retained by the state and impairs CID's ability to quickly respond to customer service issues.

The current contract compensates the vendor by allowing it to retain 40 percent of the fees collected. That amount is projected to reach or exceed $1 million for the year ending November 2003 — nearly double the contractors' 2000 earnings. Despite this windfall, the contract contains no performance criteria, threshold requirements, or periodic assessments, and improvements to customer service have been delayed or insufficiently addressed.

CID's licensing manager spends 25 percent of his workday addressing customer service calls directly related to the performance of vendors, receiving an average of one to two new calls each day. Customer service issues often include complaints about vendors being unreachable or not returning phone calls, failing to complete the renewal for a licensee resulting in a suspension or cancellation of their license, and losing paperwork.

The state's Regulation and Licensing Department (RLD) has converted the majority of its license-issuing units to a PC network-based licensing system, significantly reducing hardware maintenance costs. The licensing software RLD uses has been successfully tested by construction licensing agencies in Georgia and other states.

CID projects the cost to perform the licensing function internally would be less than $150,000 a year and include one-time start-up expenses of no more than $10,000.

RECOMMENDATIONS

CID should re-negotiate its contract for licensing to:

- Reinstate fee caps with an increase for inflation to significantly maximize fee revenues to the state.
- Incorporate performance measures, thresholds, and regular performance reviews. Performance measures should clearly identify:
  - Deliverables and associated pay schedule,
  - Performance goals, including timeliness and quality of service with incentives,
  - Non performance thresholds,
  - A remediation timeframe,
  - A schedule for regular performance reviews, and
  - When termination for nonperformance would occur.
- Facilitate the transition to perform the licensing function in-house, including timely provision of licensee data for conversion and testing.

CID should return the licensing function to the state upon expiration of the existing contract in November 2004. CID should designate the expiration date of the existing contract as a target for resuming the in-house licensing function and use the intervening time to prepare by converting data from the existing system into a new system and testing that system to ensure a seamless transition from the current contractor.

CID should only exercise contract renewal options if additional time is needed to finalize transition preparations and should terminate efforts to bring the licensing function in-house if it becomes apparent the projected savings will not be realized within three years.

CID should incorporate customer service performance measures included in the renegotiated contract into its licensing management. CID should develop a regular tracking and reporting mechanism that includes corrective actions taken and corresponding results to enable and support fact-based customer service improvement.

FISCAL IMPLICATIONS

Renegotiating the existing contract will result in increased revenue to the general fund of $382,000 in FY04. This assumes a 7.5 percent increase over the capped vendor profit of $574,660 in 2000 relative to the projected $1 million vendor profit in 2003. Resuming the licensing function in-house will increase revenue to the general fund by approximately $1 million each year, beginning in FY05. Costs are detailed below.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004		385.0			385.0	
2005	160.0	1,000.0			840.0	+3
2006	150.0	1,000.0			850.0	
2007	150.0	1,000.0			850.0	
2008	150.0	1,000.0			850.0	
TOTAL	**610.0**	**4,385.0**			**3,775.00**	**+3**

The net revenue estimate includes:

- Licenses for use of construction profession licensing software at no cost (assuming use of the existing license for professional licensing software);
- Cost of three additional full-time state employees to provide licensing and customer support services at approximately $15 per hour each, totaling $121,680 annually with benefits;
- Cost of overhead to provide office space, telephones, and supplies, totaling approximately $14,500 annually; and
- One-time cost of furniture and computers for staff members, totaling no more than $10,000.

ENDNOTES

1. Kate Baca, Division Counsel, Construction Industries Division, Telephone Conversations
2. Andrew Dalmy, Licensing Manager, Construction Industries Division, Telephone Conversations
3. Ronn Jones, Deputy Director, State Purchasing Division, Telephone Conversation
4. Kathy McMath, IS Bureau Chief, Regulation and Licensing, Telephone Conversation
5. Lonnie Hudson, Field Operations Director, Construction Industries Division, Telephone Conversation
6. Elena Sweeney, Performance Review Contracts Team member, Conversation
7. Original Vendor Contract with Experior
8. Current Vendor Contract with CLSI

Perform Periodic Regulation and Licensing Department Fee Reviews

The state's Regulation and Licensing Department should conduct regular fee reviews to make sure that revenues collected by the department reflect the true costs of administering the licensing functions of five of the department's divisions.

BACKGROUND

Five different divisions within the Regulation and Licensing Department (RLD) collect fees: Alcohol and Gaming, Financial Institutions, Securities, Construction Industries, and Manufactured Housing. The fees are set by statute or regulation and paid into the state's general fund that pays for government services. The majority of fees have neither been reviewed nor adjusted in many years.

FINDINGS

Costs associated with administering licensing functions have outpaced both the fees collected by RLD's divisions and their budgets.

Of the more than 200 fees collected by RLD and deposited into the state's general fund, few have been reviewed or adjusted in recent years. The Securities Division broker/investment advisor firm license fee, as an example, has not been reviewed or adjusted since adoption of the current statute nearly two decades ago, in 1986. Similarly, the Financial Institutions Division small loan company license fee has not been reviewed or adjusted in at least 11 years; the Construction Industries general builder license has not been reviewed or adjusted since 1985; and the majority of Alcohol and Gaming Division fees have not been reviewed or adjusted since 1981.

Meanwhile, the costs of doing business have continued to soar, as any New Mexico small business can attest. Comparing the 1998 and 2002 fiscal years reveals that personnel costs including salaries and benefits have increased 12.7 percent, office space costs have increased 13.3 percent, and furniture, equipment and supply costs have increased 38.1 percent (based on un-audited, reported actual expenditures). At the same time, revenue has been limited to 1.2 percent growth and budgets have been cut by more than five percent.

Comparing budget appropriation requests and actual appropriations between the 1998 and 2002 fiscal years is also instructive. There has been a 12.7 percent increase in the requested appropriations and a 5.4 percent reduction in the actual appropriations — resulting in less service to customers because of the lack of adequate funding to fulfill statutory mandates, including investigation and prosecution of violators. The Securities Division has been significantly hampered in its investigative function due to insufficient funds for in- and out-of-state travel to conduct investigations or subpoena documents. The division has been restricted to six phone lines for a staff of 18, again due to insufficient funds to upgrade the communications system. Not surprisingly, customers can have difficulty getting through. Other divisions have experienced similar challenges.

Amending statutes to include a regular fee review and adjustment process could increase revenue to the state's general fund. Assuming a three-year review interval and average fee revenues of $23.6 million (average revenue over the last five completed fiscal years), a two percent fee increase in the first year would add $472,000 per year over current revenue to the general fund. A two percent increase in the second review interval would generate additional revenue of $481,000 per year over current revenue.

RECOMMENDATIONS

Statutes associated with the Regulation and Licensing Department and five of its divisions — Alcohol and Gaming, Financial Institutions, Securities, Construction Industries, and Manufactured Housing — should be amended to require a regular review of fees and corresponding fee adjustments. The amendment should specify the frequency of the reviews, and the department should be directed to develop a clear policy on the factors to be taken into account when reviewing fees.

The policy should include consideration of fees assessed in surrounding states and other competitive jurisdictions, where applicable; costs of providing services relative to the number of fee-payers; impact of potential fee adjustments on industries and the local economy; date, dollar amount, and percentage change of the last adjustment; average rate of inflation; and any other relevant information. Adjustments should not exceed the aggregate of the average rate of inflation for the review period.

FISCAL IMPLICATIONS

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004						
2005		472.0			472.0	
2006		472.0			472.0	
2007		472.0			472.0	
2008		481.0			481.0	
TOTAL		**1,897.0**			**1,897.0**	

ENDNOTES

1. RLD Division Interviews
2. Mike Vargon, Deputy Director, Securities Division
3. Janis Rutschman, Deputy Director, Financial Institutions Division
4. Andrew Dalmy, Licensing Manager, Construction Industries Division
5. Debra Lopez, Hearing Officer, Alcohol and Gaming Division
6. Dannette Burch, Deputy Secretary, Department of Finance and Administration
7. Arleen Lujan, Budget Analyst, RLD from RLD Budgets
8. Curtis Eckhart, State Budget Division, DFA

Consolidate Mining Commissions

New Mexico should consolidate the state's mining and coal surface mining activities into a single state entity by merging the Coal Surface Mining Commission into the Mining Commission.

BACKGROUND

The state's Mining Commission, created under the provisions of the New Mexico Mining Act (Sections 69-36-1 to 69-36-20, NMSA 1978), regulates hard-rock mines, hears appeals in the permitting process, and enforces regulations. The state's Coal Surface Mining Commission was set up under the Surface Mining Act (Sections 69-25A-1 to 69-25A-36, NMSA 1978) to take the same actions related to coal surface mining.

Footing the bills for two separate commissions isn't cost effective. The two commissions should be consolidated into a single entity.

How much overlap is there? The following members serve ex officio on both commissions:

- The Director of the Bureau of Geology and Mineral Resources of the New Mexico Institute of Mining and Technology,
- The Director of the Department of Game and Fish,
- The Secretary of the Environment Department,
- The Chairman of the Soil and Water Conservation Commission,
- The Director of the Agricultural Experiment Station of New Mexico State University,
- The State Engineer, and
- The Commissioner of Public Lands.

Each commission has two additional voting members from the general public, and the Mining Commission also has two non-voting public alternates.

The Mining Commission usually meets four to six times a year, while the Coal Surface Mining Commission comes together only once or twice during the same period. Both commissions have met more often during years in which more appeals hearings are on their dockets.

FINDINGS

It would require a change in state statutes to merge the two commissions. To further streamline this part of the state bureaucracy, the three-step appeal process currently required of the Coal Surface Mining Commission should be reduced to the two-step process followed by the Mining Commission.

RECOMMENDATION

The Surface Mining Act should be abolished and its functions merged into the state's Mining Commission including provision for direct appeals of Energy, Minerals, and Natural Resources Department actions to the Mining Commission.

FISCAL IMPLICATIONS

Public members of each commission currently receive expenses for their services, including per diem and mileage. The commissions also spend money on advertising and postage for public notices of meetings and hearings, court reporters for hearings, fees to file rules with the State Records Center, and any costs associated with court appeals. The Mining Commission is supported by fees collected from permit-holders, while the Coal Surface Mining Commission receives federal funds.

If there was only one commission, the Coal Surface Mining Commission budget ($10,000, primarily used for advertising and per diem) could be eliminated. Also, if one level of administrative appeals were eliminated, then one hearing every other year would be eliminated, saving an additional $10,000 every other year.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004				5.0		
2005				20.0		
2006				10.0		
2007				20.0		
2008				10.0		
TOTAL				**65.0**		

ENDNOTES

1. Bill Brancard, Director, Mining and Minerals Division, Energy, Minerals and Natural Resources Department

Consolidate Labor Department Divisions

The Labor Department's Human Rights and Labor and Industrial divisions should be combined into one division under a single division director.

BACKGROUND

The state Labor Department's Human Rights and Labor and Industrial divisions perform similar work -- training, investigation, and compliance. Each division is, by itself, relatively small, ranging in size from 16 to 32 employees. Other divisions in the Labor Department are much larger, with 150-400 employees.

The Human Rights Division is responsible for enforcing the New Mexico Human Rights Act of 1969 and a variety of state executive orders affecting human rights. The Human Rights Act prohibits discrimination in employment, housing, credit, and public accommodations on the basis of race, color, national origin, ancestry, religion, sex, age, physical or mental handicap, or serious medical condition.

The division accepts complaints of discrimination and investigates those complaints to determine their validity. During the process, the parties concerned are invited to mediate the case through the Alternative Dispute Resolution (ADR) Program. If mediation isn't a viable option, the investigation is completed and an official finding is issued. If no probable cause for discrimination is found, the case is dismissed and may be appealed to district court. If there is a finding of probable cause, the case is set for a hearing before the Human Rights Commission.

The division also offers an education program to employee and employer groups on unlawful discrimination to prevent discrimination in the workplace.

The Labor and Industrial Division administers all state labor laws regulating work hours, salary payments, employment of minors, and minimum wages. The division also promotes apprenticeship programs and provides technical assistance and services to employers to help them create their own apprenticeship programs. In addition, the division is responsible for establishing and enforcing prevailing wage levels for certain occupations used in state public works projects. The Labor and Industrial Division is comprised of the Apprenticeship Council Section, Public Works Bureau, Student Labor Section, and Wage and Hour Bureau.

The Human Rights and Labor and Industrial divisions are each headed by a division director. The Labor and Industrial division has personnel performing training and investigations throughout the state, while the Human Rights division has staff members in Santa Fe only, leaving much of the state unserved or underserved.

There are currently 473 cases pending in the Labor and Industrial Division. Fifty-seven of those cases have been pending 90 days or longer, indicating some degree of backlog. The Human Rights division has 360 cases currently being investigated, 36 pending a full hearing before the commission, and 15 pending for mediation. The Human Rights division has no backlog.

If these divisions were combined into a single unit, eliminating one division director position and decreasing the number of support staff, taxpayers could save money. By combining the divisions, staffers could also be cross-trained to perform both human rights and labor and industrial functions, thereby eliminating delays in services during peak load times, reducing backlogs, and making human rights functions available to more New Mexicans.

FINDINGS

Customer service could be improved, backlogs reduced, and cost savings achieved if the divisions were combined.

RECOMMENDATION

The Labor and Industrial and Human Rights divisions should be combined into a single unit under a single director, and staff members should be cross-trained on key functions.

FISCAL IMPLICATIONS

The savings shown below come from eliminating one division director position and one administrative support staff position effective January 1, 2004.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004						
2005				123.3		-2
2006				123.3		
2007				123.3		
2008				123.3		
TOTAL				**493.2**		**-2**

ENDNOTES

1. Organizational Charts obtained from the Labor Department's Human Resources Bureau.
2. As described on the Labor Department's web site
3. Fiscal Year-to-Date totals for Labor and Industrial Division as of 5/31/03. Provided by Bruce Bachelor
4. Francie D. Cordova, Division Director.

Reform Motor Vehicle Fee Agent Contracts

The state Motor Vehicle Division should revise all current "agent" agreements and minimize all outside access to confidential personal information pending new contract negotiations and system enhancements to maximize state revenues and protect the privacy of New Mexico residents.

BACKGROUND

The Motor Vehicle Division (MVD) of the Taxation and Revenue Department (TRD) is authorized by state statute (Sections 66-2-14, 66-2-15 and 66-2-16 NMSA 1978) to appoint "agents" across the state to perform driver's license and other motor vehicle-related functions. These agents are required to sign contractual agreements with MVD spelling out the terms governing their operations. In turn, they must submit all fees and payments for their services to MVD for proper accounting.

The idea of outsourcing some motor vehicle services and allowing local governments to provide them as well has many merits. Certainly, improving customer service was a necessary and laudable goal. But implementation of the initiative has been at times difficult and problematic. While local government operations seem to have met the original intent of expanding service access, private sector providers have created new and profound challenges, such as a lack of full fiscal accountability to the state, confusing roles and responsibilities, and insufficient oversight of agent activities.

The root cause of these problems has been that most existing contracts may not provide enough accountability to state officials or taxpayers. These agent contracts often lack consistent requirements and specifications, and contain inadequate mechanisms to enforce accountability. Some contracts impose costs to the state in ways never envisioned. For example:

- Agents are using at least three separate software applications, including one that was developed and licensed by an outside entity, and two different databases to perform different types of transactions. Some offices/agents are using MVD's mainframe-based "green screen" applications, some are using MVD-developed web-enabled applications, and some are using "Title Wave" software developed by Samba. The "Title Wave" application is not compatible with TRD record formats and must be converted through an overnight batch process. This results in software and database incompatibility, conversion issues, and complicates transaction reporting.

- Each agent contract has different language defining the duties and responsibilities of the parties. This lack of consistency makes agent oversight and management difficult, leading to "special treatment" for certain agents.
- Some contracts have vague termination language; others are specific. Termination language should be consistent to facilitate even-handed contract management.
- Most contracts are not specific in defining which supplies, equipment, and materials are the responsibility of the agent and which are the responsibility of MVD. Supplies and equipment are often paid for and provided by MVD, rather than the agent, without reimbursement to the state.
- Each agent conducts its operations differently, making oversight and quality control difficult at best. Some agents charge varying fees in addition to those mandated by state statutes.
- The state is unable to properly account for fees collected and deposited, and agents sometimes fail to comply with the most basic accounting standards.
- The MVD Dealer Services Bureau has documented several instances of automobile dealer/agents whose transaction reports and title document submissions to MVD are sporadic. TRD's Financial Services Bureau records show that transaction reports and deposits are often late, with little or no independent verification of their accuracy. None of the agent agreements contain penalties for agents who are late with their remittances or documentation. It is difficult to determine whether the state has received all the revenues it is legally due.

Another area of concern is the confidentiality of personal information about New Mexico residents. More than 600 outside entities currently have access to confidential MVD data. This number includes "users" as well as the companies they work for.

One agent has direct access to the MVD applications and database; another obtains an updated copy of the database for approximately $70 per month, the cost of a programmer's time.

Each agent can view the MVD database, and easily download information that can be used or sold by anyone without authorization or notification to MVD.

For example, several oil-change businesses have been appointed as agents to perform vehicle re-registrations. And, although these firms have no legitimate need to access driver information, they have ready access to the typical New Mexico motorist's personal history.

Of equal concern is the fact that MVD's current policy is to "sell" this data to certain MVD agents for only $70 a month — a fee that may be well below its market value. These agents are selling the information with no control or oversight by the agency.

To make matters worse, many agents make mistakes. Two MVD staffers are assigned to review and correct all agent transaction errors, creating more work for the agency with no penalties for the agents. From May 2002 through April 2003, agents generated some 266,000 driver and vehicle transaction errors — an average of 23,000 per month.

In short, the outsourcing of MVD services to fee agents merits re-examination, including the modification of fee agent contracts.

FINDINGS

MVD's private agent initiative should be overhauled if it is to continue. Among the most serious findings are:

- Contract language is inconsistent and provides little mechanism for the state to enforce accountability for accuracy or overall performance.
- MVD lacks adequate control and oversight of agents or outside entities with access to the confidential personal information of New Mexico residents stored in the agency's databases.
- Confidential customer information is not secure and, in some cases, has been sold, distributed, or misused by agents or their employees. Users generally have access to most driver and vehicle/owner information screens by system default. Two private fee agents have direct access to, or a copy of, the full MVD database.
- Fees and payments due the state often go uncollected by agents, or are not reported accurately or deposited in a timely manner.
- The state pays for computers, printers, supplies, and other equipment provided to agents.
- MVD dedicates additional taxpayer resources in the form of employees who are required to review and correct the unacceptably high rate of errors made by agents.
- Lack of accountability and oversight of the agents' operations expose the state to liability.
- Fees allowed by state statute often go uncollected by agents, costing the state revenue, and accounting practices are too weak to make sure fees that are collected are properly remitted to the state.
- The current system appears to "record" revenues from transactions by distribution entity and does not correctly identify the source of specific fees. For example: a re-registration transaction totaling $49.00 that is comprised of $42.00 for re-registration, $1.00 for tire recycling, $2.00 for financial responsibility, a $3.00 vehicle transaction fee, $0.50 beautification fee and $0.50 for an administrative fee might be "recorded" as $3.50 to the county or municipal agent, $26.45 to the state road fund, $14.55 to the counties by various formulas, and $2.00 to TRD, based on the statutory language authorizing each fee and/or specifying its distribution. This leaves the state without the ability to account for individual transactions and provides the opportunity for agents to manipulate information about their receipts. Current accounting and system limitations make it impossible to tell how widespread this manipulation may be.
- The system's security lacks proper controls and configuration. Users in the same office often share IDs and passwords, and there is no single, comprehensive list of users, offices, and permissions.
- Standards for agent performance or customer service levels are inadequate
- Agent transactions and financial reports are seldom audited — or even auditable.

The current system separates driver and vehicle records, functions and transactions. That's good. Unfortunately, it does not accurately count, track or account for transactions. A viable system security policy and infrastructure, as well as modifications to both drivers and vehicles system applications, will need to be in place before proper separation of functions can occur.

Agent agreements can easily be modified to specify what functions an agent is allowed to perform. Once MVD's training and certification programs are developed and implemented, it should be possible to standardize procedures to qualify agents to perform vehicle or driver functions without the current level of risk for error or fraud.

FY02 and FY03 Driver and Vehicle Transactions
Private Fee Agent vs. State and Municipal Offices

	FY02	FY03
Driver		
Private Fee Agents:		
Number	6	11
# of transactions	184,407	176,221
% of total transactions	11.2	15.2
State and Municipal Offices:		
Number	65	66
# of transactions	1,472,751	985,943
% of total transactions	91.5	85.7
Vehicle		
Private Fee Agents:		
Number	247	236
# of transactions	267,187	289,150
% of total transactions	24.2	28.3
State and Municipal Offices:		
Number	69	69
# of transactions	837,063	732,154
% of total transactions	75.8	71.7

While the agents perform a fair number of the total driver transactions across the state, the majority of those transactions occur in Santa Fe, Albuquerque, and Las Cruces, where there are multiple state or municipal offices that could absorb the workload from the fee agents' offices without a significant increase to their workload. Conversely, allowing the agents to continue to perform their current function would have no increased negative fiscal impact on the state. The challenge lies in controlling access to such confidential information as birth dates and Social Security numbers contained in the state database to which all fee agents currently have unlimited access.

SHORT-TERM RECOMMENDATIONS

The state should conduct a public awareness campaign to inform its customers about the upcoming system upgrades to regain control over system access and functions, improve data security, ease of use, speed, and efficiency. The state should also develop an infrastructure for agent organization and finalize revisions to a standard agent agreement, with possible options for private, municipal, or other types of agents. The state also should provide a help desk to provide technical support to the fee agents.

All existing MVD agent contracts should be amended to feature a clause allowing the state to terminate the agreement under certain circumstances. The state should issue notices to all known public and private users of MVD data and applications that on a certain date, subject to implementation of other recommendations below, *all* agent agreements will be modified, and interested entities must re-negotiate their fee agent agreements with MVD.

LONG-TERM RECOMMENDATIONS

As part of an ongoing process of reevaluation, MVD should:

- Re-examine all existing agent contract terms and clearly define roles and responsibilities for both the agent and MVD, ensuring that enforcement provisions are included and penalties or consequences for failure to comply with requirements can be imposed.
- Establish standard protocols for agent performance and require periodic audits of agent records and procedures, establishing an agent audit team, trained and equipped to conduct these audits.
- Develop new software, and implement a systems solution that provides identity management and controls for adequate security, access to data and applications, transaction audit trails, and user management.
- Design and implement an accurate accounting methodology to account for each fee charged and the distribution of those fees.
- Expand development of Internet-based access to certain MVD functions for the general

public, including limited searches of personal records, re-registrations, and address changes.

FISCAL IMPLICATIONS

Fees and payments due the state often go uncollected by agents, or are not reported accurately or deposited in a timely manner. Accurate figures are unavailable for dollars collected by agents that have been delayed in deposit, misused, under-reported, or unreported. A conservative estimate of the potential amount of lost interest is $300,000 a year, based on two months interest of an average monthly amount deposited late by five percent of agents.

The state is paying for computers, printers, supplies, and other equipment provided to the agents, and dedicating additional resources in the form of MVD employees who must review and correct errors made by the agents. A conservative estimate of the savings that could be achieved by not providing free equipment and supplies is $170,000 per office each year.

Lack of accountability and oversight of the agents' operations exposes the state to possible liability resulting from potential fraud, abuse, embezzlement, and theft.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004	230.0				(230.0)	
2005		370.0			370.0	
2006		470.0			470.0	
2007		470.0			470.0	
2008		470.0			470.0	
TOTAL	**230.0**	**1,780.0**			**1,550.0**	

ENDNOTES

1. Error reports from ISB
2. July 18, 2001 Audit Report to the LFC, pages 34 – 36, 18-21

Improve Motor Vehicle Call Center

The state's Motor Vehicle Division should substantially improve its call center service through better training and improved technology.

BACKGROUND

The Motor Vehicle Division (MVD) is one of the few state government agencies that affects nearly every adult in New Mexico. Not only do taxpayers and citizens deserve the best possible customer service when interacting with MVD, the quality of service they receive helps shape public attitudes about state government overall.

The MVD call center was established in 2002 to give the driving public a central phone number they can call to get answers to their questions. Under the old system, MVD had a reputation as a place where customers could "never get through" on the phone. When they did succeed in getting through, more often than not they had "a hit or miss experience," frequently getting transferred from one office to another in a frustrating search for answers to their questions.

The new process has improved the system considerably. Based on a study performed on the five-month period before implementation of the new call center and the five-month period after its launch, the total number of calls has been reduced and 90 percent of them have been handled well, according to records.

Still, problems persist. Employee turnover in the MVD call center is high. The abandon rate on phone calls into the center is nearly 50 percent. Little training is available to new employees, leaving them pretty much on their own to learn from other inexperienced or under-trained colleagues.

What's more, the new system's interactive voice response (IVR) system is cumbersome and, rather than streamlining the process, actually adds to the number of abandoned calls. Inexperienced operators have little guidance to help them answer callers' queries about vehicle registration fees, code interpretations, points assessed as a result of citations, phone numbers for courts and other law enforcement agencies, and other commonly asked questions.

FINDINGS

The MVD call center has made important strides recently and provides better service to New Mexico customers than ever before.

Despite these improvements, the system has a number of significant problems that should be addressed, including:

- An IVR system that is not user-friendly and needs to be rewritten or replaced;
- High turnover among the corps of live operators leading to inconsistency in service delivery;
- Lack of training for call center employees, resulting in frustration for workers and poor service for callers; and
- Inadequate software technology for the call center information technology system, which fails to provide needed information for operators to guide customers to accurate and useful answers.

These findings point to an unacceptably high abandon rate on phone calls. That abandon rate should be reduced by two-thirds or more as soon as possible.

RECOMMENDATIONS

The MVD call center's interactive voice response system should be replaced to provide quicker and easier choices for callers to prevent frustration and hang ups.

The Department of Transportation (DOT) has successfully developed on-line training programs for employees, which in turn have helped cut per-unit costs. MVD should use the DOT model to develop an on-line training program for its employees along with classroom training to educate staff members at all levels. MVD has already begun a new training initiative, already budgeted, and this could be an added component.

The data and information available to operators should be upgraded to allow easier access and make it possible for them to respond more accurately and quickly to callers' questions and provide better guidance for referrals.

FISCAL IMPLICATIONS

This recommendation is aimed at improving performance. A one time cost of $250,000 needed to replace the IVR and $24,000 cost of developing web training will be incurred. This measure is expected to considerably improve the effectiveness of MVD call centers and ensure better service.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004	274.0				(274.0)	
2005						
2006						
2007						
2008						
TOTAL	**274.0**				**(274.0)**	

ENDNOTES

1. Call Center Stats provided by Donald Lopez, Interactive Voice Response (IVR) System Administrator, Motor Vehicle Division, Taxation and Revenue Department
2. Connie Torres, Supervisor, Motor Vehicle Division, Taxation and Revenue Department
3. Report on IVR Replacement by Rudy Gallegos, Consultant, former Revenue Processing Division Director, Taxation and Revenue Department

Chapter III
Containing Health Care Costs

Chapter III:

Containing Health Care Costs

Health and human services account for New Mexico's second-largest spending area, at $3.7 billion a year, behind only public and higher education (which were not examined in this report). More important than the tax dollars dedicated to these services are their vital, often life-sustaining effect on New Mexico's families.

Our recommendations in this report would improve the state's health and human services system at all levels. There are a number of such recommendations, but among the most important is our call for rooting out waste, fraud, and abuse in the Medicaid program, the massive program that makes health care available for more than 390,000 New Mexicans at a current cost to state taxpayers of $408 million a year.

Some estimates assert that fraud may account for as much as 10 percent of total Medicaid costs. How unbalanced is the fight against fraud now? A total of two state investigators using a 20-year-old computer system are all that stand between waste and abuse in the Medicaid program and the taxpayers who foot the bills. Not surprisingly these outgunned investigators recover about $500,000 a year in fraudulent payments — three-quarters of which go back to the federal government.

We believe fraud detection must be a dynamic process in which a constant evaluation of patterns in huge amounts of claims data can be recognized and learned to predict potential scams. Other states have set up artificial intelligence computer systems to do this. New Mexico should follow suit, with a comprehensive effort to detect waste and recover improper payments in the Medicaid program.

The state's Medical Assistance Division projects that $5 in taxpayer resources could be recovered for every $1 spent on fraud detection. Using a conservative estimate, the state could save at least $22 million a year by implementing this recommendation.

Another important idea in this report is evaluating the cost-effectiveness of moving the New Mexico Works program in-house as part of the Department of Finance and Administration. *New Mexico Works* is federally funded, with a current annual budget of $14 million. The state could save federal funds by operating the program in-house, and those savings could help increase and improve direct training services available to *New Mexico Works* clients.

Total recommendations:	**6**
Total five-year savings:	**$20.5 million**

CHAPTER III - CONTAINING HEALTH CARE COSTS

(Dollars in Thousands)

Issue No.	Recommendation	2004 General Fund	2004 Other Funds	2005 General Fund	2005 Other Funds	2006 General Fund	2006 Other Funds	2007 General Fund	2007 Other Funds	2008 General Fund	2008 Other Funds	Cummulative Total General Fund	Cummulative Total Other Funds
HHS 11	Coordinate Pharmacy Purchases	-	-	679.8	-	679.8	-	679.8	-	679.8	-	2,719.2	-
IT 7	Improve Detection of Medicaid Fraud	-	-	213.6	1,181.3	13.6	1,181.3	5,119.8	16,500.0	5,119.8	16,500.0	10,466.8	35,362.6
CJ 5	Consolidate Children, Youth and Families Department Health Care Services	326.0	-	326.0	-	326.0	-	326.0	-	326.0	-	1,630.0	-
HHS 6	Transfer Portion of Local DWI Grant Program to Department of Health	-	-	62.0	70.0	62.0	70.0	62.0	70.0	62.0	70.0	248.0	280.0
HHS 13	Determine Eligibility of County Maternity for Medicaid Administration	-	-	270.0	-	270.0	-	270.0	-	270.0	-	1,080.0	-
HHS 15	Recover Ilmproper Public Assistance Payments	-	-	11.0	43.0	11.0	44.0	12.0	45.0	12.0	45.0	46.0	177.0
Total		**326.0**	**-**	**1,562.4**	**1,294.3**	**1,362.4**	**1,295.3**	**6,469.6**	**16,615.0**	**6,469.6**	**16,615.0**	**16,190.0**	**35,819.6**

HHS 11

Coordinate Pharmacy Purchases

The state should coordinate the purchase of pharmaceuticals and other medical supplies across state government to cut costs by boosting buying power.

BACKGROUND

Skyrocketing drug costs have New Mexico taxpayers under siege. Throughout state government, officials find themselves searching out scarce resources to pay for vital services.

The fastest-growing budget buster in New Mexico, like most states, is Medicaid, the joint state-federal program that funds medical services for low-income families.

“It's the Pac-Man of state government,” the executive director of the National Governor’s Association recently said, noting that 28 states anticipate Medicaid shortfalls next year, with costs soaring in some by as much as 18 percent. “It's eating up each additional dollar that is generated in revenue.”

One reason the rising cost of Medicaid drugs is felt far beyond the program itself is that New Mexico has done little to coordinate its pharmaceutical purchases. The Department of Health (DOH) has six health care facilities that offer services ranging from long-term care to forensics -- each facility purchases drugs independent of the others, as well as of other agencies across state government.

The DOH’s Public Health Division is the only place in state government where pharmaceuticals are ordered in bulk to get price discounts for buying in volume. Commendably, the division’s pharmacist repackages the pharmaceuticals for distribution to the DOH field offices. The division also makes good use of generic drugs, choosing them about 80 percent of the time over more costly name brands. Unfortunately, a lack of coordination among the other nearly two dozen staff pharmacists in state government means that such "best practices" don't serve as models.

The DOH participates in a group known as the Minnesota Multi-state Contracting Alliance for Pharmacy program, or MMCAP. This 40-state alliance obtains price breaks on drugs through volume contracting. MMCAP negotiates new drug costs yearly and issues new bid guidelines every five years to make sure vendors are still eligible to participate in the program. Drugs and pharmaceutical supplies are purchased by MMCAP at discounts ranging from 25 to 45 percent off retail costs.

Another program, the federal 340B discount program, administered by the Office of Pharmacy Affairs, allows qualified participants, including state inmates, to enjoy reduced prices on prescription drugs, if the organization the agency contracts with qualifies as a 340B facility. Some New Mexico agencies take advantage of the program but not as many as could. Programs that qualify for 340B discounts include: state-operated AIDS drug assistance programs; the Ryan White CARE Act Title 1, 2 &3; tuberculosis or black lung treatment; certain family planning services; sexually transmitted disease or hemophilia treatment centers; public housing primary care clinics; some homeless programs; urban Indian clinics; and Native Hawaiian Health Centers.

FINDINGS

Other states have saved their taxpayers a lot of money by using preferred drug lists on which one brand or category of drugs is purchased at a discount and, therefore, preferred over other brands or categories of drugs. For example, Florida reports a drug program savings of $500 million over two years from a combination of preferred drug list and other initiatives, as well as policies such as brand limits and prior authorization from an insurance company or state agency before a drug's costs are covered. The Sunshine State also expects to save taxpayers an additional $214 million a year, or 15 percent of its total Medicaid budget, by negotiating deeper discounts on prescription drugs.

In Michigan, officials report saving $850 million by using an evidence-based list of preferred drugs in its Medicaid and other pharmacy programs, funded through that state's Department of Community Health. In a similar effort, Tennessee created a single prescription drug list for TennCare recipients that is projected to save state taxpayers there between $75 million and $125 million.

RECOMMENDATIONS

All eligible state government facilities and agencies should be required to use either the MMCAP or 340B plans — or both. To further increase the purchasing potential, all city-run facilities in New Mexico should be encouraged to participate.

The Governor should establish a Prescription Drug Advisory Commission comprised of all state government pharmacists. These commissioners should create a state prescription drug bulk-purchasing plan to facilitate prescription drug purchases at the lowest cost.

Placing all state government pharmacists on the panel is appealing for two reasons. First, it would represent a networking opportunity for them to discuss "best practices" that could benefit state taxpayers and customers. Second, it would bolster current initiatives underway at the HSD to maximize efforts on behalf of Medicaid recipients. The commission membership should be mandatory and identified on each employee's performance and appraisal document (PAD), with specific measures to ascertain what barriers may exist, how to overcome them, and the advantages or disadvantages of undertaking a bulk purchasing program.

Both the DOH and the HSD should be required to maintain data for all recalled drugs or expired drugs so the state can benchmark the information to determine if taxpayers are benefiting from a coordinated effort of purchasing pharmaceutical supplies.

In conjunction with the DOH pharmacists, the HSD pharmacist should be trained in standardized billing practices to take the fullest advantage of reimbursement opportunities.

To further increase and combine purchasing programs, the state should expand its bargaining power by including state employees, state hospital patients, state university students, and state inmates.

A state pharmacist should be designated to provide oversight for purchasing practices and to standardize billing practices, as well as to help facilitate the Prescription Drug Advisory Commission.

FISCAL IMPLICATIONS

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004						
2005		679.8			679.8	
2006		679.8			679.8	
2007		679.8			679.8	
2008		679.8			679.8	
TOTAL		**2,719.2**			**2,719.2**	

Las Vegas Medical Center and Ft. Bayard Medical Center are Department of Health facilities. Each facility has identified its top 20 most-frequently used drugs to calculate projected savings. To estimate the total annual cost, the following formula was used:

Average Wholesale Price (AWP) was compared against the MMCAP and 340B costs for each drug. This amount was multiplied by the amount of drugs dispensed to determine the amount saved. For example:

Drug	AWP	MMCAP	340b	Cost Difference	Drugs Dispensed	Savings
Resperidone	3.17	2.63	1.51	1.12	6,834	$7,654.08

The savings calculations are only for the two facilities noted above. Substantially more savings are possible if this recommendation is implemented at the remaining five DOH facilities, the Public Health Division, and other health and human services agencies.

ENDNOTES

1. Jody Wilgoren, "With Deadline Near, States Are in Budget Discord," *New York Times*, June 27, 2003.
2. Neal Solomon, Human Services Department
3. Jack Churchill, Department of Health, Public Health Division
4. Sheldon Poretsky, Department of Health, Las Vegas Medical Center
5. Albino Martinez, Department of Health, Las Vegas Medical Center

IT 7

Improve Detection of Medicaid Fraud

The state should implement technology known as artificial intelligence to help detect fraud and waste in the Medicaid program and recover improper Medicaid payments.

BACKGROUND

The Medicaid program is a massive, complex, vital program that makes health care accessible for more than 390,000 including the poor, elderly, and children in low-income New Mexico families. The federal government provides about $3 for every $1 spent by the state on Medicaid.

For FY03, the state budgeted $408 million from the state general fund for the Medicaid program; had it not been for the increase in federal participation provided for in the federal Job Growth and Tax Reconciliation Act of 2003, the program was estimated to be facing a shortfall of at least $24 million during the current fiscal year.

Despite the critical need to make sure that these resources are spent as wisely as possible, state government struggles to detect fraud and waste in the program with two investigators and a 20-year-old computer system known as the Surveillance Utilization Review System (SURS).

SURS is designed to identify exceptions to normal patterns in large amounts of information. Deviations in the data of similar providers rendering similar services are used to alert state personnel to potential instances of fraud. Provider data includes such items as the amount billed to Medicaid, the number of Medicaid clients served, and the Medicaid codes used for billing. The flagged data is then investigated by staffers in the Medical Assistance Division (MAD) of the state's Human Services Department. If prosecution is required, the data is sent to the Attorney General's office.

With only two staffers on the job, the opportunity to recover significant numbers of dollars spent in error is obviously limited. According to MAD, current annual Medicaid fraud recoveries average about $500,000. Returning the 75 percent federal share to the federal government results in general fund recoveries of just $125,000 — at a cost of $50,000, for a dismal 1:2.5 ratio of costs to recoveries). MAD reports incidents of fraudulent providers banned from other states moving to New Mexico, perhaps because New Mexico is perceived as soft on Medicaid fraud detection.

Fraud detection should be a dynamic process: a constant evaluation of patterns of deviation in claims data to identify emerging new fraud patterns as they change. The SURS system used by New Mexico does not fit the description of a dynamic system.

Some states have implemented artificial intelligence (AI) software programs to increase the number and quality of fraud identifiers. A mature AI system has initial fraud detection criteria embedded in it; it also identifies new data patterns and improves the data modeling based on what the system "learns." Search criteria are changed based on this learned data. A mature system uses fraud filters, pattern recognition, and data modeling technologies to analyze data and flag possible incidents of fraud. AI investigators then follow up on these leads.

Because AI is more sophisticated and can detect more potential fraud, the number of detected fraud cases is increasing in those states that have implemented the technology. Texas, for example, where this system was initially tested, has doubled the number of potential fraud cases identified during the first three years. As potential fraud increases, there may still be a need for additional staff to investigate these cases even as the efficiency of each investigator is enhanced by the increased accuracy afforded by AI systems.

Identifying prospective fraud before claims are paid is particularly important since the recovery of fraudulent claims after they have been paid often elicits as little as 10 cents on the dollar. AI systems currently in use are retrospective and can only detect fraud after a claim is paid. Recently, the Government Employees Hospital Association implemented a prospective system to identify potential fraud before claims are paid. During its pilot program, the system was able to flag one case in four that was worthy of investigation, compared to two in 100 before the use of the prospective system

FINDINGS

New Mexico spends $2.2 billion a year on the Medicaid program, second only to public education. Not all of it is well spent. According to Government Technology, the federal Government Accounting Office estimates that fraud occurs in 10 percent of Medicaid billings, although New Mexico's Human Services Department believes the figure may be closer to five percent.

Typically, only one-seventh of one percent of the money spent on the Medicaid program nationwide is spent on fraud detection. Most fraud detection has centered on client fraud or provider fraud. But a study in Oregon found a 32 percent discrepancy in services provided versus services billed in the Medicaid program. Capitated payments to managed care organizations on a per-patient and per month basis weren't used for medical services to the client, but diverted for other purposes, the state found.

Managed care organizations (MCO) are required to provide "encounter data" that is used by states to develop capitation rates and monitor service utilization rates. Encounter data shows use of medical services by clients and ought to be consistent with capitated payments made by states to managed care organizations. Although Oregon employed a consulting firm to perform a survey, this sort of fraud detection is ideally suited for an AI application.

A random sample by the Texas Comptroller's Office indicates that fraud detected by that state's AI system is three times more likely to result in identification of actual fraud than existing non-AI fraud detection systems.

The Centers for Medicare and Medicaid Services estimates that taxpayers can save $5 for every $1 spent on FTE providing fraud and abuse detection activities. Texas saw a 25 percent increase in fraud detection in the first year after implementation of its new AI fraud detection system.

The federal government will pay most of the cost of implementing a new system for fraud detection. When North Carolina set up an AI based fraud detection system, the federal government reimbursed fully 90 percent of the cost.

Fraud detection investigation time can be reduced due to the increased quality of information identified by AI systems.

Fraud detection increases in each subsequent year of use of AI systems, as people become more proficient in the use of the system and revisions are made to the system model.

RECOMMENDATIONS

New Mexico should implement artificial intelligence technology to help detect fraud and waste in the Medicaid program and recover improper Medicaid payments. The technology should be part of a prospective, adaptive detection system that continuously updates its fraud detection model based on changes in patterns of data collected.

The state should contract with an outside expert to deploy the system and guarantee payment based on increased fraud detection, known as total funds identified for recovery. This is a performance-based contract with payments to the vendor dependent upon meeting performance criteria identified in the acquisition documents.

The implementation of a new AI fraud detection system may take 18 months from the time the state solicits bids. Until the system is fully functional, the state should consider increasing its fraud detection staff — eight additional full-time positions at a cost of $630,000 a year — so that fraudulently obtained Medicaid funds can be identified and recovered at a greater rate than presently.

FISCAL IMPLICATIONS

The Medical Assistance Division estimates that for every $1 spent for fraud detection, $5 will be recovered. Using a conservative fraud detection rate of one percent of Medicaid expenditures, New Mexico could save $22 million a year once the system is fully implemented and staff members are trained. Twenty-five percent of the fraud recoveries ($5.5 million) would be in state general revenue funds.

This fiscal impact is calculated using the assumption that eight additional employees would be in place by July 2004. The calculation also assumes that a contractor for the new AI system will be chosen by January 2004 and that the new system will be fully implemented by January 2005

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004						
2005	180.2	393.8	449.8	1,181.3	213.6	+8
2006	380.2	393.8	1,249.8	1,181.3	13.6	
2007	380.2	5,500.0	1,249.8	16,500.0	5,119.8	
2008	380.2	5,500.0	1,249.8	16,500.0	5,119.8	
TOTAL	**1,320.8**	**11,787.6**	**4,199.2**	**35,362.6**	**10,466.8**	**+8**

ENDNOTES

1. "N.M. May Get More Medicaid" by Barry Massey, *Albuquerque Journal*, May 23, 2003.
2. Neural networks spot subtle patterns in data and feed the data back into the system to identify new patterns
3. Memo from Elizabeth Bradley, May 22, 2003.
4. *Government Technology Magazine*, August 2000.
5. *Federal Computer Week*, May 1, 1997.
6. *Managed Healthcare Executive magazine*, February 2003
7. *Federal Computer Week*, May 1997.
8. Controlling Fraud and Abuse in Medicaid: Innovations and Obstacles, a report from the "Executive Seminars on Fraud and Abuse in Medicaid," Sponsored by JCFA: December 1998-May 1999
9. New Payment Review Program's Progress Report for Fiscal Year 2001, Washington state Department of Social and Health Services

Consolidate Children, Youth and Families Department Health Care Services

The state should provide comprehensive, coordinated health care for juveniles in justice facilities by means of a single streamlined health care contract that saves money and eliminates multiple medical contracts.

BACKGROUND

The Juvenile Justice Division (JJD) of the Children, Youth and Families Department (CYFD) is paying exorbitant amounts to provide medical, dental, and specialized care for juveniles in justice facilities across the state. Once paroled, juveniles are eligible for Medicaid and other services. But while institutionalized, their medical care is provided under an array of contracts that have sprung up through the years mostly covering individual conditions that require medical oversight.

The multiple providers serving juveniles under multiple contracts are frequently unavailable for unscheduled requests or unwilling to visit the juvenile in the facility, thus creating an added taxpayer expense for transporting juveniles. What's worse, these multiple providers have racked up a record of multiple instances of noncompliance, poor service, and excessive add-on costs. And while state administration of the many contracts is fairly consistent, on-site monitoring and compliance conditions vary widely from facility to facility.

State contracts for medical and dental care providers for juveniles in the justice system expired on June 30, 2003.

On the adult side of the state's criminal justice system, the Corrections Department contracts with a single provider to cover all medical, dental, and eye care for inmates in its facilities.

The contractor provides on-site staff, telemedicine, and consultation as needed. The total annual cost to provide medical care for about 6,000 adult inmates is $19,399,583 — an average of $3,233 per inmate each year.

The operating budget for medical services in the JJD is $1,293,300 per fiscal year, but actual costs have exceeded that amount by as much as $350,000 a year. The average cost for medical services per juvenile is $3,772 — more than $500 above the average cost per adult inmate.

Multiple medical, dental, and oversight contracts for health care in the juvenile justice system have led to a variety of uncapped pricing agreements among juvenile facilities. The result? A lack of accountability, costs consistently exceeding contractual agreements, budget shortfalls, and ineffective management of staff time and funds — all at taxpayer expense.

FINDINGS

The JJD has exceeded its operating budget for medical services in every facility across the state over the past few years. This fiscal year, the overspending totals more than $325,000.

In addition to direct medical costs, an average of $456,000 per year is spent to fill medical full-time state employee positions. Seven registered nurses and one physician's assistant work in the state's juvenile justice facilities. Oversight for these positions is provided for in contracts with the University of New Mexico and from the CYFD medical director.

Recruitment and retention for full-time medical staff for state facilities in rural areas is especially difficult as pay isn't competitive with private medical centers. As a result, health care services aren't regularly available in all the state's juvenile justice facilities.

RECOMMENDATION

The state should provide comprehensive, coordinated health care for juveniles in justice facilities by means of a single streamlined health care contract that saves money and eliminates the multiple medical contracts that just expired.

A single medical contract would cap medical costs and address the medical staffing issues in rural areas or hard-to-fill positions elsewhere in the system. The eight medical full-time state positions could be retained as medical contract monitors to provide on-site oversight. Of those, two are currently vacant and could be assigned to the Las Cruces facility scheduled to reopen in the next fiscal year.

This recommendation would have no effect on current behavioral health or psychologist state employee positions.

FISCAL IMPLICATIONS

The cost savings outlined below could be generated by negotiating a set rate for medical services to juveniles and eliminating over-expenditures.

Immediate direct savings would be achieved if this recommendation is implemented, with potential recurring savings to be determined upon renegotiated contract rates. Capping the medical costs for juvenile facilities would bring stability to a strained, overextended budget in the JJD.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	General Fund Cost	General Fund Savings	Other Funds Cost	Other Funds Savings	Net Cost/Gain To General Fund	Change in FTE
2004		326.0			326.0	
2005		326.0			326.0	
2006		326.0			326.0	
2007		326.0			326.0	
2008		326.0			326.0	
TOTAL		**1,630.0**			**1,630.0**	

ENDNOTES

1. Juvenile Justice Division Interviews, CYFD: Office of the Director, Budget and Contracts Units, Personnel and Administration Unit
2. Corrections Department , Central Office Interviews and contracts review
3. Juvenile Justice Division Budget
4. Employee Support Services Interview, Administrative Services Division,

Transfer Portion of Local DWI Grant Program to Department of Health

Oversight of the DWI Grant Fund Program's prevention and treatment services should be transferred to the New Mexico Department of Health to take advantage of DOH's experience in managing health programs.

BACKGROUND

The state's efforts to combat drunk driving and provide treatment for alcohol abuse are fragmented and inefficient. The Department of Health (DOH) is the state's lead health and human services agency, administering a wide range of programs that include prevention and treatment of alcoholism and alcohol abuse. The Department of Finance and Administration (DFA) administers the Local DWI Grant Program (LDWI). The Traffic Safety Bureau of the state Department of Transportation administers the Community DWI Program.

In 1993, the Legislature placed the Local DWI Grant Program within the DFA Local Government Division. This program grants funds to municipalities or counties for new, innovative, and model programs, services or activities to prevent or reduce the incidence of driving while intoxicated, alcoholism and alcohol abuse. The program is authorized under the Local DWI Grant Program Act (Section 11-6A-3, NMSA 1978).

The DOH Office of Epidemiology is the state repository for county DWI screening and tracking systems. Data collected produces statistical information for state and county level DWI comparisons and program planning activities. This information is used to track offenders and assess the severity of DWI offenders' substance abuse problems. This level of severity is used by the courts to determine the most appropriate referral to treatment as well as other interventions.

Other related services provided by DOH include toxicology analysis and calibration and training in the use of breathalyzers by the Scientific Laboratories Division. Breathalyzers are used by law enforcement agencies across the state to determine intoxication according to the level of blood-alcohol-content (BAC) of suspected DWI offenders. BAC is also used in courts to determine the level of sentencing for convicted DWI offenders.

The DOH Behavioral Health Services Division (BHSD) is the chief adult substance abuse prevention and treatment program administrator in state government and is charged with coordinating substance abuse efforts under Executive Orders 87- 42 and 95-20. BHSD staff members administer the federal block grant for substance abuse through the Center for Substance Abuse Treatment (CSAT) and more than 35 substance abuse prevention contracts statewide providing services at some 75 sites through the Center for Substance Abuse Prevention (CSAP). Community Services Bureau personnel at BHSD also administer and monitor more than 100 substance abuse treatment programs and set program performance standards statewide through the Regional Care Coordination System.

FINDINGS

Consolidation of the prevention and treatment portion of the LDWI program into the DOH structure would save taxpayers money, improve service for customers, make New Mexico roadways safer, and lead to better prevention and treatment results.

The Local DWI Grant Program is funded through liquor excise tax revenues. DFA's Local Government Division currently has three full-time staff members running the program. Other DFA personnel provide the program with technical and administrative support. In FY03, the program made grants totaling more than $13.7 million and received a $100,000 state appropriation for administration, which included funding for an evaluation of the program by an outside reviewer and additional staff. The DFA/LDWI program staff estimates that the prevention portion of the program is $1.8 million while the treatment portion is $5.1 million.

The August 2002 DWI Grant Program Evaluation Report, performed by the University of New Mexico's Institute of Social Research, recommended that administrative support for the program be increased to make overall program improvements, provide better oversight, and improve technical assistance to local programs. The Legislative Finance Committee conducted a performance audit of the program in 2002 and reached similar conclusions.

The DOH Behavioral Health Services Division administers Adult Substance Abuse Prevention and Treatment Programs and has the expertise to ensure that alcohol abuse prevention and treatment services are provided to New Mexicans through the most effective clinical practices. DOH has the technical assistance capacity and management infrastructure to fiscally manage the Local DWI Grant Program. DOH could administer the prevention and treatment portion of the program if DFA were to transfer one full-time staff person to DOH and if DOH were to reassign four existing staff members. If DFA transferred a full-time state employee to DOH, DOH could reduce its own staff by one full-time staffer.

RECOMMENDATIONS

The Legislature should amend the Local DWI Grant Program (Section 11-6A-3, NMSA 1978) to move the prevention and treatment portions of the Local DWI Grant Program to the Department of Health, Behavioral Health Services Division, and leave the non-prevention and non-treatment components of the program with DFA.

Recommended Implementation Strategy:

- Enact an amendment to the Local DWI Grant Program Act that will transfer the prevention and treatment portion of the program from the Department of Finance & Administration to the Department of Health.
- Utilize information from the evaluation of the program that was funded in the FY03 Appropriation, HB 190 to make program adjustments.
- Develop policies and procedures at DOH for the administration of the program.
- Identify the current staff within the Department of Health that will administer the program in the Behavioral Health Services Division.
- Notify providers that DOH will be responsible for the program and provide them orientation to the Behavioral Health Services Division administrative practices.
- Insure that there is no interruption or delay in the delivery of adult alcoholism and alcohol abuse prevention and treatment services.

FISCAL IMPLICATIONS

House Bill 190 in the 2003 legislative session increased the funding for administration of the grant from $100,000 to $600,000 in FY04. This increase was meant to provide program staff and pay for additional administrative costs.

Any amount remaining in the Local DWI Grant Program at the end of the fiscal year is not currently designed to revert to the state's general revenue fund. However, in its analysis of House Bill 190, the Legislative Finance Committee found that the Local Government Division allocated from $150,000 to $175,000 of its general fund budget to supplement administration of the program in prior years.

Transferring the prevention and treatment portion of the Local DWI Grant Fund Program to the Department of Health would produce cost savings by using existing DOH staff to administer and monitor the program and eliminating one FTE. A savings for one full-time state employee is calculated at $62,000 per year. Additional savings would come from reducing contracted services for independent program evaluation and using existing DOH staff who are experienced in substance abuse programs to monitor and evaluate prevention and treatment services of the program.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	General Fund Cost	General Fund Savings	Other Funds Cost	Other Funds Savings	Net Cost/Gain To General Fund	Change in FTE
2004						
2005		62.0		70.0	62.0	-1
2006		62.0		70.0	62.0	
2007		62.0		70.0	62.0	
2008		62.0		70.0	62.0	
TOTAL		**248.0**		**280.0**	**248.0**	**-1**

The estimates assume the LDWI program will continue to receive the appropriation of $600,000 for its administration through FY08.

	FTE	Base Salary	Benefits	Total
DOH cost to administer prevention and treatment portion of program:				
Administrator	1	62,400	18,720	81,120
Program manager	1	47,840	14,352	62,192
Social/community service coordinators	3	47,840	14,352	186,576
Total				329,888
Savings to local DWI grant fund:				
FY04 cost of DFA to administer program				600,000
Annual independent evaluation costs				(75,000)
DOH cost to administer prevention and treatment portion of program				(329,888)
DFA cost to administer remainder of program				(125,000)
Total				70,112
Savings to general fund:				
Transfer one FTE from DFA to DOH and eliminate one FTE at DOH	-1			62,000
Total savings				**132,112**

ENDNOTES

1. Interviews:
   a. Paul V. Romero, Planning and Program Development Chief, Department of Health
   b. Rich Tavaris, BHSD Deputy Director Department of Health
   c. Pam Martin, BHSD Director, Department of Health
   d. David Hanna, Special Projects Bureau Chief, DFA
   e. Elaine Benevidez, Treatment Bureau Chief, Department of Health
   f. George Wallace, Treatment Regional Manager, Department of Health

2. Documents:
    a. House Bill 117, 2003
    b. House Bill 190, 2003
    c. Senate Bill 341, 1993
    d. House Joint Memorial 93, LFC Audit, 2003
    e. LFC Budget Analysis, January 2003
    f. An Analysis of Statewide Alcohol Screening and Tracking Program for DWI Offenders, March 7, 2002

Determine Eligibility of County Maternity for Medicaid Administration

The state should obtain federal reimbursement for administrative costs incurred by providing benefits to Medicaid recipients through the County Maternal and Child Health program.

BACKGROUND

The New Mexico Department of Health (DOH) administers the County Maternal and Child Health program (CMCH), which develops maternal and child health services for women and their families through the county government system. The FY03 CMCH budget was $2.9 million and the FY04 budget is expected to be $2.7 million. The slight drop from one fiscal year to the next reflects contract reductions of some $200,000.

The CMCH program is authorized by Section 24-1B-1 to 24-1B-7 NMSA 1978 of the County Maternal and Child Health Plan Act. DOH is designated as the department to review, evaluate, and approve or reject county maternal and child health plans. DOH contracts with private providers for maternal and child health services, then monitors and evaluates the contracts to measure whether maternal and child health conditions are improving. DOH also provides technical assistance to counties. In the decade from 1992 to 2002, the number of counties with approved CMCH plans grew from 11 to 27.

As a result of the CMCH program and other public health efforts, New Mexico has an infant mortality rate lower than the national average. In 2000, the New Mexico rate of 6.6 infant deaths per 1,000 live births was four percent lower than throughout the nation as a whole. Maternal deaths, however, have increased since 1992 from 7.2 to 29.4 deaths per 100,000 live births in 2000.

Changes in the reporting criteria may account for some of the maternal death increase. Before 1999, maternal mortality statistics only represented causes of death attributed to complications due to pregnancy, childbirth, and that occurred within 42 days after delivery. The new indicators now include deaths from any cause related to or aggravated by pregnancy or its management. Nevertheless, New Mexico has had, and continues to have, maternal death rates at or above the national average.

The program was examined in the Report of the Legislative Finance Committee, January 2003, which stated: "The committee recommends these maternal and child health funds primarily be used to provide coordination, planning and assessment services to assist localities in accessing services already provided and funded by other programs and other agencies, such as the Medicaid program.".

FINDINGS

According to information from CMCH program personnel, 20 percent or more of the women and children whom the program benefits may be Medicaid recipients. The Medical Assistance Division (MAD) of HSD has the ability to create ad hoc reports that identify the number of children and the number of women of childbearing age in each county. This data could provide a basis for determining reimbursable Medicaid administrative costs.

MAD has determined that a 50 percent Federal Financial Participation may be available for activities in administrating programs as follows:

- Any activity associated with client outreach or administration of general eligibility policy.
- Any activity associated with provider outreach or administration of general provider policy.
- Any activity associated with studying potential pricing methodologies or updates.
- Developing pricing policies.
- Communicating general policy information on claims payment.
- Studying claims or payments in aggregate for program administration.
- Policy development.
- Analysis of reports produced by the Medicaid management information system (MMIS) for the administration of the program.

Counties and CMCH program personnel conduct activities that meet the criteria for federal administrative Medicaid reimbursement. These activities include assessing provider availability, determining accessibility to services, coordinating collaboration among providers and support services, helping with policy development, and providing education and health promotion training to providers or clients. Preliminary discussions with MAD staff members show that the program may be allowed Medicaid reimbursement for administrative costs if a methodology for reimbursement is established through a joint powers agreement.

RECOMMENDATIONS

A joint powers agreement should be developed to reimburse the Department of Health for the allowable administrative costs of federal Medicaid services provided through the County Maternal and Child Health program.

FISCAL IMPLICATIONS

If the recommendation is adopted, taxpayers would save $270,000. These savings are based on estimates that the program would benefit Medicaid recipients who are at least 20 percent of the total service population. Medicaid would reimburse the program with 50 percent Federal Financial Participation for the allowable administrative costs attributed to the Medicaid population in the program. The program would replace state general fund dollars with federal Medicaid dollars for the allowable administrative costs without effecting services.

The methodology to support this recommendation should include a ratio of a count of the Medicaid recipients receiving benefit from the CMCH program by county to the total administrative cost of the program. The reimbursement for administrative cost from federal financial participation will provide a reccurring savings to the state's general revenue fund.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004						
2005		270.0			270.0	
2006		270.0			270.0	
2007		270.0			270.0	
2008		270.0			270.0	
TOTAL		**1,080.0**			**1,080.0**	

An assumption is made that the program will continue to receive the appropriation of $2,430,000 for the administration of the CMCH program through FY 08.

ENDNOTES

1. Interviews:
   a. Patsy Nelson, PHD Deputy Director, DOH
   b. Victoria Parrell, County Maternal and Child Health Program
   c. Roger Gallispie, Deputy Director, Medical Assistance Division, HSD
   d. Toby Rosenblatt, PHD Deputy Director, DOH
   e. Roy Burt, Medical Assistance Division, HSD
   f. Pao Her, Medical Assistance Division, HSD
2. Documents:
   a. Report of the Legislative Finance Committee, January 2003
   b. New Mexico Selected Health Statistics Annual Report for 2000
   c. Memorandum from Ross Becker dated February 17, 2000
   d. County Maternal and Child Health Plan Act (Section 24-1B-1 to 24-1B-7 NMSA 1978)

Recover Improper Public Assistance Payments

The New Mexico Human Services Department should improve the effectiveness of its fraud recovery to increase recovery of recipient overpayments for food and public assistance.

BACKGROUND

One of every three New Mexicans receives some form of public assistance benefits, which can include cash, food, and medical assistance. More than $230 million was spent for food stamp and Temporary Assistance for Needy Families (TANF) benefits in FY02. New Mexico ranks 47th in per capita income and has the highest poverty rate in the nation, so the number of New Mexicans seeking assistance continues to grow. Given the significant cost to taxpayers of providing public assistance, the state should improve its recovery of benefit overpayments.

The Human Services Department (HSD) is responsible for providing public assistance benefits to eligible families and individuals accurately and according to federal and state regulations. Federal regulations require that New Mexico have a vigilant and vigorous oversight system to monitor and review recipient eligibility and to recover any overpayments that may occur.

Correct eligibility determination and accurate benefits are based on the information provided by applicants and HSD's ability to verify the data in a timely manner. Errors in eligibility determinations or level of benefits are inevitable.

Although HSD has instituted measures to prevent or recover public assistance overpayments, more resources could bring greater results. Without the appropriate staff and information resources to investigate referrals, prevention and recovery efforts will continue to fall short of their potential. Without better coordination among HSD, the Attorney

General's office, district attorneys, law enforcement, and other state agencies, public assistance fraud will continue to harm taxpayers as well as those who need temporary help.

FINDINGS

HSD's recovery of public assistance overpayments is accomplished through a variety of means, including a telephone hotline, retail transaction screenings, and tax refund intercepts. New Mexico relies heavily on an 800 hotline, which accounts for 74 percent of its referrals regarding recipient overpayments and suspected fraud. The Electronic Benefits Transfer (EBT) Trafficking Screening Program profiles vendors and recipients for suspected food benefits fraud and is currently functioning at about 35 percent of its capacity. Tax refund intercepts for tax years 2001 and 2002 yielded recoveries of $729,303 and $1,347,565 from state tax refunds and $771,339 and $218,943 from federal tax refunds, respectively.

The Food Stamps and TANF programs are federal programs that require individuals and families to meet income, resource, and other eligibility criteria. In FY02, New Mexico spent $161,213,578 in Food Stamps payments and $68,876,172 in TANF benefits. Based on random sampling of the Food Stamps program for FY02, an estimated $10 million, or 6.58 percent, of Food Stamps payments were paid in error, a rate that costs taxpayers even though it remains below the national average.

HSD's Office of the Inspector General (OIG) investigates suspected public assistance overpayments and fraud that may result in recovery, administrative resolution, or criminal prosecution. Nearly all of these investigations, 99 percent, find that the errors made by recipients were unintentional. A review of 777 cases referred to the OIG indicated that the majority (582) involves a combination of food, financial assistance, and Medicaid referrals. Food stamps cases (112) were the next largest category of referrals.

HSD can impose sanctions and recoup funds through an administrative process. If the OIG investigates alleged fraud but cannot make a criminal case, the investigation is referred to the Administrative Sanctions Section of the OIG. Section staffers prepare the case for presentation to an administrative law judge. If successful, sanctions may include temporary suspension from the program or, in some cases, permanent disqualification.

New Mexico could increase recovery of overpayments by instituting certain reforms. For example, HSD has set up an interstate match program with Texas for the Food Stamp program that will eventually involve regular matches with all other states bordering New Mexico.

Collection agencies are another tool for recovering public assistance overpayments. Illinois has used collection agencies since 1985, paying a 25 percent commission on all recoveries. Other states intercept lottery winnings claimed by benefits recipients owing overpayments. The Texas Department of Human Services pays district attorneys to prosecute fraud cases that otherwise might not be tried. In California, Colorado, Minnesota, New York, and Washington, liens are filed against property to recover overpayments of benefits.

New Mexico intercepts lottery winnings under its Child Support Enforcement Program, which could be expanded to include other public assistance programs.

RECOMMENDATIONS

HSD recovery practices for Food Stamp and TANF overpayments should be improved by adopting changes to recovery systems and adding new methods of recovery.

The Legislature should amend the New Mexico Lottery Act, Sections 6-24-1 through 6-24-34 NMSA 1978 to allow liens on lottery winnings for the recovery of Food Stamp and TANF overpayments.

Additionally, HSD Office of General Counsel should review New Mexico constitutional law to determine if the Public Assistance Act, Sections 27-2-1 through 27-2-47 NMSA 1978 and New Works Act, Sections 27-2B–1 through 27-2B-20 NMSA 1978 can be amended to allow the recovery of Food Stamp and TANF overpayments through liens. The Public Assistance Act should also be reviewed to determine if an amendment is necessary to allow for information exchange systems among states and New Mexico agencies. The state statutes regarding district attorney offices, Attorneys, Sections 36-1-1 through 27, NMSA 1978 should also be review to determine if HSD can pay district attorneys to prosecute fraud cases.

FISCAL IMPLICATIONS

More aggressive collection efforts should generate savings to the General Fund and to federal funds. Under federal provisions, New Mexico is allowed to keep 35 percent of food stamp recoveries resulting from recipient fraud and 20 percent of recoveries resulting from recipient error. Federal provisions also allow New Mexico to keep all TANF recoveries, which would revert to the program fund for the benefit of other TANF recipients.

It is estimated that New Mexico would experience similar recovery rates as Texas who undertook more aggressive collection efforts and established a threshold of 10 percent and increases of 2 percent annually in following years.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004						
2005		11.0		43.0	11.0	
2006		11.0		44.0	11.0	
2007		12.0		45.0	12.0	
2008		12.0		45.0	12.0	
TOTAL		**46.0**		**177.0**	**46.0**	

ENDNOTES

1. E-mail Memorandum from Ken Alessio, Inspector General, HSD, June 4, 2003
2. Ken Alessio, Inspector General, HSD

Chapter IV
Curbing the Cost of Criminal Justice

Chapter IV:

Curbing the Cost of Criminal Justice

Not many dispute the notion that the most important duty of government is to protect its citizens and provide for the safety of everyone in their homes, on their streets, in their businesses, and at their schools.

This chapter highlights a number of recommendations to improve public safety and save taxpayers money. Some of them are relatively small — reducing the number of free postage stamps underwritten by taxpayers for the convicted criminals in our prisons, for example, or charging inmates sales tax on the items they buy in the prison commissary, just as law-abiding New Mexicans must do when they shop at the corner store.

Others are designed to increase public safety by using innovative technology to fight crime. We call for the state to implement a pilot project testing the use of electronic bracelets for certain repeat DWI offenders. The state spends $18 million a year to house DWI offenders, and nearly half of all state inmates serving time for drunk-driving offenses have four or more DWI convictions on their record. Global Position System technology could provide an effective alternative to costly incarceration for some habitual offenders by making sure they stay out from behind the wheel of a vehicle.

We also recommend improvements to the state's public defender system, requiring offenders who can afford it to cover at least part of the cost of their legal representation or their participation in local substance abuse and other treatment programs.

We suggest transferring state inmates currently housed in Virginia back to New Mexico, where we can oversee them closer to home for less money. While we're at it, we think the state should do more to retain corrections officers to manage those and other inmates — and we present proposals to do exactly that.

One potentially controversial recommendation in this report would require the state to deport non-violent foreign nationals who have been convicted of crimes and are doing time in New Mexico prisons. There's even an international treaty in place to facilitate the process — except that offenders are given first right-of-refusal on whether or not to be sent home. We believe New Mexico taxpayers, not convicted criminals, should decide.

Finally, a package of proposals would consolidate the state's law enforcement training academies and help provide police with the tools they need to do the job we ask of them.

Total recommendations: 20
Total five-year savings: $11.8 million

CHAPTER IV - CURBING THE COST OF CRIMINAL JUSTICE

(Dollars in Thousands)

Issue No.	Recommendation	2004 General Fund	2004 Other Funds	2005 General Fund	2005 Other Funds	2006 General Fund	2006 Other Funds	2007 General Fund	2007 Other Funds	2008 General Fund	2008 Other Funds	Cummulative Total General Fund	Cummulative Total Other Funds
CJ 10	Open McKinley County Public Defender Office	-	-	110.0	-	300.0	-	341.6	-	425.8	-	1,177.4	-
CJ 11	Improve Collection of Automation Fund Application Fees	-	47.8	-	317.2	-	423.1	-	533.1	-	647.3	-	1,968.5
CJ 12	Provide Better Contract Attorney Oversight	-	-	-	-	-	-	-	-	-	-	-	-
CJ 13	Update Public Defender Indigent Standards	-	-	-	-	-	-	-	-	-	-	-	-
CJ 3	Implement Children, Youth and Families Department Bracelet Monitoring Program	24.6	-	24.6	-	24.6	-	24.6	-	24.6	-	123.0	-
CJ 4	Improve Children, Youth and Families Department Food Quality and Services	69.3	-	138.5	-	138.5	-	138.5	-	138.5	-	623.3	-
CJ 22	Develop and Implement Dual Qualitative and Quantitative Assessment Tool	120.0	-	120.0	-	120.0	-	120.0	-	120.0	-	600.0	-
CJ 9	Reduce Corrections Department Postage	100.0	-	100.0	-	100.0	-	100.0	-	100.0	-	500.0	-
CJ 7	Address Correctional Officer Retention and Mobile Home	40.0	-	115.0	-	115.0	-	115.0	-	115.0	-	500.0	-
CJ 6	Transfer Virginia Inmates Back to New Mexico	327.6	-	82.1	-	82.1	-	82.1	-	82.1	-	656.0	-
CJ 21	Deport Foreign National Inmates	985.5	(300.0)	197.1	(60.0)	197.1	(60.0)	197.1	(60.0)	197.1	(60.0)	1,773.9	(540.0)
CJ 8	Collect Commissary Gross Receipts Tax	-	-	46.7	-	46.7	-	46.7	-	46.7	-	186.8	-
CJ 1	Reclassify Investigators to Probation and Parole Officers	-	-	-	-	-	-	-	-	-	-	-	-
CJ 2	Increase Probation and Parole Rees	-	-	102.0	-	204.0	-	306.0	-	408.0	-	1,020.0	-
CJ 19	Make Offenders Pay for Community Programs	-	-	198.1	-	198.1	-	198.1	-	198.1	-	792.4	-
CJ 20	Implement Electronic Bracelets for DWI Offenders	-	-	11.3	-	11.3	-	11.3	-	-	-	33.9	-
CJ 17	Reduce Criminal Background Check Backlog	80.7	-	161.5	-	161.5	-	161.5	-	161.5	-	726.7	-
CJ 14	Improve Law Enforcement Services	-	-	-	-	-	-	-	-	-	-	-	-
CJ 15	Consolidate Training Academy Schedule	185.0	-	370.0	-	370.0	-	370.0	-	370.0	-	1,665.0	-
CJ 16	Consolidate State Police and Law Enforcement Training Academies	-	-	-	-	-	-	-	-	-	-	-	-
Total		**1,932.7**	**(252.2)**	**1,776.9**	**257.2**	**2,068.9**	**363.1**	**2,212.5**	**473.1**	**2,387.4**	**587.3**	**10,378.4**	**1,428.5**

CJ 10

Open McKinley County Public Defender Office

The state's Public Defender Department should be expanded to improve statewide coverage and save taxpayers money by reducing the need to contract out expensive legal work.

BACKGROUND

The Public Defender Department (PDD) maintains district offices in 10 counties across New Mexico and, in areas where caseloads aren't large enough to maintain a fully staffed office, pays contract attorneys to represent its clients.

PDD has opened two new district offices since 2000, one in San Juan County and the other in Taos County, to improve customer service, increase accountability and save taxpayers money over the long term.

FINDINGS

PDD's ongoing efforts to open district offices and reduce its dependence on expensive outside legal contractors is commendable. As evidence, consider this: in McKinley County, the PDD represented clients in 1,433 misdemeanor cases, 257 children's court cases, and 835 felony cases for a total of 2,525 cases in FY02. By comparison, the department had 2,336 cases in San Juan County, 2,142 cases in Santa Fe, 2,359 cases in Clovis, and 2,669 cases in Las Cruces for the same period — all areas with district offices.

Moreover, PDD expects to pay legal fees of $825,000 to handle McKinley county cases during the current fiscal year. This figure will reach nearly $1 million by FY05. To handle the load, one three-person law firm currently bills the state from $30,000 to $40,000 each month for an average of 60 misdemeanors, 15 juvenile cases, and 35 felonies.

The McKinley County District Attorney's office reports that some 85 percent of all criminal cases involve Native American defendants or victims, primarily members of the Navajo tribe as well as some Zunis and Hopis. The Eastern Navajo Area Agency, which is made up of the 31 New Mexico chapters of the Navajo nation, has passed a unanimous resolution supporting the opening of a public defender office in Gallup.

RECOMMENDATIONS

The state's Public Defender Department should be expanded to improve statewide coverage and save taxpayers money by reducing the need to contract out expensive legal work. The Legislature should grant authority for an office in McKinley County, and the department should open a new office every two years thereafter in districts that can be served more efficiently and effectively by PDD personnel than by using contract attorneys.

In the case of McKinley County, it will be difficult to staff a district office quickly enough to handle the growing caseload. The *New Mexico Performance Review* suggests a goal of covering half the caseload at first, with contract attorneys continuing to handle the balance of cases until fully staffing the office is financially feasible. This pattern was followed by the PDD when it opened the district office in Aztec.

PDD should consider opening future local offices in the Thirteenth Judicial District (covering the three counties of Sandoval, Cibola, and Valencia), which has a considerably larger caseload than McKinley County, and the Sixth Judicial District, which has a somewhat smaller caseload spread between Silver City and Deming. The department projects that it will spend $650,000 for contract attorneys in Sandoval County to handle 1,142 cases in FY04 and that nine full-time employees would be sufficient to handle 80 percent of this caseload. Savings from the opening of this office would begin to accrue after reaching full staffing levels in FY08.

FISCAL IMPLICATIONS

Costs associated with opening a McKinley County office would total $889,000. These include one-time start-up expenses of about $36,000 over two years. The annual operating costs for the new office would be $108,760 for a fully-staffed office of 10, similar to the local district office in Clovis. Salaries and benefits for a staff of six would cost the department $281,000 a year. The overflow of contract cases would cost an estimated $500,000 the first year and substantially less in succeeding years when the office is fully staffed.

First-year net savings would be $110,000 and would increase substantially in FY06 and beyond, when the department would add four full-time staffers and eliminate the contract overflow budget. Based on these figures, savings for FY06 are projected to be $300,000.

Under this recommendation, an additional attorney would be added in FY07. Savings for FY07 also reflect the costs of opening a Rio Rancho office at half staff and the addition of one full-time employee to the Gallup office. The Rio Rancho office would be fully staffed with the addition of four full-time employees in FY08.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004						
2005		110.0			110.0	
2006		300.0			300.0	
2007		341.6			341.6	
2008		425.8			425.8	
TOTAL		**1,177.4**			**1,177.4**	

ENDNOTES

1. Brenda Salazar, Deputy Director, Public Defender Department
2. Annie McGarrah, Administrator, Public Defender Contract Legal Services Division
3. John Bigelow, Chief Public Defender

Improve Collection of Automation Fund Application Fees

The state's Public Defender Department should enhance collection of the statutorily authorized application fee to fund technology upgrades and other operating costs that will improve customer service.

BACKGROUND

The Public Defender Department (PDD) has 327 computers used by more than 300 full-time employees in 10 offices across the state. These computers are linked to a web-based contract data management system implemented in July 2002. Five employees service this statewide computer network.

The department has determined that replacing nearly 200 obsolete computers and upgrading other software and hardware critical to the network would cost more than $400,000. Unfortunately, the department's total information technology budget for FY03 is only $100,000 — all of it from a statutorily authorized application fee.

Since 1994, PDD has been required to collect a $10 application fee from defendants who apply for representation, unless the fee is waived by a judge because of financial hardships. The Legislature established this fee to help the department finance its technology needs. Revenue from the fee is deposited into the department's automation fund. In FY02, the application fee brought in $106,000.

FINDINGS

Since state law was amended to mandate the collection of an application fee by PDD, the fee has been the sole source of funding for computer equipment and software. But the application process and fee collection is a hit-or-miss affair. In some of the judicial districts where the department maintains local offices, all applications are taken in by PDD staff members, and the fee is collected at the time defendants apply for services. In other districts, magistrate courts accept the applications, but the fee is collected at the department's office or by contractors. As a result, applicants who don't qualify for PDD services in these districts aren't assessed the fee, because they never go to a PDD office or see a contract attorney.

In the six-month period ending April 30, 2003, districts with department offices reported 15,763 new applications but collected the application fee in only 4,678, or less than 30 percent, of the cases. Judges waived the fee in 1,780 cases (11.3 percent).

The percentage of cases in which the fee has actually been collected varies widely from district to district. For instance, in a one-month period in late 2002, the Ninth Judicial District Public Defender office collected the fee on 78 out of 127 applications — about 61 percent of cases — and judges waived the fee in only five cases. Meanwhile, Taos collected the fee in 37 of 41 cases, a 90 percent collection rate.

Collections are lowest in districts where the magistrate courts take in all or nearly all of the applications. The department's Las Cruces office collected the fee on only 34 of 183 cases during the same period (judges waived the fee in 112 of those). In the Fifth Judicial District, the Carlsbad, Hobbs, and Roswell offices collected the fee on just 16 of 222 applications.

The record is even poorer in districts served only by contract attorneys, who are contractually required to collect the fee. For the same period in late 2002, the Fourth and Sixth Judicial Districts processed 100 and 111 applications, respectively, yet contract attorneys in these districts failed to collect a single application fee. Judges in the Sixth District waived the fee in 107 of the 111 cases (96 percent). In McKinley, contract attorneys collected the fee in just two of 191 cases — barely one percent.

Application fee collection has been hampered by a lack of uniformity in collection procedures among district offices and in contract districts. One challenge is the statutory interpretation adopted by department personnel under which a fee is not collected from defendants arrested on new charges within six months of qualifying for public defender representation. Despite the mandatory language relating to the payment of an application fee, magistrates in some districts routinely waive the application fee. The department requires contract attorneys to collect the application fee in districts with no PDD offices, but a number of contractors obviously make no effort to collect the fee — and the department has failed to enforce this contractual obligation.

The Administrative Office of the Courts (AOC) and the Chief Justice of the New Mexico Supreme Court are aware of the importance of collecting these funds to pay for PDD's critical automation needs. They have signaled their willingness to encourage the cooperation of magistrate courts. PDD officials report that they are taking steps to increase application fee revenues.

The effectiveness of the application fee as the primary funding source for PDD's information technology, however, is severely limited by the amount of the fee itself. The cost of collecting and accounting for a $10 fee effectively consumes most of the fee. A 2001 study conducted for the American Bar Association show fees in other jurisdictions ranging from $25 to $100. New Mexico's fee is the lowest in the country among states that charge an application fee for public defender services.

RECOMMENDATION

The state's Public Defender Department should enhance the collection of the statutorily authorized application fee to fund technology upgrades and other operating costs that will improve customer service.

The department should immediately establish detailed written policies and procedures for the collection of the application fee, setting forth from whom the fee should be collected, under what circumstances waivers are acceptable, and who is responsible for collection of the fee. An application fee should be collected on each case for which a defendant seeks representation regardless of whether the department is required to redetermine his or her eligibility.

PDD should enforce the contractual obligation of contract attorneys to collect the application fee by requiring that they either submit the application fee or a judicial waiver with each request for payment on a case. If neither the fee nor a waiver is submitted, the payment for the case should be withheld until the waiver or fee is submitted.

PDD should obtain the cooperation of the AOC and the New Mexico Supreme Court to discourage judges from waiving the fee except as authorized by statute.

The PDD should seek legislation authorizing a revision in the application fee to $20. This revision would maintain New Mexico's rank for charging the lowest application fee in the country but would at least cover the costs of collection.

FISCAL IMPLICATIONS

The following figures are based on revising the application fee to $20 in FY05 and projected annual increases of eight percent to account for improved rates of performance in fee collection over the current collection rate of 20 percent.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004				47.8		
2005				317.2		
2006				423.1		
2007				533.1		
2008				647.3		
TOTAL				**1,968.5**		

ENDNOTES

1. Edward Clokey, Systems Analyst Manager, Public Defender Department
2. Public Defender Act, *Section 31-15-12(C), NMSA 1978*
3. Gina N. Maestas, Director, Administrative Office of the Courts,
4. James Downing, *Public Defender Application Fees: 2001 Update*, The Spangenberg Group (2001)

Provide Better Contract Attorney Oversight

The state's Public Defender Department should enhance oversight of its contract attorneys to more effectively monitor the performance of its contract attorneys and reduce billing costs in contract attorney cases.

BACKGROUND

The Public Defender Department employs contract attorneys to represent all its clients in judicial districts throughout the state where small caseloads make maintaining a district office economically unjustifiable and to handle cases in which district offices have a conflict of interest.

In 1997, the department recognized its contract operations had grown and required better oversight, so the Contract Legal Services (CLS) division was created under the direction of an attorney supervisor. CLS consists of three full-time state employees charged with monitoring contract services and ensuring that contractors are paid on time.

FINDINGS

The growing number of contract cases has forced the three CLS staff members to spend virtually all their time on data entry, billing, and reviewing requests for experts, both witnesses and attorneys. Other than investigating client complaints, there are simply no staff resources to effectively monitor the performance of the department's contractors.

In districts where the department maintains local offices, data for cases assigned to contract attorneys is entered into the Contract Data Management System (CDMS) by PDD staff when the cases are assigned. In non-office districts, contract attorney case data must be entered by CLS staff in Santa Fe. Data entry alone requires one full-time employee, and, to get rid of a month-and-a-half backlog, the CLS has been using two temporary employees.

At present, contract attorneys submit billing manually rather than electronically and are paid in advance upon receipt of a bill. This makes it difficult to oversee contract legal services while CLS spends time processing paperwork.

After date entry requirements are met, the next step is to establish performance standards. The department must find the resources to gather information and determine whether attorneys are meeting these standards. A key to the success of this effort is more automation and computerization of some CLS operations. The department's new administration has made this a priority.

RECOMMENDATIONS

The Public Defender Department should institute measures to effectively monitor the performance of its contract attorneys and reduce billing costs in contract attorney cases.

CDMS should be modified to allow the contract attorneys' staff to enter their own case data, at a small cost of $18,000 — an amount that would easily pay for itself by freeing up the time of one full-time employee who should be monitoring performance instead. Another $18,000 would buy a CDMS module that all attorneys would be required to use at the end of each case to outline the work they did. Contract attorneys should also be required to submit all billing electronically through CDMS, eliminating work involved in tracking and reconciling paper billings. The department should retain a portion of the contract attorney's fee to secure compliance with contract requirements.

Among the steps that should be taken are the following:

- PDD should implement CDMS modules for data entry by contract attorneys in non-PDD office districts.
- PDD should implement a CDMS module to track work performed on cases.
- PDD should require contract attorneys to submit billing electronically and retain a portion of the fee until the completion of cases to comply with the requirements of the contract.
- PDD should develop performance standards for contractors.
- CLS should use full-time positions freed up after automation to allow the director to conduct on-site audits of contractors operations.
- Finally, the department should assure compliance of contract attorneys in adhering to required billing practices and submission of performance standards information.

Some of these measures may meet with the opposition from contract attorneys; some may resist increased scrutiny of their work. These additional responsibilities should not be onerous, however, and are the least New Mexico taxpayers should expect.

FISCAL IMPLICATIONS

This recommendation speaks primarily to accountability issues, designed to free up full-time employees time for monitoring contract legal services. Nevertheless, these measures should also eliminate the need for temporary employees to enter case data.

A $36,000 first-year non-recurring cost would cover CDMS modifications to allow contract attorneys to enter case data, record work, and bill electronically. Recurring savings would include salaries and benefits for two temporary employees.

ENDNOTES

1. John Bigelow, Chief Public Defender
2. Annie McGarrah, Administrator, Public Defender Contract Legal Services Division
3. Donna Harrington, Public Defender IT Services Division
4. Marlene Foster, Director, Public Defender Contract Legal Services Division

Update Public Defender Indigent Standards

The state should reduce the number of non-indigent clients represented by the Public Defender Department and increase the percentage of funds collected from them to ensure that resources are available to serve truly indigent defendants.

BACKGROUND

The state's Chief Public Defender is charged with establishing indigence guidelines used to determine whether a defendant qualifies for representation by the Public Defender Department (PDD). Defendants who do not meet the standard but who are unable to obtain representation may seek PDD representation, as long as they sign a contract to reimburse the state for the costs of their representation. The funds collected under these contracts are deposited into the state general fund.

The New Mexico Supreme Court has also held that the courts, upon a finding of indigency, can appoint PDD to represent a defendant, even if the department objects and the defendant does not qualify under department standards.

FINDINGS

The indigence standard established by PDD states that defendants with incomes of less than 130 percent of federal poverty guidelines are eligible for free representation. The department has not updated this standard for seven years, so the guidelines currently in use are based on 1996 federal rules. This means that many defendants who would qualify for representation by PDD based on current federal guidelines are ineligible for free services.

Besides the inequity this situation creates, it leads to unnecessary costs to the department for contract generation, bookkeeping, and collection efforts on contracts, most of which are unsuccessful. Through March 2003, the uncollected balance on these contracts was nearly $18 million. In the first nine months of the current fiscal year, the department generated 1,506 new accounts with a paper value of $2,008,070. The average monthly amount of new accounts was $223,000, while the average monthly collection was only $23,250. From September 2002 through March 2003, PDD collected $165,879, which was deposited into the state's general revenue fund, but the cost to the department of collecting this amount was $71,229.

Determining whether a defendant is truly indigent is further hampered by a lack of written policies and procedures. Offices and magistrate courts not only interpret the current guidelines differently, but often use entirely different application forms, some of which are even further out-of-date than the last PDD guidelines revision.

Efforts to reduce the number of non-indigent clients PDD represents will not succeed without the cooperation of the courts. Although the state Supreme Court has held that courts have the authority to appoint PDD to represent indigent clients, courts frequently use this authority to order public defender representation with little or no inquiry into whether the defendant is truly indigent.

It's in PDD's interest to encourage those who can afford to pay for private legal representation to do so. Charges for contractual services are significantly lower than the level private attorneys would charge for similar services. Other states have adopted sliding scales for contractual services based on a defendant's income, a strategy that might be appropriate for New Mexico. At present, every non-indigent signs a reimbursement contract in the same amount whether his income and assets exceed the indigence cut-off point by $100 or $10,000; basing contracts on defendants' ability to pay may encourage them to meet their contractual obligations if they see some realistic possibility of doing so.

RECOMMENDATIONS

The Public Defender Department should immediately update indigency qualification standards to 130 percent of current federal poverty guidelines and establish procedures to update these standards annually. The department should also prepare uniform, detailed, written guidelines and procedures for determining indigence. These forms should be used by all offices and magistrate courts.

In addition, the state should provide regular on-site training for PDD staff and magistrate court personnel performing indigency determination. Training and updates should be offered at the annual AOC judicial conclave.

PDD should enlist the assistance of the AOC and the New Mexico Supreme Court to require judges to appoint the department to only those represent defendants who meet indigence guidelines.

PDD should review contract fees to determine whether fees should be revised to be consistent with fees charged by private practitioners.

Finally, PDD should employ a sliding scale for contract charges based on the clients' incomes.

FISCAL IMPLICATIONS

These measures are aimed primarily at quality control improvement and paperwork reduction, and should be largely revenue-neutral. There may be some cost savings associated with this paperwork reduction, and cooperation from the courts could result in a slowing of caseload growth.

ENDNOTES

1. Public Defender Act, Section 31-15-7(A)(12) NMSA 1978
2. Quintana v. Schnedar, 115 N.M. 573, 855 P. 2d 562 (1993)
3. Robert Spangenberg et al, Indigency Determination, “Partial Indigency” and Cost Recovery in Louisiana, The Spangenberg Group (1996).

Implement Children, Youth, and Families Department Bracelet Monitoring Program

The Juvenile Justice Division of the Children, Youth and Families Department and the Corrections Department's Adult Probation and Parole Division should share the costs of electronic monitoring for non-violent offenders.

BACKGROUND

Because community-based monitoring systems have been proven to be cost-effective alternatives to locking up non-violent, low-risk offenders, recent changes in state law and parole guidelines for juvenile offenders have increased the numbers of parolees. Unfortunately, these changes did not also increase funding for personnel to help handle the growing numbers of non-violent offenders who are being released.

The solution? More electronic monitoring — a nationwide innovation whose origins are uniquely New Mexican.

Electronic monitoring began in Albuquerque in 1982 when Judge Jack Love of the 2nd Judicial District Court developed the first prototype for use with probationers. Over the next four or five years, the judge and others refined the technology until it was widely accepted by criminal justice experts across the country.

A new generation of electronic monitoring devices enables law enforcement authorities to continuously track offenders using the Global Positioning Satellite (GPS) system and other similar tracking technologies. Instead of simply monitoring an offender's curfew or house arrest, as the first generation of monitoring units did, it is now possible to establish schedules that offenders must follow. For example, an offender may be required to be at work by 8:00 a.m., at a counseling session by 6:00 p.m., and at home by 8:00 p.m. Electronic monitoring can verify his whereabouts for these appointments, as well as designating "exclusion zones" such as a victim's residence, bars, or city parks.

FINDINGS

The Corrections Department's Adult Probation and Parole Division (APPD) has used the first generation equipment since 1988. Over the years, hundreds of adult offenders have been diverted from prison sentences, saving taxpayers millions of dollars.

The state's Juvenile Probation and Parole Office has not used electronic tracking technology as widely, although some first generation units are in place in certain community corrections programs.

APPD currently uses bracelet monitoring alternatives for non-violent offenders. These bracelets are linked to GPS technology and cost less than $7,000 a year, including staff time. The Juvenile Justice Division (JJD) uses community monitoring and other less-secure alternatives as an option to incarceration, but these methods are not applied consistently in each county. Multiple contracts with community providers and local jurisdictions, such as the county courts, have led to inconsistent contract costs and levels of service.

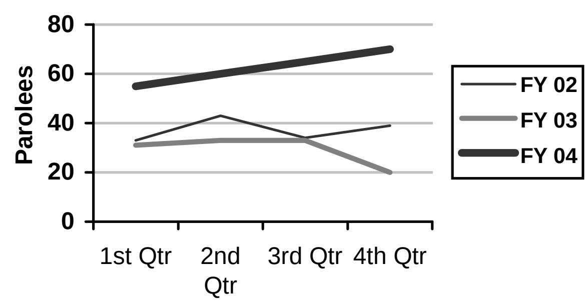
National trends and best practices among juvenile justice experts highlight community monitoring as a an alternative to detention and a cost-management tool for non-violent offenders.

Costs per electronic bracelet are $7,000 to $12,000 a year for lease price, monitoring service, and staff time, compared to an average yearly cost of incarceration of $48,180 per offender at a juvenile facility. JJD currently contracts with 18 separate providers for non-secure alternatives, at an additional cost of $251,000 a year.

In the face of an estimated 40 percent increase in juvenile offenders eligible and approved for 90-day mandatory parole, the effect on field supervision will be substantial.

Exhibit A

Juvenile Parole Rates by FY



RECOMMENDATION

The Corrections Department and the Children, Youth and Families Department should share the costs of electronic monitoring and tracking bracelets for juvenile and adult probationers and parolees to maximize resources and keep growing costs down as much as possible.

FISCAL IMPLICATIONS

This recommendation, if implemented, will result in immediate savings and no additional costs:

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004		24.6			24.6	
2005		24.6			24.6	+6
2006		24.6			24.6	+4
2007		24.6			24.6	+5
2008		24.6			24.6	+4
TOTAL		**123.0**			**123.0**	**+19**

Combining monitoring and equipment leasing costs for adult and juvenile offenders should provide added leverage to negotiate a better contractual rate. Electronic monitoring with tracking and case management services will give juvenile justice field personnel the tools they need to handle the anticipated increase in parolees. With better management tools, recidivism and incarceration rates will decline.

The current contract negotiated with APPD averages $4 per bracelet a day for lease and monitoring of traditional bracelets, and $6 a day for tracking bracelets. Current JJD contracts call for a $10-per day cost for leasing and monitoring of traditional bracelets, with no case management or tracking services.

For every juvenile denied parole, a minimum of an additional 30 days is spent in the facility. The average parole denial rate is 1.5 a month. Given the number of parole denials, the cost of additional days of incarceration, and the estimated savings of combining adult and juvenile equipment leasing and monitoring services for an average of $6 a day, the potential taxpayer savings are significant.

An estimated 200 juveniles will be eligible for parole in FY04. Electronic monitoring will enable field staffers to monitor and track parolees without increasing the number of full-time state employees. In addition, under new guidelines and recent changes to the Delinquency Act, the parole denial rate is expected to drop from the current monthly rate of 1.5 to only one a month.

If a joint agency electronic monitoring contract were implemented, the current rates paid by the state's juvenile justice system would drop an estimated 40 percent. This 40 percent decrease in costs would balance out the estimated 40 percent increase in parolees. Thus, no additional state employees would be needed to handle the increase in juvenile parolees.

ENDNOTES

1. Juvenile Justice Division Interviews, Children, Youth and Families Department:: Data Unit, Budget Unit Director's Office, and Juvenile Community Corrections
2. George Drake, Region Manager, Adult Probation and Parole, Corrections Department; Contract and Budget Review
3. Anne H. Crowe, "Offender Supervision with Electronic Technology," American Probation and Parole Association , www.appa-net.org/newbook.html., May 27, 2003
4. Charlene Knipfing, Director of Probation and Parole Division, Corrections Department
5. The Office of Juvenile Justice and Delinquency Prevention, http://www.ojjdp.ncjrs.org, May 20, 2003
6. Probation and Parole Chiefs Juvenile Justice Division Survey response, Children, Youth and Families Department
7. Legislative Finance Committee, and Department of Finance and Administration analysts
8. Request For Proposals review, Lease of Electronic Monitoring/Tracking Services, Corrections Department, March 27, 2000

Improve Children, Youth and Families Department Food Quality and Services

The Juvenile Justice Division of the Children, Youth and Families Department (CYFD) should consolidate its multiple food vendor contracts into a single agreement, in conjunction with the adult Corrections Department, to increase accountability and save money.

BACKGROUND

The state's Juvenile Justice Division (JJD) contracts with multiple food vendors to serve its facilities across the state. Instances of non-compliance by vendors with their contractual obligations, poor service, and sub-standard food quality have been all too common in recent years. In juvenile reintegration centers, frequent purchases from retail grocery stores to supplement the food supply have led to over-spending and inconsistent quality.

FINDINGS

Although state statutes don't specifically address food vendor selection, the Procurement Code must be followed throughout the bid process. Current food vendor contracts ended on June 30, 2003.

By way of comparison, the Corrections Department contracts with a single vendor for all of its facilities. Some 6,000 inmates on any given day are served an average of 18,000 meals — a total of 10,873,350 meals a year. The contract price per meal is set at $1.655, or $1,812 a year to feed each inmate.

Despite this ready model, JJD continues to contract with multiple vendors to serve an average of 1,650 meals to approximately 550 juveniles on any given day — a total of 602,250 meals a year. The cost per meal in juvenile facilities averages $2.18, or $2,387 a year for each juvenile offender.

These multiple food vendor contracts in the juvenile justice system lead to price disparities among the state's operating juvenile facilities in Albuquerque, Alamogordo, Carlsbad, Las Cruces, Springer, Eagle Nest, and Ft. Stanton. (The Alamogordo reintegration center and the Las Cruces facility are temporarily closed, and the Ft. Stanton center is run by a private contractor and not subject to food vendor contracts.) Some vendors are less reliable or unavailable for weekend deliveries, causing facility staffers to run up to the nearest retail grocery to supplement food supplies — at retail prices.

The predictable results? Food costs far above the amounts laid out in the contracts, budget shortfalls, and ineffective management of staff time, and a lack of accountability with discretionary funds.

RECOMMENDATION

The Juvenile Justice Division of CYFD should consolidate its multiple food vendor contracts into one, operated in conjunction with the adult Corrections Department, to maximize the negotiating and purchasing power of both departments.

Juvenile justice leaders recognize the value of consolidating contracts and are currently checking into the logistics of a single food vendor for their facilities at some point in the future. The *New Mexico Performance Review* recommends reforming the system sooner, rather than later, and believes that the contract expirations at the end of June 2003 make this an especially propitious time to move.

In addition, collaborating with the Corrections Department would provide a unique opportunity to develop a single food service contract that addresses quality, consistency of delivery, and reliability of service, while saving law-abiding taxpayers money through increased efficiency.

FISCAL IMPLICATIONS

Implementing this recommendation would immediately save taxpayers funds and require no additional costs:

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004		69.3			69.3	
2005		138.5			138.5	
2006		138.5			138.5	
2007		138.5			138.5	
2008		138.5			138.5	
TOTAL		**623.3**			**623.3**	

A meal in a juvenile facility averages $2.18, or $1,312,905 a year for 550 juveniles. The Corrections Department has negotiated a better rate of $1.655 per meal, or about $10.8 million a year for 6,000 inmates. With a conservative estimate of $1.95 per meal in the juvenile facilities, the cost per year would drop to $1,174,388, for savings of $138,517. The Corrections Department would not see an immediate cost savings. But with the added negotiating leverage, long-standing issues of food quality and service could be addressed at last.

ENDNOTES

1. Juvenile Justice Division Interviews, Children, Youth and Families Department:: Office of the Director, Budget, Contracts, and Data Units
2. Juvenile Justice Division contracts/budget review, Children, Youth and Families Department
3. Contract review, GSD/PD 003-B1, amended 6/12/02, effective July 1, 2000 – June 30, 2003

Develop and Implement a Dual Qualitative and Quantitative Assessment Tool

The state should transfer the responsibility for data entry, analysis, and reporting on juvenile offenders from the outside contractor to the state's Juvenile Justice Data Unit and develop a single, comprehensive, electronically integrated assessment tool.

BACKGROUND

Structured Decision Making (SDM) is a quantitative assessment tool used by the state Juvenile Justice Division (JJD) probation and parole officers to assess the needs and risk factors of juvenile offenders referred for supervision and services. This tool has not been integrated into The Children Youth and Families Department's Family Automated Client Tracking System (FACTS). JJD also prepares a qualitative narrative baseline assessment for each juvenile offender that is integrated into FACTS.

A WordPerfect version of SDM is currently available. Once a quantitative assessment is completed and printed, manual supervisory approval is required. A manual technical review by JJD's Data Unit precedes data entry, analysis, and reporting functions conducted by the National Council on Crime and Delinquency (NCCD), a national association that was under contract with the state since 1998.

JJD's Data Unit was preparing to take over the data entry, analysis, and reporting functions when the NCCD contract expired on December 31, 2002. However, in March 2003, JJD executed a sole source contract for $33,000 for the period from January 1, 2003 through June 30, 2003. A bid was put out for FY04 earmarking $118,000 for data entry, analysis, reporting, and validation of the assessment tool.

In 1998, the SDM was promoted as a quantitative and qualitative assessment and a replacement for the narrative baseline assessment process. To date, however, both assessments are still required. Meanwhile, JJD's field staff recognizes the value of both assessment tools and supports modification of SDM so that it can be incorporated into the baseline assessment in FACTS to achieve the following:

- A single, comprehensive needs and risk assessment tool to better define services for juveniles and provide measurable baseline and outcome data,
- An integrated, electronic tool to cut paperwork, eliminate duplication, and be readily available on the FACTS data system to staff members in the field, and
- A method for analyzing and reporting on the data in a way that's useful to the Child, Youth and Families Department, where the JJD is housed.

FINDINGS

State statutes do not require or specify the use of the current SDM tool or the contractor services related to the tool. Federal entitlement programs and funding will not be affected by modification of SDM under the current agreement with the Human Services Department.

Previous contracts with the NCCD were developed in preparation for the shift from outside contractors to in-house services. The SDM tool is the property of the state and does not have any type of fees attached to its use by Children, Youth and Families Department (CYFD).

JJD's Data Unit has the staff and experience to handle SDM data collection, analysis, and reporting functions currently contracted to the NCCD.

The validity or reliability of SDM was not assessed during this initial review process. The Children, Youth and Families Department should evaluate whether the SDM is the best assessment tool for the JJD field staff before FACTS is modified or investing additional resources in the tool.

RECOMMENDATION

The Juvenile Justice Division of the CYFD should transfer responsibility for data entry, analysis, and reporting from the current outside contractor to the data unit within the JJD.

SDM, as a stand-alone assessment, fails to meet the needs of the division's field staff. Because the baseline assessment is already integrated with FACTS, the measurable aspects of SDM should be merged into the qualitative, narrative, baseline assessment.

The state should develop a single assessment tool to better serve juvenile offenders who are referred for supervision and services, eliminate duplication, free up the time of field staffers, and facilitate electronic information sharing with other public agencies.

FISCAL IMPLICATIONS

Implementation of these recommendations would require the following investment and produce the following immediate savings:

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004		120.0			120.0	
2005		120.0			120.0	
2006		120.0			120.0	
2007		120.0			120.0	
2008		120.0			120.0	
TOTAL		**600.0**			**600.0**	

These estimated savings are based on the elimination of the current data analysis and reporting contract, which costs taxpayers $118,000 a year. An additional savings of $2,000 a year would come from a reduction in paperwork and postage associated with the contract. Staff time and administrative overhead are not factored into the fiscal implications.

ENDNOTES

1. Children, Youth and Families Department, Office of the Secretary
2. Children, Youth and Families Department, Juvenile Justice Division, Contracts and Data Units (interviews and FACTS demonstration)
3. Legislative Finance Committee Staff
4. Children's Code Review, Section 32A-2-19 NMSA 1978

Reduce Corrections Department Postage

The Corrections Department should review its policy of providing postage stamps to inmates at all its facilities and reduce free postage for personal use.

BACKGROUND

All New Mexico Corrections Department (CD) inmates are provided five free postage stamps each week. According to Corrections Department policy (151201):

- All inmates in Level II, III, IV, V, and VI security facilities will receive postage for five first-class letters per week. The cost of any other postage will be paid by the inmate.
- In Level I security facilities, indigent inmates will receive postage for five first-class letters per week. All other inmates will pay for their own postage.
- A reasonable amount of postage for the following categories of mail will be supplied by facilities for indigent inmates: attorneys, recognized agencies that provide legal assistance, the courts, disciplinary appeals addressed to the disciplinary appeals officer, classification appeals addressed to the Classification Bureau Chief, Parole Board members, the Secretary of Corrections, Department staff located at Central Office, federal and state legislators, and the Governor of New Mexico.

FINDINGS

Each inmate is given 260 taxpayer-funded free postage stamps per year — a number that may exceed minimum constitutional requirements. Court opinions have been mixed as to whether inmates must receive free postage for legal access. Because the access policy is legally untested in New Mexico state courts, the most advisable option is to continue inmates' current mailing rights to courts, judges, and their attorneys.

CD's legal staff has been unable to find a legal precedent for providing inmates with postage stamps for personal correspondence. The single restriction in case law seems to be that prisons cannot prevent inmates from keeping up a reasonable amount of correspondence with family and friends. Both indigent inmates and those who are housed in administrative segregation should be allowed some access to free postage for personal letters. Most prisons find themselves in legal hot water when they try to limit the free postage to such an extent that inmates have to forego any personal mail because of the need to save their allotments of free stamps for their legal access postage.

The challenge of finding a balance that is fair to taxpayers while passing constitutional muster is best met by continuing the present policy for free legal access postage and making sure that all inmates have some ability to mail personal correspondence.

RECOMMENDATION

The Corrections Department should rewrite its policy to reduce the amount of free postage stamps provided to New Mexico inmates. The new policy should allow them two free postage-stamped envelopes, instead of the five postage-stamped envelopes they presently receive. The majority of inmates in state facilities have institutional jobs that pay them a small stipend, as well as funds in their prison trust accounts. They should use these resources to purchase additional stamps if needed.

FISCAL IMPLICATIONS

CD could save about $500,000 over the next five years by eliminating three free stamps per state inmate per week. Research on this issue indicates that 53 percent (approximately 1,743 inmates) of the 3,290 inmates in state-run facilities use five stamps a week. The Department of Corrections can implement this recommendation by changing its current policy.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004		100.0			100.0	
2005		100.0			100.0	
2006		100.0			100.0	
2007		100.0			100.0	
2008		100.0			100.0	
TOTAL		**500.0**			**500.0**	

ENDNOTES

1. Corrections Department Policy
2. Chris Van Norman, Deputy General Counsel, Corrections Department
3. Pat Lopez, Deputy Director , Administrative Services Division, Corrections Department

Address Correctional Officer Retention and Mobile Home Park

The Penitentiary of New Mexico should add 50 additional mobile home spaces to house correctional officers to retain employees and reduce the high staff turnover rate in Santa Fe.

BACKGROUND

The high cost of living in and around Santa Fe and the low wages at the Penitentiary of New Mexico combine to make it increasingly difficult for the Corrections Department (CD) to retain correctional officers at the tri-facility complex.

CD spends $4,300 in training costs per correctional officer at the academy each year, only to lose many of the officers to other jobs that pay more.

During 2002, the Penitentiary of New Mexico (PNM) paid more than $1.5 million in overtime wages due to a lack of correctional officers to fully staff its Santa Fe facilities.

Currently, 18 mobile home spaces house correctional officers on the penitentiary grounds. The officers who live in the mobile home park pay $60 per month for space, and pay for their electricity use, as well. The penitentiary provides natural gas to residents. The officers who live in the mobile home park often work numerous hours of overtime to cover vacant shifts.

FINDINGS

PNM loses its correctional officers to surrounding cities where the cost of living is more affordable. There is adequate space at the Santa Fe facility to add 50 mobile home spaces. According to the physical plant service (PPS) supervisor at the penitentiary, the cost to add 50 mobile home spaces in the existing park would total approximately $75,000. The infrastructure is in place to accommodate these additional trailers.

Earlier this year, lawmakers enacted a law to allow correctional officers to retire after 20.8 years of service. The new law, coupled with inexpensive mobile home space, could encourage new and seasoned officers to live in Santa Fe, significantly reducing high turnover rates, which reached more than eight percent in FY02.

CD academy has an eight-week curriculum, costing $4,300 per cadet. During FY02, 33 custody officers left the Santa Fe facility. It cost taxpayers more than $140,000 to train their replacements.

RECOMMENDATION

The Corrections Department should add 50 mobile home spaces to the existing trailer park at the PNM as an incentive to retain correctional officers in the Santa Fe area.

FISCAL IMPLICATIONS

CD could save training dollars if it provided affordable mobile home space as an incentive to retain correctional custody personnel and reduce the high turnover rate.

Thirty-three trained correctional officers left PNM in FY02. Department officials estimate the turnover rate could be reduced by as much as 20 percent if more affordable housing space were available in the Santa Fe area.

At the rate of $4,300 (training cost per cadet) multiplied by 20 percent (for seven cadets), the taxpayer savings per fiscal year would be $115,000 including one-time savings. The total savings for FY05-FY08 could be approximately $500,000.

Estimated Fiscal Impact
(Dollars in Thousands)

Fiscal Year	General Fund Cost	General Fund Savings	Other Funds Cost	Other Funds Savings	Net Cost/Gain To General Fund	Change in FTE
2004	75.0	115.0			40.0	
2005		115.0			115.0	
2006		115.0			115.0	
2007		115.0			115.0	
2008		115.0			115.0	
TOTAL	**75.0**	**575.0**			**500.0**	

ENDNOTES

1. Connie Bell, Business Manager, PNM, CD
2. Steve Aguirre, Asst. Business Manager, PNM, CD
3. PNM Housing Policy
4. Manuel Pacheco, Physical Plant Manager, PNM, CD
5. Custody Separation Documentation provided by HR-Hughann Maxwell-Loux
6. Pat Lopez, Deputy Director , Administrative Services Division, CD

Transfer Virginia Inmates Back to New Mexico

New Mexico should return state inmates currently housed in Virginia back to the state.

BACKGROUND

On August 31, 1999, a correctional officer was murdered in a prison riot at the Guadalupe County Correctional Facility in Santa Rosa, New Mexico.

As a direct result of this tragedy, a number of inmates involved in the disturbance were transported to Wallens Ridge State Prison (WRSP) in Virginia. At the time, WRSP was a custody level VI prison, the most secure custody level for inmates who have a history of poor institutional adjustment, gang violence, predatory behavior, or are considered escape risks.

During the past four years, the inmates involved in the 1999 murder have been returned to New Mexico or other surrounding states to serve their sentences and await trial. But some New Mexico inmates with violent tendencies and poor institutional behavior histories are still transferred to Virginia for safekeeping.

WRSP has been an effective management tool for violent or disruptive New Mexico inmates. But it has been less successful for state taxpayers.

FINDINGS

As many as 60 New Mexico state inmates have served time in Virginia, and there are currently 17 New Mexico inmates are housed there now. The average cost to keep each inmate in Virginia is $64.53 a day, not including transportation costs, which total $1,166 for a one-way trip per inmate. Taxpayers also pick up the tab for New Mexico corrections officials who are required to make regular "security check" visits to Virginia. Under the current contract, the state receives a discount for multiple inmate moves or inmates being transported as a group.

The Corrections Department (CD) prison system recently underwent a complete restructuring of its inmate custody levels, creating a more effective multi-custody level system (levels I through VI). Levels V and VI were initially designed to house 544 special management beds for dangerous inmates designated for the highest level of security.

Since 2000, the Penitentiary of New Mexico in Santa Fe has housed custody level V inmates at its South Unit and level VI inmates at its North Unit. Southern New Mexico Correctional Facility also houses custody level VI inmates.

RECOMMENDATION

The Corrections Department should return all 17 state inmates currently housed in Wallens Ridge State Prison, a level V facility and place them into custody level VI institutions.

Because of the recent restructuring of the state prison system, New Mexico now has the ability to manage custody level V and VI inmates. This newly implemented level system has been greatly effective in reducing prison violence and has proved to be a productive tool in managing the inmate population.

FISCAL IMPLICATIONS

By eliminating inmate housing expenses and costly transportation fees, taxpayers could save $671,100 over the next five years by transferring New Mexico inmates from Virginia back to the state.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004	15.1	342.7			327.6	
2005		82.1			82.1	
2006		82.1			82.1	
2007		82.1			82.1	
2008		82.1			82.1	
TOTAL	**15.1**	**671.1**			**656.0**	

It costs New Mexico taxpayers $64 a day to house each of the 17 inmates currently in Virginia — a total of $397,120 a year. When transportation costs are added in, the total taxpayer cost is $417,120. The marginal cost to house the same 17 inmates per year in New Mexico prison is $74,460 annually ($12 a day per inmate), thus offsetting the savings

As of this writing, the New Mexico prison population is at 97 percent capacity. The projected prison population for years between 2005 and 2008 is 100 percent capacity. In the very near future, it will become necessary to house state inmates at overflow contract facilities in New

Mexico. The average cost in these facilities is $54 a day, as opposed to $64 a day in Virginia, making the taxpayer savings for housing inmates at contract facilities in New Mexico at $10 a day per inmate.

ENDNOTES

1. Guadalupe County Correctional Facility Riot Analysis (Page 281)
2. Virginia Department of Corrections-Security Levels
3. NMCD Average Cost per Inmate/Bases on FY 02 Actual Expenditures
4. Special Controls Facility Informational Brochure/Penitentiary of New Mexico
5. Calculations provided by Pat Lopez, ASD-Deputy Director

Deport Foreign National Inmates

The Corrections Department should deport certain foreign-national inmates to free up prison space and increase public safety.

BACKGROUND

New Mexico criminal justice authorities have traditionally followed the lead of their U.S. counterparts by prosecuting and incarcerating foreign nationals who are convicted of crimes while in the state illegally. As a result, a number of non-U.S. citizens are occupying space in New Mexico prisons.

Public safety is the first duty of state government. That's why most New Mexicans agree that incarceration is the proper course of action in cases of violent or habitual serious offenders, regardless of whether they are in the state without benefit of documentation. For non-violent offenders, however, deportation to their country of origin may be a more cost-effective solution, especially when state prisons are at capacity.

Under current practice, when an undocumented offender who qualifies for parole from prison with a Bureau of Citizenship and Immigration Services (BCIS) detainer, the state's probation and parole office typically turns him over to federal agency and issues an order for his arrest for violating the nation's immigration laws. This arrest warrant is then placed into the state's records system. Because the conditions of parole require the former inmate to remain out of the U.S. during the period of his parole, he is subject to immediate arrest if stopped by law enforcement officers. In these cases, the BCIS is notified and the former inmate is eventually prosecuted for illegal entry into the country.

FINDINGS

As of May 2003, the Corrections Department (CD) had 281 foreign nationals in its custody. Of these, 105 were classified as level 1 or level 2 security risks, the two lowest categories on the department's six-level rating system.

Federal funds currently help defray the cost of housing foreign nationals convicted of crimes in New Mexico. Last year, the state received nearly $1.8 million from the federal State Criminal Alien Assistance Program (SCAAP) to house some 300 offenders. On average, the state receives just under $6,000 a year for each incarcerated foreign national. This amount falls short of the actual costs of incarceration, which average about $24,000 a year per inmate. Any savings resulting from the deportation of non-violent foreign national inmates would be partially offset by a loss of federal SCAAP grants.

Two New Mexico statutes authorize the early parole of inmates. The Corrections Population Control Act (Sections 33-2A-1 through 33-2A-8 NMSA 1978) and the Community Corrections Act (Section 33-9-3 NMSA 1978) provide for non-violent offenders meeting certain conditions to be released to the community before completing their prison sentence.

Under the Prisoner Transfer Treaty (signed by most western and European nations), inmates who are citizens of signator countries may be transferred to complete their sentences in their home country. A reciprocal provision allows for U.S. citizens serving prison sentences abroad to be imprisoned in the U.S. However, the treaty requires the consent of the inmate before any such transfer. Because prison conditions are often considered worse in their home countries than here, most foreign nationals incarcerated in New Mexico withhold consent for the transfers.

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RECOMMENDATIONS

To increase public safety and generate significant taxpayer savings, the state should free up prison space by screening non-violent foreign nationals in the New Mexico prison system for the possibility of transfer under the provisions of the Prisoner Transfer Treaty. Those who fail to qualify under treaty provisions should be reviewed for possible early parole.

CD should draft policies and procedures allowing for the early parole of low-risk foreign nationals for deportation to their countries of origin. This recommendation requires no legislative action.

Only foreign nationals from countries with deportation agreements with the BCIS are included in this recommendation. Because a majority of the foreign nationals in New Mexico prisons are originally from Mexico, most would be eligible for transfer or deportation. There are no such agreements with Cuba so the small number of Cuban nationals in state prisons are are not covered by this recommendation.

This plan can be implemented as soon as CD drafts and implements a policy and procedures governing the release of these offenders.

FISCAL IMPLICATIONS

By deporting or transferring eligible inmates, the state could save $54 a day (the cost of contracting with an outside agency or private facility to house an inmate) for each affected inmate, and make available valuable prison space in overcrowded state facilities.

Of the 105 low-risk foreign nationals currently in state custody, an estimated 50 could be deported or transferred during the first year, and 10 additional inmates each year thereafter. For each foreign national deported or transferred, the state would lose $6,000 in federal SCAAP funds, as shown in the "Other Funds Cost" column below.

Estimated Fiscal Impact
(Dollars in Thousands)

Fiscal Year	General Fund Cost	General Fund Savings	Other Funds Cost	Other Funds Savings	Net Cost/Gain To General Fund	Change in FTE
2004		985.5	300.0		985.5	
2005		197.1	60.0		197.1	
2006		197.1	60.0		197.1	
2007		197.1	60.0		197.1	
2008		197.1	60.0		197.1	
TOTAL		**1,773.9**	**540.0**		**1,773.9**	

CD is likely to use outside agencies or private facilities to address its inmate population expansion, so the cost of contracting with an outside agency or private facility to house an inmate is used to measure savings.

ENDNOTES

1. Robert Alford, Central Office, CD
2. Office of Justice Programs "SCAAP Distributions", http://www.ojp.usdoj.gov/BJA/html/scap_2002.htm (May 22, 2003)
3. 18 USC Part III, Chapter 306, Sections 4100-4115 and 4107
4. Pat Lopez, Director, Administrative Services Division, CD
5. Mike Martinez, Corrections Administrator, New Mexico Corrections Department

Collect Commissary Gross Receipts Tax

State prisons and county jails should collect and remit sales taxes on all commissary sales of taxable products to inmates.

BACKGROUND

State prisons operate commissaries to provide inmates with toiletries, shoes, and other personal items, as well as radios, cigarettes, food, candy, and beverages. Some have an order-and-deliver system, while others simply operate with walk-up windows.

Inmates are not allowed to carry cash. State and private prison operators maintain inmate accounts into which deposits are made from the work some inmates perform while in prison or jail and from family members or friends who send money. These inmate accounts are then debited when the inmate purchases an item in the commissary.

To purchase items from commissaries, inmates must complete an order form. Commissary personnel (prison employees with inmate assistants) fill the orders and charge the inmate's trust account for the purchases. Upon release from prison, inmates receive a check for any balance in their accounts. Some facilities have walk-up windows where inmates may spend tokens they receive in return for prison work.

The money earned from commissary sales is used to restock the prison store. Profits go into the Correction Department's (CD) general fund and are counted as revenue in each facility's budget.

FINDINGS

Unlike law-abiding New Mexico citizens, however, inmates housed in state prisons and jails pay no gross receipts taxes on the item they buy. This is not only unfair, but the amount of money the state foregoes can add up. Inmate commissary sales for FY02 were $935,600. Meanwhile, New Mexico's private-prison operators do collect and remit tax on taxable items sold in their commissaries. This double-standard leads to inequity between inmates housed in publicly operated and privately operated facilities.

RECOMMENDATIONS

The Legislature should amend Section 7-9-3.2 NMSA 1978 to require prison and jail inmates to pay gross receipts tax on all purchases of taxable products, just as New Mexico families do. Subsection A of that law states that the tax applies to facilities open to the general public thereby exempting prison commissaries. This change would increase state revenue while helping inmates become more responsible taxpayers.

All state-operated facilities use the same software program to track commissary sales. Minor modification to the computer program used by state-operated facilities may be necessary to track the taxes.

FISCAL IMPLICATIONS

Because this proposal requires legislative action during the 2004 session, any revenue collected for the general fund could not occur until the start of FY05.

If sales taxes had been assessed on $935,600 in commissary sales during FY02, the state would have collected about $46,780 in additional general fund revenue.

Assuming commissary sales remain static in future years, the cumulative general fund revenue over the next five years could reach $186,800.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004						
2005		46.7			46.7	
2006		46.7			46.7	
2007		46.7			46.7	
2008		46.7			46.7	
TOTAL		**186.8**			**186.8**	

ENDNOTES

1. Pat Lopez, Deputy Director, Administrative Services Division, CD
2. Wanda Helms, Bureau Chief, Administrative Services Division, CD

Reclassify Investigators to Probation and Parole Officers

The state should ease the growing caseloads of probation and parole officers and increase effectiveness in the Probation and Parole Division by reassigning certain jobs to handle more case supervision.

BACKGROUND

In 1996, the Corrections Department (CD), Probation and Parole Division (PPD) initiated the concept of community response teams. The idea was to have armed probation and parole officers, who normally supervise a caseload of offenders, on call for special projects. The team might be asked to respond to high profile investigations, escapes, or any other incidents deemed appropriate by the division director.

Because of its size, the Albuquerque region (Region II) created a fulltime unit known as the "Intensive Community Policing" (ICP) team, which is comprised of two probation and parole officers who have completed extensive training and certification at the state's Law Enforcement Academy. These officers are assigned to the Special Investigation Division of the Albuquerque Police Department (APD).

In 2001, PPD converted three additional Region II positions to investigators and added them to the ICP team. These investigators did not attend the Law Enforcement Academy; instead, they completed a shortened training provided by CD. Unlike the original ICP team members, these officers cannot carry concealed weapons. This is a limitation that prevents them from being assigned to APD's Special Investigation Division. Their primary function, therefore, is to assist other officers in tracking down probationers and parolees who have avoided supervision. They also help probation and parole officers with complex investigations of offenders who are suspected of violating supervision conditions. One of the investigators is assigned to the US Marshall's fugitive task force on a half-time basis.

While the specialized programs within the Region II Probation and Parole office are growing, the section of the office assigned to supervising non-specialized casework receives a vast majority of the assignments. Before the emphasis on specialization, 54 employees managed an average of 3,500 offenders in Region II. Now, the same district supervises more than 4,000 offenders with only 45 positions.

FINDINGS

With growing caseloads for probation and parole officers in many districts, even the most basic supervision standards are difficult to meet. Offenders sometimes lack the attention they need and are more likely to violate the terms of their supervision.

Two of the investigators currently assigned to locate and apprehend parole violators are performing the same function as other law enforcement agencies in Albuquerque. The Albuquerque Police Department, the Bernalillo County Sheriff's Office, and the US Marshall's Office all have staff dedicated to the apprehension of fugitives. In fact, these agencies actively seek work from PPD staff members. By nurturing cooperative relationships with local law enforcement agencies, the fugitive searches and other investigations currently performed by state investigators could often be referred to local law enforcement.

RECOMMENDATION

The Probation and Parole Division should reassign two of its five investigator positions in Region II to standard probation and parole casework. These employees currently do not supervise cases, and by transferring them to traditional casework, some 180 cases could be taken from other officers who are struggling under growing caseloads. One of the investigator positions is vacant, and plans are underway to reclassify that position to an administrator. The remaining two investigators, which have full law enforcement certification, could each be assigned to one of the two Albuquerque region managers to perform investigations as needed. This proposal could be implemented immediately.

FISCAL IMPLICATIONS

Implementation of this recommendation would avoid the need for CD to hire additional officers in Region II. Although PPD has repeatedly requested staff in recent years, those requests have been only partly approved, leading to an increase in caseload for each of the division's officers. Because it's uncertain whether the division will receive funding for new positions in FY04, forecasting the financial impact of this recommendation is difficult.

Even so, this recommendation makes more efficient use of taxpayer resources. Positions for the Region II probation and parole office will eventually need to be funded, and this recommendation would help avoid approximately $362,066 in costs over a five-year period. This figure is the salaries cost for two probation and parole officers' positions. The additional supervision given to the offenders would improve the success rate of the 4,000 offenders being supervised, resulting in additional savings to the state. Any reduction in caseload size would also be a welcomed relief to officers. This could help reduce officer burnout and improve employee retention, providing yet another savings by not having to train new officers.

ENDNOTES

1. Intensive Community Policing Staff Interviews
2. Probation Parole Officer Interviews, Region II Office
3. Corrections Management Information System query

Increase Probation and Parole Fees

The state should revise the minimum probation and parole fees assessed to criminal offenders to defray the cost of their supervision.

BACKGROUND

In 1980, state lawmakers decided that lawbreakers should help defray the costs that taxpayers spend on their supervision, and authorized New Mexico courts and the Adult Parole Board to assess offenders who qualified for probation or parole a modest fee. Fees were collected by employees of the Corrections Department (CD) Probation and Parole Division (PPD) and deposited into the state general fund. A sliding scale of $15 to $85 a month was established, depending on an offender's ability to pay.

When the Legislature authorized the establishment of an Intensive Supervision Program within (PPD) in 1988, the supervision fees were used to fund the new program. Intensive supervision has grown from 10 full-time state employees in FY89 to more than 50 in FY03. The supervision fees now cover only a small portion of program costs, which now has an annual operating budget of more than $2 million.

FINDINGS

During FY02, a total of $880,000 was collected from criminal offenders. In nearly all probation cases where supervision fees are assessed, the minimum $15 a month allowed by law is the amount ordered and collected, and parole cases routinely assess a slightly higher $20 monthly supervision fee. About 88 percent of

PPD's caseload are probationers and 12 percent are parolees.

An analysis of fee collections from the past three fiscal years shows a healthy 8.3 percent annual increase, due in large part to larger caseloads and better enforcement by officers of the fee collection. Although modest increases in fee collections are expected in the coming years, the rate of increase seen over the past three years will probably not be sustained.

Fiscal Year	Fees Collected
2000	$ 721,465
2001	$ 842,647
2002	$ 880,077
2003 (est.)	$ 915,000

The challenge is clear: the supervision fee structure established more than two decades ago is no longer keeping pace with the growth of New Mexico's otherwise successful probation and parole operations.

Other states have revised the supervision fees they assess to probationers and parolees. In Idaho, for example, a state whose probation and parole programs are of comparable size to New Mexico's, lawmakers raised the supervision fee from $35 a month to $40 a month. With 5,650 offenders paying into this fund each month — many of them, like New Mexico's, from poor, rural areas — Idaho projects an increase in collections of $339,000 annually.

RECOMMENDATIONS

The Legislature should revise the minimum probation and parole supervision fees to $25 a month from the current $15, a change that would require amendments to Sections 31-20-16 and 31-21-10 NMSA 1978. The revised fee should be tied to the Consumer Price Index and be adjusted every five years. The new law should contain a provision allowing for future fee revisions, if necessary, to make sure citizens are not asked to shoulder an unreasonable portion of the cost of supervising probationers and parolees.

FISCAL IMPLICATIONS

If this recommendation is approved during the 2004 legislative session, any revision in the monthly rates would not take effect until the start of FY05. The revised rates would not be retroactive, and only offenders sentenced to probation or paroled after July 1, 2004 would be assessed under the new fee schedule.

The full fiscal benefit of this recommendation would take a number of years to be realized, but the revised supervision fee could produce an additional $1 million over the next five years and approximately $510,000 a year thereafter.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004						
2005		102.0			102.0	
2006		204.0			204.0	
2007		306.0			306.0	
2008		408.0			408.0	
TOTAL		**1,020.0**			**1,020.0**	

By changing the scale to make the minimum amount $25 per month, collections would rise significantly and reach a 55 percent increase by the time the recommendation is fully implemented.

ENDNOTES

1. Sections 31-20-06, 31-21-10 and 31-21-13.2 NMSA 1978
2. Cynthia Pittman, PPD Financial Manager
3. Probation Parole Division Monthly Statistical Report, May 2003
4. Idaho House Bill No 71 http://www.3.state.id.us/oasis/H0071.html

Make Offenders Pay for Community Programs

The state should require that many offenders participating in community corrections programs pay for a portion of the services they receive.

BACKGROUND

The Community Corrections Act of 1983 established the community corrections fund that provides for the counseling or housing needs of offenders under the supervision of community corrections programs. A local selection panel approves or denies each applicant's request to participate during an initial screening process. Issues such as community ties, likelihood of success, level of need, and financial status are taken into consideration. Applicants who are approved are placed into programs offered at no charge to the offender.

There are various local service providers across the state who supply programming. They are generally contracted by the Corrections Department (CD) to deliver a wide array of services, including drug counseling, substance abuse testing, mental health counseling, sex offender treatment, and housing. The community corrections fund pays all expenses.

One service provider has realized that many of the participants in its program could afford to contribute to the cost of their treatment. This provider considers the treatment more effective if the offender has a financial stake in the process and is able to treat substantially more offenders under its community corrections contract by using a co-payment system. Other community corrections vendors could follow this cost-saving measure.

FINDINGS

The Paso Nuevo community corrections program obtained 10 percent of its total billings from offenders participating in treatment and believed that a little more effort might have boosted the total to between 12 percent and 15 percent. The *New Mexico Performance Review* believes that this success can be duplicated in many other community corrections programs.

CD's legal counsel has recently raised questions about whether vendors are authorized to collect funds from community corrections offenders. This uncertainty underscores the need to amend state statutes to make it clear that local providers contracting with the CD's Probation and Parole Division (PPD) are allowed to collect these fees.

There are currently $4.2 million in community corrections contracts awarded annually by the state. The vendors who win these contracts serve 832 offenders. Of those, 762 are in an outpatient setting and could be screened for their ability to pay a co-payment for the services they receive. If half of these offenders can contribute $10 each week toward the counseling costs, general fund support could be reduced by nearly $200,000 per year.

To ensure an offender's ability to make crime victim restitution is not impaired, community corrections co-pays should be set after a full evaluation. CD should develop a community corrections co-pay standards that consider an offender's income and expenses, including all court-imposed financial obligations, before probation and parole officers set the co-pay for each participant.

RECOMMENDATIONS

Legislation should be introduced during the next session to require community corrections co-pay standards based on the offendor's ability to pay, as determined by their probation or parole officers. Auditing of these contracts should include a review of the efforts by the vendor to collect a co-payment from the offender.

FISCAL IMPLICATIONS

Because legislative action is necessary to implement this recommendation, there will be no savings for FY04. Savings in the following fiscal years are estimated by assuming that about half of the 762 offenders currently receiving community corrections services could afford to pay an average of $10 a week toward their treatment. Over the next five years, nearly $800,000 could be collected to support community correction programs, including Drug Court and Transitional Reporting Center programs managed by the Community Corrections Administration.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004						
2005		198.1			198.1	
2006		198.1			198.1	
2007		198.1			198.1	
2008		198.1			198.1	
TOTAL		**792.4**			**792.4**	

ENDNOTES

1. Section 33-9-3, NMSA 1978
2. Proposal submitted by Bill Chambreau, Paso Nuevo Sex Offender Program
3. Nick D'Angelo, Chief Legal Counsel, CD
4. Sherry Helwigg, Community Corrections Administrator

Implement Electronic Bracelets for DWI Offenders

The state should implement a pilot project to test the use of electronic tracking bracelets for select DWI offenders to increase public safety.

BACKGROUND

Existing efforts to curtail the number of driving while intoxicated (DWI) incidents have failed to return results equal to their cost. In 2001, there were 19,501 DWI arrests in New Mexico, and an alarming 48.7 percent of all jail sentences were for DWI-related offenses, one-third of them in Bernalillo County.

More than 60 New Mexicans lose their lives in drunk-driving accidents each year; thousands more are maimed and injured, changing their lives and the lives of their loved ones forever.

The emerging Global Positioning System (GPS) technology may provide the kind of partial solution that has thus far eluded state and local officials. Many DWI offenders, especially repeat or habitual violators, might be effectively monitored by electronic means to assure they don't drive unlawfully and endanger the general public.

GPS technology is currently used successfully to track the movements of many high-risk criminal offenders. In addition to providing location data, this system also measures the speed of an offender's movements. By using GPS tracking systems, it might be easier to establish if an individual is in a moving vehicle. Many believe that equipping both DWI offenders and city buses with tracking equipment could make it possible to ensure that repeat DWI violators stay out from behind the wheel and only use public transport. If offenders tracked in this way agreed to install the GPS equipment and an ignition interlock device on their personal vehicles, the public transportation requirement could be waived.

The GPS system could readily determine that the DWI offender is moving in a vehicle, and that the vehicle is a sanctioned mode of transportation also being tracked by the system. Because the ignition interlock system periodically tests for sobriety, the driver cannot operate the vehicle while impaired.

FINDINGS

Each day in New Mexico, some 500 individuals are held on DWI charges in local detention facilities. Another 420 are detained by the state's Corrections Department (CD). Housing these DWI offenders costs state and local taxpayers more than $18 million a year.

Of the 420 DWI offenders held at CD facilities, 208 have no other felony charges associated with their detention, although many face additional misdemeanor charges, such as failure to provide proof of insurance or driving on a suspended license.

Nearly all of the state's DWI inmates have four or more DWI convictions.

Some believe that habitual DWI offenders who show little regard for state law or the safety of others should be separated from society and not allowed to get behind the wheel of a vehicle. Lengthy jail sentences for these repeat offenders, many argue, are justified to protect law-abiding citizens.

It might be possible to keep the general public safe from these habitual offenders, however, while also protecting taxpayers' pocketbooks. The use of electronic tracking equipment on even a small percentage of current DWI cases could reap substantial savings.

GPS tracking could provide real-time data to boost accountability and prove compliance with the conditions set by the courts for repeat DWI offenders. Using GPS technology in this innovative way would be unique to New Mexico, as far as the *New Mexico Performance Review* team has been able to determine. Because it hasn't been tested elsewhere, no statistics exist. But other states are discussing the potential of using "black boxes" similar to those on airplanes to record vehicle data for use in prosecuting problem drivers. If this idea finds favor, it would enhance the capabilities of a GPS tracking system to monitor DWI offenders.

The most prominent anti-DWI group, Mothers Against Drunk Driving (MADD), has supported innovative approaches to combating DWI. MADD endorsed the vehicle interlock technology now used as an alternative to incarceration.

RECOMMENDATIONS

The state should enact legislation to authorize the use of GPS tracking equipment in a pilot project to be used as a sanction for selected repeat DWI violators. The pilot should be set up in Albuquerque to test the technology.

The Metropolitan Detention Center (MDC) and CD should screen their repeat DWI offenders to fill 100 pilot project slots. Sixty percent should come from the MDC and 40 percent from CD. CD participants should be considered only if they are not being held for other felony offenses and are within three months of their projected release date.

The pilot project should be evaluated for a three-year period.

FISCAL IMPLICATIONS

GPS tracking equipment can be leased for $6 a day or about $2,190 a year per unit. An office of six employees assigned to electronically monitor 100 DWI offenders and 153 city buses would cost approximately $500,000 per year. The total cost for operating would be about $806,300 a year — as opposed to the more than $2 million annually it costs taxpayers to incarcerate the same inmates.

It's important for the state to take the lead in meeting the continuing public safety and financial challenges of dealing with habitual DWI offenders. Over the full course of the three-year pilot project, total savings would be $3.7 million, much of it would be at the county level. If successful and implemented statewide, savings would be substantial in future years.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004						
2005	806.3	817.6		1,226.4	11.3	+6
2006	806.3	817.6		1,226.4	11.3	
2007	806.3	817.6		1,226.4	11.3	
2008						
TOTAL	**2,418.9**	**2,452.8**		**3,679.2**	**33.9**	**+6**

ENDNOTES

1. "Driving While Impaired, New Mexico 2001", New Mexico State Highway and Transportation Department, Transportation Programs Division, Traffic Safety Bureau
2. "The Interface Between Jails and Prisons in New Mexico's Criminal Justice System", New Mexico Criminal Justice Statistical Analysis Center, June, 2000, page 28
3. Shirley Marquez, Data Processing, Metropolitan Detention Center
4. Dr Joseph Hoshen, Senior Member of the Technical Staff, Motorola, Inc, Naperville, IL, May 14, 2003
5. Robert Alford, Correction Department, Central Office
6. National Public Radio Broadcast, 05-28-2003, transcripts available via Internet at http://www.npr.org

Reduce Criminal Background Check Backlog

The Department of Public Safety Records Bureau should adjust its fees to cover the costs of background checks, and state agencies should charge a uniform fee for background checks.

BACKGROUND

The Department of Public Safety's (DPS) Records Bureau maintains the central repository for information on the criminal histories of New Mexico citizens and acts as the state's liaison to the Federal Bureau of Investigations (FBI).

The Records Bureau maintains arrest record information on persons arrested in New Mexico for felony, certain misdemeanors, and driving while intoxicated infractions. This information is based on finger print cards obtained at the time of arrest, which serve as the primary source document for criminal history and are submitted to the central repository by the arresting agency. The Records Bureau also maintains a repository for sex offender registration information, as well as a public Web site and missing persons information clearinghouse.

The Records Bureau consists of one bureau chief, three supervisors, 17 permanent state employees, and 10 contractors. Together, this staff processes background checks that include:

- Date stamping all fingerprint cards as they are received,
- Ensuring that fingerprint cards have the proper payment and are filled out completely and accurately,
- Returning problem fingerprint cards with form letters identifying the problem, and
- Searching applicant fingerprint cards to determine if an arrest record exists.

If no record exists, the Records Bureau staff enters the required information into a database for tracking purposes, separates the fingerprint cards, and forwards one to the FBI and the other with the appropriate response to the appropriate agency. If a record does exist, the staff first updates the record, then follows the procedure outlined above.

The Children Youth and Families Department (CYFD), the State Department of Health (DOH), and the Department of Public Education (SDE) all work individually and independently with DPS to conduct criminal records checks for various employee and provider groups, paying for the checks out of their own budgets.

FINDINGS

Workloads across state government have grown in recent years — as much as 400 percent in some agencies — while staffing levels have remained the same or even declined. This trend is especially evident in DPS, where new statutory requirements such as the Sex Offender Registration Act, the Missing Persons Information Clearinghouse, and the State Tracking Number System have added to the work demand, including requirements for background checks.

In response, DPS has tried to streamline the background check process in a number of ways, from on-line checks of publicly available information to an Interim Distributing Imaging System (IDIS) that allows other state agencies to forward fingerprint cards directly to the FBI. (This IDIS software is four years old and lacks audit and administrative capabilities to track the actual number of checks going directly to the FBI.)

Still, many state agencies depend on the Records Bureau for accurate and reliable background information on newly-hired employees, providers, and foster parents. Because of a backlog in DPS, some state agencies devote their own staffers to the process to speed it along. Some even go to DPS offices to conduct their own record searches.

"If the database were caught up, there would no longer be a need for so much involvement by other agencies," one state employee said.

The Records Bureau processes an average of 180,000 background checks a year, about half of which come from law enforcement and criminal justice agencies. Of the $34 the bureau collects for each external check it processes, $24 goes to FBI, $7 to the DPS, and $3 to the outside electronic access contractor.

DOH conducts about 20,000 checks per year, with a unit of seven staff members dedicated to the function. CYFD has a staff of six who conduct another 14,000 checks of their own each year. SDE does 7,200 checks annually, all of them performed by a single state employee. DOH is the only state agency that charges an administrative fee — $31.00 per background check, which nets some $620,000 a year to help defray costs.

The Records Bureau has maintained operations by using up to a dozen contract employees for clerical functions, paid for in part through federal funds. Still, the backlog in the bureau is about 15,000 records. Contractors have helped keep the bureau current with much of its critical work, but the backlog continues to grow. Even worse, funding for contract employees may disappear in FY04.

RECOMMENDATIONS

The Legislature should direct the DPS Records Bureau to charge an additional $7.26 for each background check as an administrative fee in 2004 to cover staffing and system upgrade costs. The total charge for each background check should be increased from $34 to $41.26 ($24 for the FBI, $14.26 for the DPS, and $3 for the outside electronics access contractor). These fees should be adjusted annually to reflect the actual cost of background checks.

The state should allocate 15 additional permanent staff to the Records Bureau to maintain current workload, which has increased because of recent legislative mandates.

The DPS Records Bureau should update its IDIS software to track all FBI background checks.

The state should allocate 12 temporary employee positions to the DPS Records Bureau for six months to eliminate the backlog. The Legislature should direct the Records Bureau to impose an additional surcharge of $2.80 for six months. Once the backlog is eliminated, the fee to DPS would reduce again to $41.26. Also, once the DPS backlog is eliminated, CYFD and DOH should reduce the number of full-time positions assigned for research. Exempt staff appointed by the Governor should pay the determined fee for background checks.

All state agencies requiring background checks should charge a uniform fee between $20 and $35. (The exact amount may require a full fee study beyond the scope of this report.) State lawmakers should consider setting up a consistent administrative fee across state government to cover overhead costs. The legislation should ensure that fees are distributed for the appropriate program with statutory authority.

FISCAL IMPLICATIONS

The primary purpose of this recommendation is to help the DPS cope with the increased need for additional staff and technological updates. The department will need to raise additional revenue of $653,200 to afford 15 additional permanent FTE and pay for the software upgrade. Provided DPS can process and charge fees for 90,000 background check requests per year, DPS can increase its administrative fee by $7.26 and achieve such an increase in revenue. While this will allow for the expansion of the department, necessary to accommodate to the growing workload, DPS still needs 12 more temporary FTE to eliminate the existing backlog of 15,000 records. The department will impose a temporary surcharge of $2.80, which will increase its revenue by another $125,788, precisely what is required to cover these staffing costs. Thus, DPS will increase its fees by the amount exclusively needed to cover most urgent expenses.

Elimination of the backlog will allow other departments, such as CYFD and DOH, to cut in half the staff currently devoted to the background checks research. This will provide $161,502 in annual savings to the departments. Currently, the background check fees are deposited to the general fund, the fiscal estimate assumes the revenues will continue to be deposited with the general fund.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004	389.5	470.2			80.7	
2005	653.0	814.5			161.5	+15
2006	653.0	814.5			161.5	
2007	653.0	814.5			161.5	
2008	653.0	814.5			161.5	
TOTAL	**3,001.5**	**3,728.2**			**726.7**	**+15**

ENDNOTES

1. Department of Health: Steve Dossie and Jack Callahan
2. Children, Youth and Families Department: Kirk Rowe, Thomas Montoya and Barbara Roe
3. Department of Public Safety: Paul Herrera
4. Records Bureau Division Director and Bureau Chief on April 23, 2003
5. Health and Human Services New Mexico Performance Review Team

Improve Law Enforcement Services

The state should improve the organizational structure of the Department of Public Safety to boost morale among law enforcement officers, reduce high turnover rates, and improve public safety.

BACKGROUND

In 1987, the Legislature created the Department of Public Safety (DPS) to establish a single, unified agency to "consolidate state law enforcement and safety functions in order to provide better management, real coordination and more efficient use of state resources and manpower in responding to New Mexico's public safety needs and problems and to improve the professionalism of the state's law enforcement and investigative functions and personnel."

The divisions authorized under this law and subsequent amendments are the New Mexico State Police Division, the Special Investigations Division, the Training and Recruiting Division, the Technical and Emergency Support Division, and the Administrative Services Division. In addition, the Motor Transportation Division was transferred to the DPS from the Taxation and Revenue Department in 1998.

The New Mexico State Police, the Special Investigations Division, and the Motor Transportation Division each operate as three separate law enforcement agencies within the DPS. Under state law, the Chief of Police is the director of the New Mexico State Police Division, which is given the following powers and duties:

- To preserve the peace within the state, with full power to apprehend, arrest and bring before the proper court all law violators within the state

- To serve as ex officio deputies and agents of all the offices of the Taxation and Revenue Department and of the officers and departments within the state charged with the registration of motor vehicles, the issuance of licenses to operators of motor vehicles, and the regulation of motor vehicles operated on state highways
- To enforce any state law upon request by any officer or agency of the state to the New Mexico state police board.

The Special Investigations Division is responsible under state law for the enforcement of the Bingo and Raffle Act and Liquor Control Act.

The Motor Transportation Division is charged with enforcement of the provisions of the Motor Carrier Act, and its officers are police officers as defined in state law, which provides for law enforcement training.* The Motor Transportation Division is authorized to administer the laws on highways and designated by the Taxation and Revenue Department to enforce rules and regulations relating to motor vehicles. Finally, Motor Transportation Division officers are part of the Department of Public Safety Accident Reconstruction Team, the Drug Enforcement Administration Narcotics Task Force, and the Joint Terrorism Task Force.

The DPS operates two separate law enforcement academies: the New Mexico Law Enforcement Academy for the state police and another for all other law enforcement agencies, from special investigators to motor transportation and local law enforcement officers (see Recommendation CJ 15).

The public safety agency also administers two separate pay plans for its staff, one for the state police and one for all other department employees. In addition, the Public Employees Retirement Association administers two separate retirement plans for DPS staff, one for the state police and one for all other department employees.

In 1999, after state lawmakers enacted the Accountability in Government Act requiring state agencies to implement a system of performance-based budgeting, the DPS established the Law Enforcement Program, which includes the New Mexico State Police Division, the Special Investigations Division, and the Motor Transportation Division.

FINDINGS

Each of the three Department of Public Safety divisions is responsible for enforcing New Mexico laws. The program structure under the 1999 Accountability in Government Act has effectively created a fragmented system wherein Special Investigation and Motor Transportation directors report to a third division director, the state Chief of Police.

Moreover, the different pay scales and retirement plans have led to poor morale and high turnover rates among the state law enforcement community. Not only does poor morale inevitably affect public safety, but high turnover rates cost taxpayers in overtime pay and the expense of training new officers.

RECOMMENDATION

The state should improve the organizational structure of the Department of Public Safety to boost morale among law enforcement officers, reduce high turnover rates, and improve public safety.

ENDNOTES

1. Intensive Community Policing Staff Interviews, May 14, 2003
2. Probation Parole Officer Interviews, Region II Office, May 12-16, 2003
3. Corrections Management Information System Query, May 18, 2003
4. NMSA 65-1-6

Consolidate Training Academy Schedule

The Department of Public Safety training division can significantly reduce operating expenses by changing its training schedule to 10 hours per day, four days per week.

BACKGROUND

The Department of Public Safety's (DPS) Training and Recruiting Division's mission is to set rules, policies, qualifications, and standards for the certification and training of law enforcement officers and dispatchers. The division also researches and develops advanced courses and ensures compliance with the rules of the New Mexico Law Enforcement Academy Board.

The Law Enforcement Training Act was passed by state lawmakers in 1968, establishing the New Mexico Law Enforcement Academy to administer and conduct basic law enforcement training in Santa Fe. The legislation set qualifications for admission to the academy, spelled out the requirements for certification, and included eligibility standards for in-service law enforcement and radio dispatcher training. All state agency law enforcement officers training, by law, must take place at the academy in Santa Fe.

In 1989, a comprehensive bill created the DPS, and the existing law enforcement academy became a division of the new agency.

The academy building in Santa Fe has been in operation since 1972. It is a separate two-story building located on the DPS headquarters property. The building contains classrooms, offices for staff, dorms for cadets and a cafeteria that serves three meals per day, seven days per week. There are 144 dorm beds in the facility for full-time police cadets and 2003 legislation appropriated expansion for an additional 92 dorm beds which will be completed in 2004.

Academy usage in FY02

Program	# Graduated	Length
State Police	74	16 weeks
Basic Law Enforcement	190	20 weeks
Advanced Law Enforcement	1,527	
Critical Response	2,081	

These officers were from state, county, and city law enforcement offices. The academy provides continuing education courses for all law enforcement personnel and is also used by other agencies including the Santa Fe Police Department, New Mexico Game & Fish, and New Mexico General Services Department, free of charge, as time and schedules permit.

FINDINGS

The law enforcement academy building is currently operated 24 hours a day, seven days a week, during eight months of the year. The state police training academy for new recruits operates seven days a week and the law enforcement academy conducts training for new recruits during four-10 hours days, with no classes scheduled on Friday, Saturday, or Sunday. The cafeteria remains open during the weekend because of the ongoing state police training.

The cafeteria is Open seven days a week from 6:30 a.m. to 6:30 pm serving three meals a day and is staffed and managed by a private vendor at a per-cadet cost to taxpayers ranging from $3.95 to $7.25 per meal, depending on the quantity of meals provided per-day or per-month. Currently the cost of a meal is $4.40 per cadet.

An average of 70 cadets enroll in the state police program each year. In addition to regular hours, they are compensated for an average of 53 overtime hours per bi-weekly pay period.

RECOMMENDATION

The Department of Public Safety should reschedule the state police training program to four 10-hour days per week. With no need for the cafeteria to remain open during the three-day weekend, considerable cost reduction can be achieved. While the cafeteria will be closed, a portion of the dormitories may remain open for cadets choosing to stay onsite.

FISCAL IMPLICATIONS

Rescheduling the state police training program to four days week would allow for a substantial reduction of operating costs. Closing the cafeteria for a three-day weekend would yield savings of $88,704 annually. Significant overtime pay decreases during weekend shifts would result in a savings of $281,014. Some additional utilities cost savings may be achieved due to less use of gas, water, and electricity; however, these savings are not concrete and the rate of reduction cannot be easily predicted.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004		185.0			185.0	
2005		370.0			370.0	
2006		370.0			370.0	
2007		370.0			370.0	
2008		370.0			370.0	
TOTAL		**1,665.0**			**1,665.0**	

ENDNOTES

1. Department of Public Safety Training and Recruiting Division, <http://www.dps.nm.org/training/index.htm> dated March 25, 2002 and <http://www.dps.nm.org/training/bpoltr.htm dated November 27, 2002
2. Department of Public Safety Training and Recruiting Staff interviews

Consolidate State Police and Law Enforcement Training Academies

The state should combine the Department of Public Safety's two law enforcement academies for basic recruits to increase efficiency.

BACKGROUND

The mission of the Department of Public Safety's (DPS) Training and Recruiting Division is to establish rules, policies, qualifications, and standards for law enforcement officers and dispatchers. In addition to hiring, certifying, and training personnel, the division researches, develops, and provides a full range of instructional courses to ensure compliance with the New Mexico Law Enforcement Academy Board Rules.

Instruction is provided by two separate academies within the division, the Law Enforcement Academy and the State Police Academy.

In 1968, state lawmakers passed the Law Enforcement Training Act, which established the New Mexico Law Enforcement Academy to administer and conduct basic law enforcement training in Santa Fe. This legislation set the qualifications for admission to the basic law enforcement training academy and the requirements for certification, as well as certification by waiver and eligibility standards for in-service law enforcement and radio dispatcher training.

Twenty years after the establishment of the Law Enforcement Academy, state lawmakers also created DPS and integrated the academy into the new agency.

According to the DPS, the objectives of the academy 'are to:

- Give a comprehensive understanding of the duties and responsibilities of a New Mexico State Police Officer;
- Give knowledge necessary to recognize, understand and apply proper police methods, techniques, and procedures in order to perform these duties in the most effective and efficient manner possible;
- Give a basic understanding of the laws of the State of New Mexico and methods of enforcement; and
- Provide a sound foundation for continued study and improvement as a police officer, thus providing the citizens of the State of New Mexico with the best state police officers possible.'

FINDINGS

The state police and law enforcement academies, housed under one roof, offer almost identical curricula to New Mexico's law enforcement recruits. Some classes are even taught by the same instructors. State police recruits are required to take 1,000 hours of classroom instruction, while law enforcement academy recruits are required to take 800 hours, although the required hours for obtaining a New Mexico Peace Officers Certification are the same. State police recruits attend 200 additional hours for additional physical and state police specific training. The remaining law enforcement recruits attend additional agency-specific hours, such as motor transportation or municipal police training.

The DPS Transition Team Report for Governor-Elect Richardson pointed out that, "Since the creation of the department in 1987 and its implementation, there have been problems with parity, dual personnel and pay systems and *dual law enforcement academies* [emphasis added]."

Saving taxpayers money by combining the two academies' basic training levels makes sense. Certified officers could still continue specialized training, as needed, for DPS divisions.

RECOMMENDATION

The state should combine the State Police Academy and the Law Enforcement Academy into a single common basic training school. After completion of basic peace officer certification, any officer who wants to enter into one of the three specialized law enforcement programs (state police, special investigation, motor transportation) would be able to attend that specialized offering, either within or outside the agency.

FISCAL IMPLICATIONS

Savings will be offset by increased costs for the specialized programs. The short- and long-term benefit is a single entry point for those going into the law enforcement program. More effective training would also occur in the specialized programs. Recruitment from a population that has graduated from the program would be enhanced as those individuals would only be required to attend the state police division, special investigations division, or motor transportation division specialized program to upgrade their skills.

As many as three commissioned officers, who are now academy instructors, could be reassigned to provide other vital public safety services.

ENDNOTES

1. Department of Public Safety Training and Recruiting Division web sites:
http://www.dps.nm.org/training/index.htm. dated March 25, 2002;
http://www.dps.nm.org/training/bpoltr.htm dated November 27, 2002;
http://www.nmsp.com/training_update/academy.htm dated November 25, 2002
2. New Mexico Department of Public Safety Transitional Team Report for Governor-Elect Bill Richardson; Lt. Governor-Elect Diane Denish

Chapter V
Creating a More E-fficient New Mexico

Chapter V:

Creating a More E-fficient New Mexico

As new technological developments have exploded over the global landscape, the public sector has too frequently failed to keep pace. New Mexico state government is no exception. This report features a series of recommendations for improving customer service and saving tax dollars through the better use of information technology (IT).

One area that needs immediate attention is the proliferation of IT units throughout state agencies — at least 63 of them at last count. Eliminating all this duplication may be more difficult than it seems at first, although there are some obvious targets. The Information Services Division (ISD) spends $1.8 million operating an IT network for state government. But 62 agencies — nearly all of state government — have duplicated that network because they are either dissatisfied with or distrustful of ISD's efforts. This turf warfare costs taxpayers another $5 million a year.

Like many large corporations, state government's challenge is to strike a balance between centralization of IT services and the need to leave enough flexibility at the agency level to ensure the most responsive customer service. But the fact remains that with a total budget of $230 million a year for state government's IT operations, taxpayers ought to be getting better service.

Not only should all these IT services be streamlined, but state government is missing an opportunity to inexpensively market itself around the country and the world to potential investors, tourists, and others. A full range of interactive on-line services would be a win-win development, making it easier for them to conduct business with the state and saving money on everything from paper and postage to delinquent tax collection.

Many New Mexicans are increasingly concerned about safeguarding their personal privacy while conducting transactions on-line. The report recommends a series of short- and long-term steps to safeguard the privacy of citizens' personal information while providing the best possible customer service.

And while we're at it, we suggest that state government at last mandate the use of direct deposit for one of its biggest customer groups — state employees — to cut the costs of paper, postage, and couriers, while ensuring that state employees receive their paychecks on time.

Total recommendations:	**10**
Total five-year savings:	**$30.2 million**

CHAPTER V - CREATING A MORE E-FFICIENT NEW MEXICO

(Dollars in Thousands)

Issue No.	Recommendation	2004		2005		2006		2007		2008		Cummulative Total	
		General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
IT 2	Consolidate Information Technology Services	-	-	882.4	2,291.7	1,764.8	4,583.4	1,764.8	4,583.4	1,764.8	4,583.4	6,176.8	16,041.9
IT 6	Implement Enterprise Licensing	149.0	346.0	298.0	692.0	298.0	692.0	298.0	692.0	298.0	692.0	1,341.0	3,114.0
IT 3	Improve Project Management	-	-	(520.0)	-	(520.0)	-	(520.0)	-	(520.0)	-	(2,080.0)	-
IT 1	Protect Personal Privacy	-	-	-	-	-	-	-	-	-	-	-	-
IT 9	Develop and Implement Business Continuity and Disaster Recovery Plans	-	-	-	-	-	-	-	-	-	-	-	-
IT 8	Acquire and Implement an Asset Management System	-	-	-	-	-	-	-	-	-	-	-	-
IT 4	Invest in MAGnet and State Network	(567.3)	607.3	271.5	708.5	310.2	809.8	349.0	911.0	387.8	1,012.2	751.2	4,048.8
IT 10	Sell Excess Mainframe Capacity and Support Services	-	-	-	-	-	-	-	-	-	-	-	-
IT 5	Mandate Direct Deposit for all State Payroll Checks	-	-	65.8	10.0	65.8	10.0	65.8	10.0	65.8	10.0	263.2	40.0
A 2	Outsource Labor Department Website Development and Maintenance	-	58.6	-	119.8	-	119.8	-	119.8	-	119.8	-	537.8
Total		**(418.3)**	**1,011.9**	**997.7**	**3,822.0**	**1,918.8**	**6,215.0**	**1,957.6**	**6,316.2**	**1,996.4**	**6,417.4**	**6,452.2**	**23,782.5**

Consolidate Information Technology Services

The state should consolidate information technology organizations and services to coordinate efforts, eliminate duplication, and save tax dollars through common planning across state government.

BACKGROUND

The lack of a common vision for how to use information technology (IT) across state government to provide taxpayers with higher-quality, lower-cost customer service continues to hamper the efficiency and effectiveness of New Mexico state government.

Multiple IT functions have sprung up to fill in the gaps, with three different units in two separate state agencies competing to exercise statewide IT responsibilities. The executive agencies of the state alone have spawned at least 63 IT units, 10 of which account for nearly 80 percent of all operational IT budgets in state government. Six of those 10 have two or more internal IT organizations.

There is no alignment among all these entities and historically little cooperation. Each pursues different, sometimes conflicting, strategic visions. Each implements different services and technologies and supports different internal IT organizations. The inevitable result is a hodge-podge of policies, service levels, and infrastructure needs. The only consistency among these many IT units is increased spending.

Like many large corporations, state government faces the challenge of balancing the degree of centralization that makes sense to manage common IT services and how much flexibility at the agency level is feasible. This debate involves economies of scale that can be achieved with central enterprise management versus the responsiveness that may be possible by replicating services within agencies. This same debate over the balance issue occurs within agencies.

FINDINGS

The lack of a common vision for IT services across state government has led to duplication, higher costs than necessary, and an inability to plan or rollout new projects that could improve service and save taxpayers money.

There is no consensus among state agencies or even within state agencies that have IT responsibilities about how to leverage the state's infrastructure and provide better services. Because of this lack of common vision, executive agencies have created internal networks, replicated IT services, and set up duplicate internal IT units. The state is spending scarce taxpayer resources to support multiple IT services and organizations.

Governor-elect Richardson's IT transition team found redundancies in infrastructure, services, and organizations within and across agencies. There were few incentives to share services, share infrastructure, consolidate IT organizations, or lower costs. These redundancies had been perpetuated in part by legislative funding mechanisms. Seconded by the Information Technology Commission, the transition team reported that the duplication of services among and within state agencies and their IT support organizations has cost taxpayers millions of dollars a year. The exact figure was impossible to determine.

How did New Mexico state government arrive at this point? The move to decentralize and duplicate IT services was not the result of a conscious business decision. It emerged over time from the general dissatisfaction in state agencies with the quality and costs of services provided by the state's General Service Department (GSD) and its Information Services Division (ISD) and Office of Communications (OC). After years of decentralized management and with little interest in addressing how enterprise technical services might be balanced between an agency and the enterprise, most IT services had not been optimized. Hence, more decentralization, higher initial implementation and increased recurring costs.

Redundant networks are one of the more remarkable examples of duplication. The ISD operates a network for state government and supports that network with 39 network administrators, racking up personnel costs of $1.8 million a year. Sixty-two agencies — almost all of state government — have duplicated ISD's network services and hired a total of 145 network administrators to support individual agency networks, at an additional cost of $5 million a year.

E-mail is another noteworthy example of duplication. State government has adopted Microsoft Exchange, the state standard for electronic mail, and ISD offers Microsoft Exchange, which is available to all agencies, boards, and commissions. But executive agencies use four different electronic mail systems (Lotus Notes, HP Open Mail, GroupWise, and Sendmail on Linux), three different versions of Microsoft Exchange, and no fewer than 13 private contractors to provide e-mail services to the field offices of a single state agency.

Excluding the ISD, 19 agencies — nearly one-third of the state bureaucracy — run their own Microsoft Exchange email systems independent of the ISD. Six of the 19 agencies (32 percent) have two or more e-mail systems within their departments. Fewer than two full-time state employees within the ISD struggle to support 2,575 e-mail users. Other state agencies have nearly 31 state employees to support 19 different agency e-mail operations.

None of these services are mandatory. State agencies may or may not choose to use the ISD, and many choose to contract with the private sector at greater taxpayer cost for the same services the ISD provides.

Although the ISD operates the state's data center, both the Labor Department (DOL) and the Department of Transportation (DOT) have set up independent data centers. The Taxation and Revenue Department (TRD) and the Human Services Department (HSD) are in the process of creating their own data centers — making a total of five such centers across state government. Most experts concede that large organizations ought to have two identical data centers to provide backup and security, but no one suggests that maintaining five data centers makes organizational or financial sense.

In its second year of operation, MAGnet, a project initiated by the Chief Information Officer to aggregate and centralize the state's data circuits through enterprise-level negotiations, has reduced data circuit pricing by 28 percent while simultaneously creating a more streamlined, easy-to-manage network (see Recommendation # __).

Moreover, turf wars between the Chief Information Officer and the GSD have led to conflicting technical directions. For example, the Chief Information Officer purchased private-sector products for the state's portal at a cost of $1.3 million. Meanwhile, the GSD's ISD purchased a different portal product for the same purpose at a cost of $800,000. Even as the Department of Finance and Administration and the Chief Information Officer move toward implementation of an Enterprise Resource Planning application to provide a common state financial management system, the ISD has purchased a different financial application for $600,000. Neither ISD purchases are currently in use.

There is no enterprise IT organizational structure in state government — either statewide or at the agency level — to support the selection, implementation, or management of enterprise services and projects. Without an enterprise IT organization to give a strategic vision and handle its implementation, it's impossible to conduct effective technology planning, use technology resources wisely, provide cost effective IT services, select and implement enterprise applications, or successfully negotiate cost-effective purchases.

As with IT services, the rise of duplicate IT organizations was hardly a conscious business decision. Rather, it sprang from the general dissatisfaction of agencies with the GSD's offerings and a desire to own and control their own services. Significant duplication of IT organizations is especially prevalent within the executive branch, increasing IT costs, conflicting with strategic IT planning, and continuing so-called "silo" approaches to IT planning, funding, information collection, and data sharing.

Executive agencies, however, aren't the only culprits in New Mexico state government. Other agencies have fragmented their IT operations. Six of the 10 agencies with the largest IT operational budgets have multiple internal IT organizations. Three of the more dramatic examples include the Department of Public Safety (DPS), the Department of Finance and Administration (DFA), and the Human Services Department (HSD). DPS has two chief information officers and two IT organizational structures — one for the State Police and another for other agency operations. The DFA, an agency of 144 employees, supports two distinct IT bureaus. The HSD has four internal IT organizations supporting four divisions, two of which contract out for their IT.

The GSD estimates that it has saved $1,477,000 by reorganizing 215 employees within the Information Services and Communications Divisions. This was accomplished by increasing the ratio of employees to managers and by freezing unfilled positions, including those made vacant by the reorganization. These savings come to $6,870 per employee.

The provision of enterprise-level network services is a noteworthy example of savings that can be realized through organizational consolidation. Currently, there are 184 state employees classified as network administrators; 39 of those employed by the GSD's ISD. Salaries for the state's network administrators total $6,765,537 a year. Annual salaries for the GSD network administrators total $1,791,568. Consolidation of network administrators within an enterprise organization to provide network design and support for all executive agencies would save the state $4,973,968 a year. Reducing the number of electronic mail support staff would net an additional annual savings of $1,057,115.

National IT experts characterize New Mexico state governments IT environment as in "disarray." This description may be too kind. The state's centralized IT services are inconsistent and of poor quality. They lack the authority to mandate the use of central services, and their "customers" — other state agencies — have no incentive to adopt an enterprise approach.

Experts recommend a number of organizational changes to move toward a healthier IT environment. First, the state should establish a governance structure that creates a single enterprise IT infrastructure, architecture, and operations. The new governance structure should empower IT management to make decisions, to drive new or modified enterprise-wide policies and architectures, and to create effective centralized IT services. The authority should be vested in the new governance structure to provide the necessary leadership.

Experts also suggest a federated organizational model for public sector IT governance to create a win-win situation for the enterprise and the agencies. In a federated IT service model, certain IT assets and functions are "owned" at the enterprise, or state, level, while mission-critical activities are "owned" at the agency level. This federated model frees agencies from using staff time to support enterprise services and allows them to concentrate on using IT to support their unique mission-critical programs and applications. In the corresponding federated IT organizational model, staff members are provided for a single state IT entity, which then supplies enterprise IT planning, infrastructure, and operations common to all agencies.

Budget mechanisms that fund specific IT organizations rather than enterprise organizations provide little incentive for seeking savings from centralized services. That describes New Mexico state government today.

Best practices in private industry and other state governments call for IT services to be provided under a service-level agreement, or SLA. An SLA is a document that identifies the agreed-upon services to be supplied to meet agency needs and defines the parameters of the service for the benefit of both the provider and the agency. The SLA should be wide in scope, covering all key aspects of the service. Typically, it should fully embrace such issues as problem management, compensation, warranties and remedies, resolution of disputes, and legal compliance. This SLA essentially frames the relationship, and determines the major responsibilities, during times of normal operation and in emergencies.

New Mexico and California appear to be the only states with bifurcated organizational structures — two organizations providing enterprise IT services. The National Association of Chief Information Officers reports that 24 states have IT departments and three have IT organizations within their departments of administration. The remaining states have other governance structures such as technology offices reporting to a technology council.

The total IT operational budget for all state agencies is about $230 million. The IT operational budgets for the six largest agencies account for approximately 80 percent of all IT operating budgets. These agencies duplicate enterprise IT services and have two or more IT organizations within them.

The IT organizations for the 10 agencies with eighty percent of executive branch IT spending have annual budgets ranging from $2.7 million to $45.1 million. The number of IT employees in these agencies ranges from 17 to 215, and the percent of IT spending to total agency budget runs the gamut from 1.7 percent to 11 percent.

Annual appropriations for "special" IT projects over the past five years have ranged between $6 million and $23 million, with an average of $13 million a year.

Total state expenditures for hardware, software, and telecommunications exceed $74 million a year, including $40.3 million for computer and IT hardware, $8.8 million for computer software, and $25 million for telecommunications equipment.

RECOMMENDATIONS

The creation of a new Department of Information Technology to implement a federated service organization model would help state government communicate its commitment to providing useful, quality, cost-effective enterprise IT services, increasing agency access to relevant technical services, and using taxpayer-funded IT resources more effectively.

The state should balance both the efficiency gained by centralized management of enterprise services and the responsiveness of decentralization by adopting a federated organizational and service model.

The new Department of Information Technology should be headed by the state's Chief Information Officer, a cabinet-level job, and should merge the current strategic planning and agency oversight functions of the Office of the Chief Information Officer with the current IT services provided by GSD's ISD and OC.

The new DOIT should also consolidate those enterprise IT services currently duplicated within agencies; provide additional enterprise IT functions such as project management, security, privacy, disaster recovery, infrastructure and strategic planning; and establish uniform standards and policies across all agencies to improve and streamline the state's IT systems.

The state should standardize and consolidate common IT services and support staffs, and those services and staffs should be operated at the enterprise level by the DOIT. The state should support only one electronic mail service and operate only two data centers — one in Albuquerque and one in Santa Fe.

All state agencies, boards, and commissions should be required to use the state's enterprise web hosting services. All Web addresses, known as URLs, for state agencies should be consistent, and the removal of all .org, .com, and .net extensions should be mandated.

Other areas for centralization and standardization should be addressed in FY05 including electronic mail (e-mail), telecommunications resource acquisition and support, statewide desktop support, web hosting, technical training, project management and large scale applications development, network management, data center operations and support, system administration, license procurement and administration, small agency IT support, and technology evaluation and introductions. Each area should be evaluated in terms of deployment and transition cost versus increased business value. The next two areas of consolidation to be addressed should be desktop support and the merging of the state's data centers. Before the state can provide cost-efficient desktop support, however, it should first mandate standardization of all hardware and software platforms. Hewlett Packard and Sandia National Laboratory engaged in a three-to-five year planning process before achieving organizational standardization. The state should follow suit with a three-to-four year organizational standardization planning effort that can be accomplished within the state's current technology refresh requirements.

Outsourcing desktop support as a cost savings measure should not be considered until operational standardization is achieved. The state can expect to increase its desktop support costs if it moves forward with outsourcing before engaging in significant planning and standardization efforts. A possible exception to this may be in the area of providing desktop support to regional offices in smaller cities.

Desktop support personnel, while managed at the enterprise level, should be assigned to support individual agencies and should be physically located in those agencies.

Service level agreements should be executed for all enterprise services.

The state should plan for the redeployment, retraining, or removal of IT staff displaced by organizational consolidation. Early retirement options should be considered. The annual attrition rate for IT staff is approximately 6.1 percent.

Agency IT personnel should focus on the support of mission-specific applications. A single IT organization should be created within each agency by consolidating all division-level IT organizations and functions. An agency chief information officer position should be established for each large and mid-size agency and should report directly to the secretary's office, preferably to the cabinet secretary.

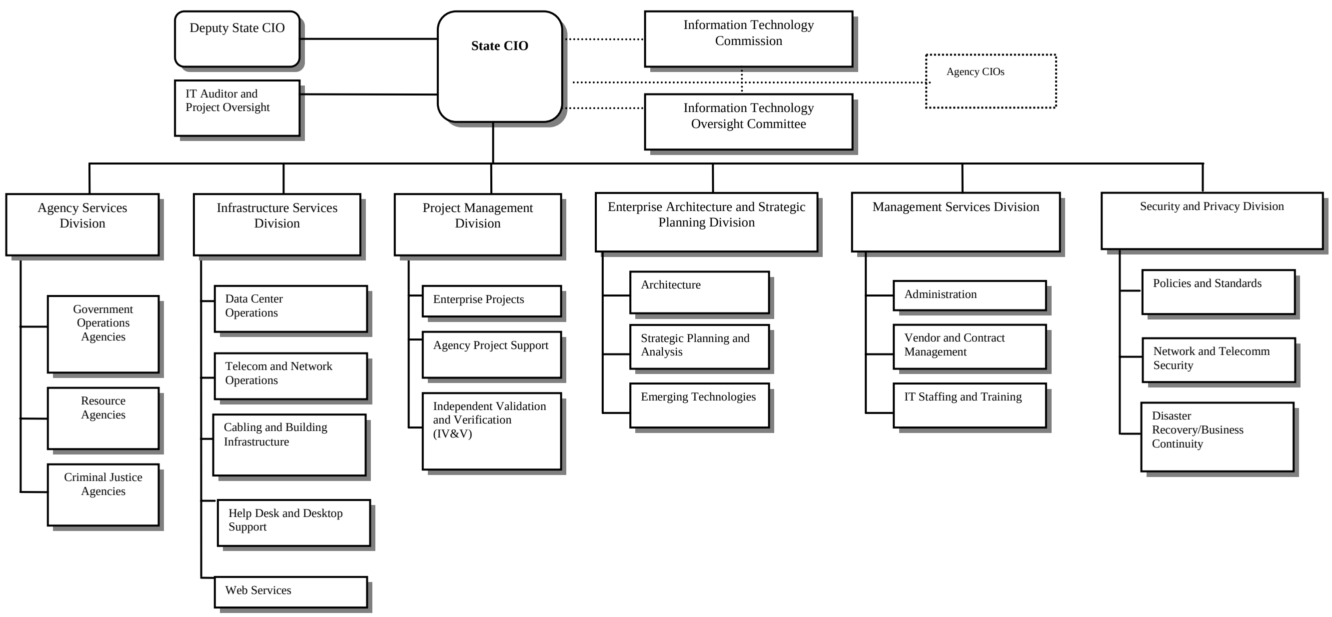
To further support the federated model, the physical location of agency applications staff should be split within the agency "enterprise" and the divisions. The more analytical applications staff — business system analysts, for instance — should be removed from agency divisions and located in the agency's central IT unit. Applications development and software maintenance staff members would be best positioned within divisions.

FISCAL IMPLICATIONS

The state should consolidate personnel from the Chief Information Officer, the ISD, and the OC within six divisions of a new Department of Information Technology (DOIT). This will have no fiscal impact on the state budget.

The proposed organizational structure of the new agency follows:

Figure 1. Proposed DOIT Organizational Structure



The state should consolidate electronic mail support personnel to the new DOIT's Infrastructure Division. This recommendation will eliminate 31 full-time positions in agency e-mail support personnel and increase enterprise e-mail support staff to four full-time position while freezing current vacancies. Annual savings? $1,374,249.60.

FTE Loss	28.75
Average Salary	$36,769.22
Average Benefits	$11,030.77
Net Annual Savings	$1,374,249.60

The state has 184 employees classified as network administrators, 39 of whom currently support network services at the ISD. The state should eliminate 142.75 agency network administrator positions and freeze all unfilled positions for total annual savings of $4,973,968.48.

Associated savings will come through consolidation of agency network hardware and software such as servers, routers, firewalls, intrusion detection boxes. However, determining the exact number of duplicated hardware and software systems and their fiscal impact is not feasible due to the lack of a statewide IT asset identification system.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004						
2005		882.4		2,291.7	882.4	-72.00
2006		1,764.8		4,583.4	1,764.8	-70.75
2007		1,764.8		4,583.4	1,764.8	
2008		1,764.8		4,583.4	1,764.8	
TOTAL		**6,176.8**		**16,041.9**	**6,176.8**	**-142.75**

ENDNOTES

1. General Services Department: Information Services Division (ISD), Office of Communications (OC), and Office of the CIO (OCIO)
2. HSD, DOH, CYFD, DPS, TRD, DFA and the Department of Education
3. "Governor-Elect Bill Richardson Transition Team Report for Enterprise Information Technology in New Mexico State Government"
4. Gartner reports: "Distributed vs. Centralized Infrastructure for Resilience, December 14, 2002; "The Right Governance Structure for IT, April 23, 2003
5. Electronic Mail System Research conducted by State Performance Review Team
6. John Fitter, GSD Reengineering consultant
7. Source: Jose Ramirez, CIO State Police, Acting DPS CIO.
8. Marisse McFadden, Deputy Director, Income Support Division, Human Services Department
9. Ed Lopez, Secretary, GSD
10. Dona Wilpolt-Cook, Deputy Secretary, General Services Department
11. HRMS report by Chester Zagroda May 24, 2003.
12. IT Operational Budget spreadsheet complied by Michael Friel, OCIO.
13. FY03 Agency IT Plans.
14. Silver Oak Solutions Presentation to NM State Government .2003.

Implement Enterprise Licensing

The state should collectively negotiate with vendors all software licenses for all state agencies' needs to leverage the state's purchasing power and reduce per license costs. As part of this effort, the state should ensure that it is in compliance with all laws prohibiting software piracy.

BACKGROUND

New Mexico state agencies currently purchase and license computer software packages individually, with little or no coordination across state government. Although statewide price agreements are in place for personal computer purchases, the contracts do not provide for volume purchase discounts.

Ongoing software upgrades and additional licenses are purchased under state government's existing computer software price contracts. These contracts are established through a competitive bid process, usually for a term of one year during which vendors are obligated to furnish a license for a specified price or at a discount from catalog prices. Once these price agreements are established, any state agency or local public body need only issue a purchase order directly to the vendor to obtain other goods and services spelled out in the agreement.

Each agency is responsible for tracking and managing its software licenses. There is no asset management program in place to help agencies manage the use of software licenses to make sure that every computer user is covered under a legally purchased and valid license, and agencies cannot readily provide information on the number and type of software licenses they are maintaining. The New Mexico Performance Review team asked for software license documentation from several state agencies with the largest information technology (IT) budgets. The results varied, but the overall findings showed no consistency in how software license agreements are documented or inventoried. Agencies' responses to a request for documentation ranged from cooperation to hesitation, with some agencies stating that the requested information would be difficult to retrieve. To determine how many licenses they own, most agencies must search their acquisition records, look in partial inventories, calculate how many PCs they have, and eventually provide an educated guess.

To make matters worse, since computers are often passed from one state employee to another without an assessment of the employee's needs, it is likely that state government has purchased licenses that are not being used.

In a recent survey, only 18.4 percent of state agencies have a zero tolerance software piracy policy. When asked if their agency had a license or proof of purchase for every piece of software on every computer, 41.1 percent did not. Only 10.5 reported that they did, while nearly half — 48.3 percent — did not respond at all. Only 4.3 percent said they had any knowledge about their agency's potential financial exposure due to lack of software licensing.

FINDINGS

- A pre-negotiated price agreement does not necessarily provide lower costs than an agreement negotiated for the bulk purchase of software licenses for the entire state (commonly known as an enterprise licensing agreement).
- State agencies pay varying amounts for licenses, depending on software needs and contract negotiation skills. Many agencies don't know that they can negotiate prices down from the amount listed on the pricing agreement.
- The General Services Department (GSD) and the Office of the Chief Information Officer (OCIO) are currently negotiating with Microsoft to buy its products at a reduced rate for all state agencies.
- The OCIO staff recently negotiated down the price of a full version of Adobe Acrobat from the state price of $49 to $19 per license by guaranteeing the purchase of 1,500 licenses. The result? Taxpayer savings of $45,000, or 37.5 percent.
- New Mexico universities and colleges were able to combine their resources and purchase Oracle licenses at an additional seven percent reduction in price, resulting in a $75,000 savings, according to a former chairman of the Information Technology Commission.
- The cost of specific software licenses statewide is difficult to measure because these expenses are embedded within agencies' budgets.
- Most products in the Windows world are licensed according to installation, not number of users. As a result, each installation requires a separate license.
- The state has a legal obligation to follow the software license agreements for each product installed on state agency computers. Violations can put the state at risk of fines and lawsuits.

RECOMMENDATIONS

The state should reduce overall computer software costs by negotiating with vendors to receive the lowest price for software most commonly used by state employees. In exchange for lower prices, the state should guarantee the purchase of a minimum number of licenses. This type of agreement is known as an enterprise license agreement.

First, however, the state should inventory its existing software licenses to determine how many it has, when the terms of the current license expire, what the prices are for current agreements, and what agencies' future needs are. Without this assessment, the state may agree to purchase too many or too few licenses for future use and may actually end up paying more per license than some agencies are currently spending.

The negotiated agreement should also reflect agencies' current license agreements so that the state does not agree to purchase licenses for the number of state employees who already have a valid software license.

Both the CIO and GSD should be involved in negotiating the agreements once the survey of all state agencies future needs is complete. When these new agreements are in place, state agencies should purchase licenses through the Purchasing Division, which should be charged with oversight.

FISCAL IMPLICATIONS

Assuming the average savings realized by the Adobe Acrobat agreement and Oracle enterprise licenses to be 22.5%, current license costs of $4.4 million could be reduced by $990,000 a year beginning in FY04. General revenue fund savings would total 30.1 percent for state agencies, with the remaining 69.9 percent from other revenue sources. There would be no additional costs because existing CIO and GSD personnel would implement recommendations.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004		149.0		346.0	149.0	
2005		298.0		692.0	298.0	
2006		298.0		692.0	298.0	
2007		298.0		692.0	298.0	
2008		298.0		692.0	298.0	
TOTAL		**1,341.0**		**3,114.0**	**1,341.0**	

ENDNOTES

1. Procurement Re-engineering Project Report, The Procurement Re-Engineering Task Force, September 1997
2. .NET Magazine, "Set Strategies for Enterprise Software Management", April 2003
3. Security – Privacy – Data Integrity – Software Licensing – Enterprise Business Continuity – Enterprise Disaster Recovery State of New Mexico Survey, CIO Office, April 2003, question 29, 30 and 31 (63 Agencies surveyed, 31 agencies responded, 153 total agencies).
4. Silver Oaks Solutions Presentation to NM State Government 2003.

5.

Improve Project Management

The state should establish a project management office to manage information technology projects and ensure that taxpayers are getting the full benefit of technological projects at the lowest possible cost.

BACKGROUND

State lawmakers earmark millions of dollars each year for information technology (IT) projects throughout state government. Yet, there is no project management office or any requirement that qualified project managers oversee the projects to make sure they are achieving their intended results and giving taxpayers a fair return on their investment. Many state IT projects are over-budget. Even worse, millions of dollars have been wasted on projects that were never completed.

Project management entails not just completing a project on time (a project is a temporary process undertaken to solve a well-defined goal or objective with clearly defined start and end times, and a set of clearly defined tasks), but also controlling limited resources efficiently and effectively to make sure that the original goals are reached. Effective IT project management has become increasingly important in today's environment of tight budgets.

Ineffective project management remains the root cause of cost overruns, schedule delays, and poor product quality. Nationally, cancelled IT projects cost $81 billion a year for investors, often taxpayers. According to an international group of experts, without successful project management:

- Just 16 percent of IT projects finish on time and within budget,
- More than half of all projects cost nearly 90 percent of their original estimates,

- The average IT project is brought on-line at least a year late and at the twice the original budget, and
- IT projects, on average, feature only about 42 percent of their promised functionality.

By putting qualified and formal project management in place and applying best practices learned from elsewhere, organizations can expect to lower overall project costs by 25 to 35 percent and to complete projects by as much as one-third ahead of schedule.

The U.S. Department of Defense is arguably the nation's largest IT operation, with annual information expenditures exceeding $42 billion. In 1987, the Defense Science Board estimated that about 95 percent of Defense Department IT projects were never placed into operation. They also concluded that the department's projects suffered from cost overruns, schedule delays, and performance deficiencies because of poor project management, not technical difficulties.

About two million people work on some 300,000 IT projects across the country each year. Two-thirds of those projects — some 198,000 — will exceed their schedules and budgets before they are delivered — if they are delivered. About half of the most expensive projects will never see the light of day, cancelled for being out of control.

Successful project management requires certain infrastructures to be in place. This infrastructure may include organizational planning and communications systems, basic resource management skills, scheduling and risk assessment software and other tools available to support the project management, as well as a culture that values cooperation, teamwork, and planning. A project may occasionally succeed without these elements, but success in such an environment is the exception, not the rule.

Under the guidance of a project management office, or PMO, other states have increased their rates of successful project completion from 50 percent to more than 90 percent and reduced project cancellations by almost one-third. Michigan also reports significant savings — some $1,534,900 in one year.

FINDINGS

Lack of project management equals waste. State IT projects fail primarily because employees lack the knowledge or experience to successfully manage projects. Too often, untrained IT or business staff members are given project management assignments in addition to their other duties. There is little opportunity to learn first-hand before making decisions that can have expensive, irrevocable repercussions.

The Human Services Department's (HSD) SSALSA project was supposed to replace the Income Support Division's legacy application to comply with current and future federal requirements. Some $25 million was spent in FY02 and FY03. But the project was begun without federal approval, and the Center for Medicare and Medicaid Management subsequently denied the HSD's request for federal matching funds. The project was put out of its misery in FY03, leaving state taxpayers liable for about $12 million in work that was accomplished before federal approval was even sought.

Typical causes of state project failures include buying the wrong technology, implementing the correct technology ineffectively, a lack of substantive involvement by system users, ignored business processes, and investments in solutions before needs, requirements, and options are thoroughly understood. These problems can be readily identified and avoided by an experienced, trained project manager.

The average project spends about 80 percent of its time on unplanned rework — fixing mistakes that were made earlier in the project. Corrections late in a project usually cost from 50 to 200 times as much as they would have earlier in the process.

In 2000, New Mexico's Chief Information Officer and the Information Technology Commission (ITC) established administrative law governing project management best practices and required that these best practices be followed. Executive agencies have largely ignored the rule. There is no agreement among agencies regarding the use of a common project management methodology.

While the ITC is responsible for establishing project management policies and the Chief Information Officer is responsible for ensuring that those policies are implemented, each agency is left on its own to see that project management policies and standards are applied within their organizations. Agencies have ignored this policy.

The Chief Information Officer and the ITC monitor and track selected projects. Selection is based on: whether a project is at risk or is high-profile, costs at least $100,000, affects service delivery, or is otherwise considered critical. The Chief Information Officer reviews and approves all project plans and contracts, assessing their risk and, when necessary, recommending improvements. This high-level oversight is not meant to supplant the management function at the project level. Project management should be about making day-to-day implementation decisions but too often isn't.

There is no job classification in the state personnel system for project managers. Even if the state wanted to hire a project manager, there is no job classification in which to hire them.

Other than a series of three project management classes sponsored by the Chief Information Officer in 2000, there has been little training to improve state employee skills in this area. As a result, state government has no "farm team" of qualified project managers, and few state staffers choose to follow project management as a career path.

IT project funding in New Mexico is substantial. It's the management that's lacking. Over the past five years, the Legislature has appropriated between $6 million and $23 million a year for special IT projects, an annual average of $13 million. Some projects have a federal funding component, which varies from year to year. If state lawmakers continue to support IT projects at an average of $13 million a year, taxpayers could save $3.2 million annually just by applying industry-standard project management best practices.

Other states have a PMO — New Mexico should, too. According to the National Association of State Chief Information Officers, nearly half of all states maintain project management offices. Many states have joined the State Information Technology Consortium, a technical arm of the National Association of State CIOs, to improve their project management skills, provide staff training, and save their taxpayers millions.

A Project Management Office would save money. PMO's perform three main functions: project management, project operation support, and project management competency. Project management services establish and implement project management methodologies, incorporate best practices and business standards, and develop processes for project control, support, and improvement, including cost control and cost estimating.

The project operation function conducts projects, supports project management information systems, and manages project resources.

Project management competency focuses on the selection, retention, and training of qualified project managers, including the development of a training plan to prepare individuals for professional certification.

PMO staff members generally include a director and project managers, and may also include administrative support staffers or project team members. The project director establishes and manages PMO activities, while project managers apply policies and procedures to lead projects and project team members perform the technical work.

RECOMMENDATIONS

First, the state should create a Project Management Office, or PMO, either within the Chief Information Officer's division or as part of a new Department of Information Technology. The mission? To improve project management and lower total project costs. Nearly half of all states have a PMO and have reduced their project cancellation rates, reduced project costs, and increased the percentage of successful projects.

In addition to working with the ITC to establish project management policy, the PMO should establish project management processes, procedures, and standards; provide project operations; and ensure the selection, retention, and training of qualified project managers.

In addition to a director, the PMO should have five experienced individuals to manage enterprise IT projects. These individuals should also be made available, as their schedules allow, to executive agencies for management of mid-and large-scale IT projects. Project managers employed by the PMO should be high-level, exempt employees. The state should create, within the classified system, a specific job classification for lower level project managers (agency project managers). The cost to staff a PMO would be $520,000 a year.

The PMO should establish a standard state project management methodology required for all projects. The methodology should include project control processes as well as procedures for selecting and killing projects.

Compliance with the existing project management policies should be enforced and penalties for non-compliance assessed.

FISCAL IMPLICATIONS

The first two recommendations above would avoid further costs and are based on the average special appropriation for IT projects remaining stable at about $13 million a year. With the savings from these two recommendations, the state could double the number of projects funded, as long as all projects were managed appropriately. The last two recommendations above would have no fiscal impact.

Investment of $520,000 for 5 FTE for better IT project management could result in avoided costs of up to $3.25 million annually. The savings could be allocated to other projects.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004						
2005	520.0				(520.0)	+5
2006	520.0				(520.0)	
2007	520.0				(520.0)	
2008	520.0				(520.0)	
TOTAL	**2,080.0**				**(2,080.0)**	**+5**

- General Fund Savings based on 25% of $13 million historical annual IT project appropriations.

ENDNOTES

1. Capers Jones, Applied Software Measurement: Assuring Productivity and Quality, 2d Ed., 1997
2. Standish Group International Report: "Chaos," as reported in Open Computing, copyright 1995
3. Harris, Lynn. "State of New Mexico "Project Management Guidelines and Best Practices", August 2000.
4. Steve McConnel, Project Survival Guide, 1998.
5. NMAC 1.12.5, "Project and Program Management"

Protect Personal Privacy

The state should comply with the Federal Privacy Act of 1974 to ensure the protection of New Mexicans' personal privacy and limit future liability and costs associated with rectifying identity theft.

BACKGROUND

New Mexico has an obligation to protect the privacy of individual citizens' personal information and records obtained and held by state government during the normal course of its operations. The "Federal Privacy Act of 1974" was established to help New Mexico and all states meet this obligation.

Today, with the rise of on-line activity — not to mention the potential implementation of other recommendations in this report that would increase state government's on-line operations — it's especially critical to prevent the disclosure of personally identifiable information to make sure that the state doesn't unintentionally facilitate identify theft.

Identity theft is the fastest growing crime in the nation, allowing thieves to illegally obtain credit, social security numbers, and drivers' licenses at great cost to the credit card industry, which the industry passes along to consumers in the from of higher rates, to state government, which spends scarce resources to rectify the theft — and, of course, to individual victims themselves, who sometimes spend years trying to correct their financial histories.

The state's Inspection of Public Records Act requires all information held in state databases, including personally-identifiable information and credit card numbers, be made publicly available upon request.

However, New Mexico is in violation of many tenets of the "Federal Privacy Act of 1974" that regulates the disclosure of personal information.

Its principles of fair information practices include the following:

- There should be no secret personal record systems Individuals should have rights of access, inspection, review, and amendment to systems containing information about themselves
- There must be a mechanism to prevent the use of information about individuals that is gathered for one purpose and used for other purposes without their consent
- Organizations and managers of electronic data collection systems should be responsible for the reliability and security of those systems, and Government has the right to intervene in the information relationships among private parties.

The federal law also prohibits the disclosure of any record by any means without prior written consent of the individual to whom the record pertains — commonly known as the opt-out process — and makes it illegal for a state agency to deny individuals any right or privilege based on their refusal to furnish a Social Security number.

In 1976, Congress amended the Privacy Act to include a limited number of exceptions to the social security number provision. Some state agencies administering tax, public assistance programs, drivers' licenses, voter registration, or motor vehicle registration programs may now require an individual's Social Security number.

FINDINGS

There is a collision between Federal and state law. Federal law requires regulation of the disclosure of personal information and the use of Social Security numbers by state government and other public entities.

All state agencies collect personally-identifiable information on New Mexico citizens, including Social Security numbers, dates of birth, addresses, and credit card numbers. Yet, no legislation, standards, or processes exist to protect the disclosure or publication on the Web of this information. The availability and publication of such information exposes the state to significant financial liability if the information it collects is sold or used without the owner's consent.

The challenge for the state is to ensure electronic access to government information while maintaining the personal privacy of its citizens. Most state databases use Social Security numbers as unique identifiers. There is no requirement to account for disclosures of personal information, and no law preventing a state agency from denying individuals' rights simply because they refuse to furnish a Social Security number.

The Department of Public Safety publishes, on its web site, personally identifiable information of individuals involved in motor vehicle accidents. Although most of the information published on the accident report is public, some is not. Social Security numbers are confidential, for instance, but freely available. What's more, the accumulation of individual records — a name, address, telephone number, date of birth, Social Security number, driver's license number, or insurance information — creates an opportunity for theft of identity.

The department has consistently refused to remove Social Security numbers from public view, a decision based in part on cost and operational issues. Meanwhile, the potential for identity theft in this era of growing high-tech crime remains.

As a condition of obtaining a driver's license or vehicle registration, the state's Motor Vehicle Division asks drivers and automobile owners to provide the full range of personal information listed above. This data is ultimately public information under the New Mexico Inspection of Public Records Act. The MVD is responsible for some 2.5 million motor vehicle and driver's license records, but it has no mechanism for identifying and resolving violations of the public information law, nor does it have a written policy pertaining to the disclosure of its motor vehicle records.

States have come to realize that public information is a valuable, income-generating commodity and have used the sale of that information to augment their revenue streams. The New Mexico MVD has given many organizations access to its data.

Many states allow secondary usage of their public information. Some either sell their public records directly or contract the sales through information brokers. These states enhance their Motor Vehicle Department revenue by anywhere between $200,000 and $50 million a year, depending on the size of the state and how energetically they pursue the sale of the public information.

Other states report that the release of their public information has been used for such criminal purposes as stalking, intimidation, harassment, or murder and have chosen to keep their motor vehicle data private. These states have passed statutes to safeguard the interests of individuals by prohibiting the disclosure and use of personal information for uses other than those mandated by federal law.

Half of all states have adopted overarching privacy statutes that apply to the disclosure of all state data regardless of the purpose for which it is collected. New Mexico is in the other half.

In 1995, state lawmakers made it illegal for any MVD employee or contractor to disclose personal information about an individual that had been obtained in connection with the issuance of a driver's license, driver's permit, vehicle title, or vehicle registration. Section 66-2-7.1 NMSA 1978 authorized disclosure under a limited set of conditions, including disclosure to an individual or an individual's authorized representative, or for certain law enforcement purposes. While this state statute prohibits current and former state employees and contractors from disclosing motor vehicle data, it neither addresses secondary usage nor defines a process to obtain a driver's consent for the disclosure of personal information.

The Federal Trade Commission indicates that 42 percent of identity theft involves credit cards. Other major categories involve fraudulent bank and cell phone accounts. According to the U.S. Department of Justice, one case of identity theft cost the victim more than four years and some $15,000 to restore his credit and reputation. The thief incurred more that $100,000 of fraudulent credit card charges, obtained a federal home loan, and purchased motorcycles and handguns in the victim's name.

The credit card industry reported that identity theft cost it $1.1 billion in credit card fraud in 2000.

RECOMMENDATIONS

Because state government is self-insuring, the Risk Management Division should conduct detailed risk analyses specifying the probability of and the costs of the state's potential culpability in an identify-theft lawsuit, and the probability of and costs related to state violations of the federal Privacy Act. The results of these analyses should be used to determine the state's potential financial exposure. State agencies — especially the Motor Vehicle Division and the Department of Public Safety — currently face disclosure issues.

The state should enact overarching privacy legislation that applies to the disclosure of all public information regardless of the purpose for which it is collected. This legislation should also ensure that:

- Information is used only for the purpose for which it was collected, unless a valid legal process requires another use,

- Citizens are afforded a reasonable means to obtain, review, and correct their personal information,

- State agencies apply all state and federal privacy laws and disclosure laws specific to agency operations, and

- Citizens are entitled to a reasonable expectation of information privacy.

The state should also create an Information Technology (IT) Security and Privacy unit. This unit should be headed by the state's chief IT security and privacy officer and should develop privacy policies consistent with federal and state law. Privacy policies should be developed by the state's IT security program requiring state agencies to:

- In addition, the state should ensure to the best of its abilities that the personal information held by all agencies remains confidential and should inform individuals why the information is collected, what it will be used for, and what steps will be taken to protect its confidentiality and integrity.

- Finally, the state should collect personal information from a secondary source such as a school district or federal agency and protect the information as confidential in accord with established processes.

Centralizing the oversight of privacy and the development of privacy policies will make it possible for state government to comply consistently with all federal and state privacy laws, ensure that processes are in place to prevent the release of personally identifiable information, and provide safeguards to protect personal information

FISCAL IMPLICATIONS

Privacy is an issue of growing importance. The fiscal impact of this recommendation's implementation cannot be precisely calculated until completion of the Risk Management Division's risk analysis (proposed here) of the number of potential cases of identity theft and their fiscal affect.

ENDNOTES

1. USA Today. "Identity Theft Complaints Doubled Last Year. January 22, 2003.
2. Identity Theft Fact sheet. National Consumer League. www.natlconsumerleague.org/privacy/idtheft/factsheet.htm

Develop and Implement Business Continuity and Disaster Recovery Plans

State agencies should be required to develop and maintain up-to-date disaster recovery/ business continuity plans to ensure the continuity of state services and avoid costly delays in the event of a disaster.

BACKGROUND

When any major disruption occurs, the modern workplace is crippled. Telephones go unanswered, productivity is reduced to a standstill, and business grinds to a halt, translating into disgruntled customers, lost revenues, public embarrassment, and long-term harm to an organization's good will. Today's business philosophy holds that a corporation unable to take care of itself during a disaster, will also be unable to take care of its customers. Overall continuity and the uninterrupted delivery of critical services during a disaster are important to the economic well-being of any community. In short, organizations must plan for how to survive a major disaster. And so should New Mexico state government.

Unfortunately, there is currently little or no resource allocation in place and only incomplete planning on how state government would react to a natural disaster, terrorist attack, or serious business outage. Critical state services are at risk of being interrupted or lost altogether in an unforeseen event. The Governor believes that a prolonged disruption to a high-profile state agency would not only directly affect New Mexicans who depend on its services, but would also be costly financially and contribute to the erosion of public confidence in state government.

Strategic planning for disaster recovery (the process or plan that restores an agency's mission critical business operations to a former state of full functioning, within a predetermined time frame, by restoring or replicating the computing environment components) and business continuity (the process or plan that enables an agency to continue or resume critical business functionality without interruption or essential change) is an insurance policy for state government, which allows the state to continue providing services in the face of an unexpected event.

A business impact analysis (BIA) is a planning tool used to estimate and prioritize the loss of services. The BIA can be used to determine how critical an agency's functions are. The more mission critical the function, the more difficult and costly the recovery solution is likely to be. As state government increasingly moves toward on-line delivery of information and services — the emerging "digital face" of government, if you will — agencies should have detailed disaster recovery plans in place.

Recognizing the need for disaster recovery planning at the enterprise level, the Information Technology Commission (ITC) in 2000 created a subcommittee to explore the issue. This committee was instrumental in making sure an enterprise disaster recovery objective was included in the state's IT Strategic Plan, and in developing special appropriations requests for disaster recovery planning funds during each of the last three fiscal years. None of these requests have gained the support of the Legislature.

FINDINGS

- In the first six months of 2003, the Federal Emergency Management Agency (FEMA) reports that states went through no fewer than 29 major disasters and declared 15 disaster emergencies.
- The U.S. is becoming more vulnerable to natural hazards, primarily because of population growth and infrastructure concentrated in high-density, disaster-prone areas. For most of the past century, the nation was largely spared the expense of a catastrophic natural disaster. Yet, even without such disasters, the overall costs of such natural hazards as extreme weather, drought, and wildfires are estimated to have been $54 billion each year over the past half-decade — or an astounding $1 billion per week.
- The direct costs nationally for damage repair average some $20 billion per year, of which more than $15 billion is due to earthquakes, tornadoes, hurricanes, and floods.
- The terrorist attacks of September 11, 2001, damaged or destroyed more than 15 million square feet of office space (roughly equivalent to the entire downtown areas of Atlanta or Miami). Early estimates suggest that between $2 billion and $5 billion worth of telecommunications and computer equipment was destroyed.
- Traditional disaster planning failed on 9/11 because it did not take all business continuity factors into account. Some companies found their business continuity and IT recovery programs failed to meet their needs. The lion's share of recovery impact was felt at the end-user level — a technical term for "customer." Companies quickly recognized that while they may have taken adequate measures to protect their own centralized computing infrastructure, their customers did not enjoy a similar level of contingency planning.
- During the first World Trade Center explosion on February 26, 1993, nearly 1,000 businesses were disrupted and losses exceeded $300 million.
- East Coast companies budget between one and five percent of their IT spending on disaster recovery/business continuity planning, while companies on the West Coast, where natural disasters are more prevalent, budget between 10 and 15 percent.
- The issue of business continuity/disaster recovery planning for state government is one of cost-avoidance, providing uninterrupted services to citizens, and bolstering confidence in public services.

- A significant business disruption to a high-profile state agency could be financially costly and erode public confidence in government services. Detailed cost analyses are difficult to develop given the poor quality of agency planning to date. However, some anecdotal information exist:

  - One fiscal benefit of a disaster recovery plan is that it prioritizes what is important and when, and targets spending to only the most important purchases in the event of a disaster. Without such a plan, hurried "crash" spending to get back on-line can ensue, often in an inefficient and wasteful way. With any disaster there is a dollar loss from diminished employee productivity, payment processing, or other economic challenges. With a well-planned disaster recovery plan, these costs can be identified beforehand, be made part of an agency's operational costs, and then be minimized and curtailed as quickly as possible.

  - Without a business continuity plan or disaster recovery plan, an agency that loses its computing environment finds (1) that costs can rapidly escalate and spiral out of control, (2) that getting services back up and running can be a protracted process, and (3) that legal liability issues mount. All of this can have catastrophic consequences to the agency and its customers. A well-planned business continuity program would minimize the risk of human, economic, and legal consequences and provide an orderly path to resuming the regular delivery of critical services.

  - With no statutory requirement for a state agency to have a business continuity plan, few have completed a BIA or a business continuity plan and even fewer have tested those they have.

- Agencies are required to submit annual IT plans to the Office of the Chief Information Officer (OCIO). These plans call for a discussion and testing of each agency's disaster recovery plan. As with business continuity plans, few agencies have created or tested disaster recovery guidelines.

- Working with the General Services Department (GSD), the committee made available a "best-of-class" business continuity-disaster recovery planning software tool (Precovery) to all three branches of state government. This software tool is available at no cost for agency use.

- In August 2002, the Enterprise Disaster Recovery (EDR) committee changed its name to the Disaster Recovery/Business Continuity (DR/BC) committee and amended its charter in recognition of the inseparable nature of "disaster recovery" and "business continuity."

- In the April 2003 survey conducted by the OCIO, all cabinet secretaries were asked to respond to a series of questions about their departments' current plans and practices for mitigating risk to their operations in the event of a disaster. Thirty-one agencies responded to the survey, a representative sampling of state government in terms of staff, budget, and number of facilities. Of those responding to the survey:

  - Nearly 50 percent reported that they have not done a "risk or threat analysis" of their business functions since the planning for Y2K in 1999.

  - More than 80 percent reported that there would be regulatory sanctions or fines if their operations were interrupted — and more than half reported that these sanctions or fines endanger the health and safety of New Mexicans.

  - Only six percent of New Mexico's state agencies have business continuity plans in place to maintain essential services.

  - When it comes to computer system disaster recovery plans, only 13 percent reported having fully developed disaster recovery plans to reestablish their computing environment once it is interrupted.

  - Even where agencies have either a business continuity plan or a disaster recovery plan in place, there has usually been no testing of these plans. Fifty-six percent of the agencies report they have never tested their business continuity plans and 39 percent report they have never tested their disaster recovery plans.

RECOMMENDATIONS

The executive branch should back legislation or use the rule-making authority of the ITC to direct all agencies to develop and test annual business continuity/disaster recovery plans. All ITC rules should include sanctions.

Resources should be appropriated by the Legislature to fund the development of these plans, including funding to enable large agencies to contract for BIA evaluations. We estimate that about $800,000 would be needed to complete 25 large, executive agency BIAs.

OCIO should require each agency to use Precovery or a similar business continuity planning tool. This would allow for greater comparison of agencies needs, plans, and capabilities.

The state should plan for and establish back-up sites in preparation for an unexpected business disruption. "Hot sites" (duplicate computer data centers standing by with all the necessary equipment and software deployed) and "cold sites" (duplicate data centers without equipment or software present) should be established for common usage. Some agencies will require specific solutions such as parallel systems for what experts call fail-over capabilities in their most mission-critical systems. For example, the Department of Public Safety (DPS) has an automated system that cannot be off-line more than a few minutes without risking the lives of its officers.

Emphasis should be placed on the protection of an agency's data. In the event of a significant disaster, an agency's computer hardware and software can be replaced if lost or severely damaged, but its computer files may be lost forever.

The current diversity of equipment, operating systems, and applications across state government is a barrier to realizing the full range of benefits from enterprise solutions. The IT Commission and the OCIO should establish more specific guidelines and procurement practices to make state government's information technology more uniform.

FISCAL IMPLICATIONS

Business continuity and disaster recovery plans can result in significant taxpayer savings through cost avoidance and should be considered an insurance policy for state government.

The Disaster Recovery Institute estimates the cost to recreate information at $100 per kilobyte. The state stores terabytes (millions of kilobytes) of electronic information. The cost to recreate one terabyte of information exceeds $1 billion.

The Environment Department conducted a preliminary BIA in August 2002 and determined that a loss of its computing capability would cost at least $74,000 each day in lost staff productivity. Until a comprehensive BIA is completed, the precise fiscal impact of a loss cannot be determined. Given the lack of business continuity planning in New Mexico state government, detailed costs across all agencies are presently unavailable. Therefore, fiscal estimates are based on (and assume) only one outage in the next four years

ENDNOTES

1. Anne M. McCarthy. "No Plan, No Site, No Business". Disaster Recovery Journal online. www.drj.com/special/wtc
2. Vincent Montane. "The Disaster Threat and Corporate Safety". Disaster Recovery Journal online. www.drj.com/special/wtc
3. "Disaster Recovery" is defined as
4. FEMA.gov/US Department of Homeland Security. Disaster List. www.fema.gov/library.
5. G. van der Vink et. al. "Why the United States is Becoming More Vulnerable to Natural Disasters". Wwww.agu.org.
6. Richard L. Arnold, CBCP. "Recovery From Sept. 11 Events is Slow Process". Disaster Recovery Journal Special Report
7. David Needle. "Disaster Recovery: Lessons Learned from 9/11". CIO Information Network. www.cioupdate.com
8. NMED Business Risk Analysis, August 2000: authors Paul Ritzma, Deputy Cabinet Secretary and Glen Smutz, Chief, Information Technology Services Bureau

Acquire and Implement an Asset Management System

As part of a new fixed assets management system, the state should conduct a top-to-bottom inventory of the fixed assets of all state agencies that administer federal funds.

BACKGROUND

New Mexico has no fixed asset system to monitor capital assets from the time of purchase to the time of disposal. There is no organized way of calculating depreciation or recording the current value of an asset

A fixed asset system would also allow for the full-capitalized value of the asset, that including all the costs associated with putting the asset into place and making it usable.

The federal government will pay its share of depreciation costs of assets used to support federal programs. For assets that have not exceeded their useful life and for which proper records are lacking, the federal government will pay a two-percent of book-value use fee for buildings and a 6.67 percent use fee for equipment — each year. For assets that have exceeded their useful life, but are still being used to support federal programs, the state can negotiate a use allowance.

Capital expenditures for equipment — including replacement equipment, other capital assets, or improvements that materially increase the value of existing equipment or other capital assets — can be charged at full cost to federal programs.

FINDINGS

There is currently no source to verify the type, amount, or value of assets that are used by New Mexico to support federal programs. Nor is there any source to verify what amounts and what methodologies are used to calculate depreciation. Some agencies calculate depreciation on fixed assets, but different methods are almost certainly used for the same type of assets.

The state also lacks a current, verified inventory of state-owned assets that are in use. In many cases, records supporting acquisition costs of assets have not been maintained. Where supporting records do not exist, agencies have failed to use acceptable methodologies for estimating the purchase price so that depreciation can be charged for the use of the asset.

There is currently no way to identify capital expenditures that could be charged to federal programs at full cost rather than depreciated over some period of the assets' useful life. Consequently, recovery of the depreciation cost state government is eligible for from the federal government for using state assets to support federal programs is substantially less than it could be.

RECOMMENDATIONS

Proper asset management is not exclusively a question of information technology. Indeed, for state government, it's ultimately a cost recovery issue to answer the question: How can New Mexico get full reimbursement from the federal government for supporting federal programs?

To the extent the state has no asset management system and isn't properly depreciating its information technology equipment, the challenge can be addressed in part with an IT solution. This would likely be a component of a new overall state information management system that should also include accounting, budget, and payroll functions. In the process of selecting a new information management system, it is critical to include a fixed assets management system.

A complete inventory of all fixed assets should be conducted as soon as possible. Without it, calculating what federal reimbursements the state is leaving on the table in Washington is impossible. Standards and procedures for the inventory should be developed by the Department of Finance and Administration and the General Services Department. A Web-based application could be created in-house to compile the inventory.

After the fixed asset inventory is completed, a proper basis for establishing current book value will have to be determined for each class of asset. This process will also most likely involve the State Auditor. All assets that have been fully depreciated but are still in use would have to be summarized in a separate category

FISCAL IMPLICATIONS

Until an inventory and cost basis is established for all fixed assets currently used by state agencies, it is impossible to put a dollar figure on lost federal reimbursements, losses due to theft, or premature retirement of useful assets because they haven't been properly maintained. Even without an inventory, it's not out-of-line to assume that the state is doing a poor job of asset management — leaving untold federal resources untapped and increasing the cost to state taxpayers from not using assets efficiently.

ENDNOTES

1. "Cost of Principles for State, Local, and Indian Tribal Governments", Federal Office of Management and Budget Circular A-87 (OMB A-87)
2. Implementation Guide for Office and Management Budget Circular A-87 (ASMB C-10)
3. Bob Peters, Budget Analyst, Department of Finance and Administration

Invest in MAGnet and State Network

The state should aggressively coordinate telecommunication planning and purchases to reduce costs and leverage purchasing power.

BACKGROUND

State executive agencies spend a total of $25 million a year on telecommunications equipment and services. Historically, any state agency that needed telecommunications services ordered the circuits from a private contractor or another local provider and paid the going rate.

In 2000, the previous administration grew concerned about the high cost of data transmission rates paid by state government and assigned the state's Chief Information Officer (CIO) to survey telecommunications buying patterns to identify ways to make it more cost effective.

The CIO found that state agencies had created 39 data network systems, using a variety of software databases. This lack of coordination in buying the data circuits meant state agencies were paying retail rates to communicate among offices around the state. For example, the state's Motor Vehicle Division has no way to share information electronically with the Department of Health or the Human Services Department, although they collect similar information about individuals. As a result of the study, the CIO began to change in the way state government buys telecommunications services.

One of the changes, MAGnet, is a statewide effort to cut costs by centrally leasing equipment known as data circuits. Local telecommunications providers proved unable or unwilling to buy and install the appropriate routing equipment to combine the circuits, so the Legislature is underwriting the capital cost of the project, to buy and install the critical equipment. This drives down the overall cost of circuits purchased from the local telecommunications providers because individual state agencies buy wholesale circuits through the state's Communications Division Office, rather than retail circuits through the local telephone company.

Today, the statewide redesign and upgrade of circuits and routers is about half-way complete.

In a separate project, the General Services Department (GSD) is upgrading the state's existing microwave network by installing new digital switches. The microwave network carries police and fire emergency radio traffic using a specific type of analog technology. Replacements parts for the analog technology are no longer manufactured, requiring the upgrade to digital technology. The upgrade from an analog to a digital network has expanded the available number of circuits, or bandwidth. The old analog equipment could carry only the emergency police and fire radio traffic for which it was designed. The digital equipment has the advantage of enough excess capacity to enable the network to carry radio, voice and data, and to sell excess bandwidth to interested state agencies.

Agencies can buy the bandwidth to increase their ability to share information and to upgrade the quality of their data connections to local offices. For example, the state network can supply a faster data connection between the MVD office in Raton and the state drivers' database in Santa Fe than the telephone company, which is constrained by the carrying capacity of the copper cables running to the office. The faster data connection shortens the wait time for drivers in Raton trying to renew a license.

The GSD has completed this digitalization effort in the northwest quadrant of the state, and the MVD and the Labor Department are testing voice and data circuits on the state microwave links between Raton and Santa Fe. The idea is to verify that the state microwave network provides the high quality services that agencies need to conduct their business and does not drop information from data packets transmitted this way.

GSD's digitalization in the southwestern and north central areas of New Mexico is also nearing completion, which will enable much of the state to use this network for voice, data, and video needs.

FINDINGS

The MAGnet Project is expected to reap big telecommunications cost savings for state agencies over the next four years because it allows them to pool their purchasing power to buy at wholesale rates rather than retail rates. The state currently leases between 700 and 1,000 telephone circuits for agency data communication statewide. For example, the Children, Youth and Families Department (CYFD) is one of the largest telecommunications users, with 105 circuits statewide, 45 of which were initially purchased as part of the MAGnet Project and have just gone on-line. The monthly telephone bill for the these circuits dropped from $56,000 in March 2003 to $30,500 in April 2003 — a 46 percent savings for the circuits now on-line in just one month.

Initial MAGnet cost reductions will occur in 24 cities. Installation of equipment in the 24 cities is now underway and expected to be complete by early 2004.

MAGnet cost savings for agencies currently averages 33 percent. As agencies move their circuits to MAGnet, they are realizing internal cost savings in their budgets. Many of the agencies are using these savings to expand the bandwidth they buy to provide faster data connections between their central office and their field offices. The digitalization of the state microwave will increase those savings as portions of the microwave system are incorporated into the MAGnet Project.

MAGnet is the interim solution to save money. Digitalization of the state's microwave network is a part of the permanent telecommunications solution for some state agencies. These are different projects that provide some of the same benefits, but were started for different reasons to accomplish different objectives and are separately funded by the state Legislature. Initially, they were not linked, but project managers are beginning to see their interconnections. The MAGnet Project, combined with the state microwave digitalization, is providing substantial savings for state agency telecommunications business with private providers. The MAGnet Project is projected for completion in FY06 at current rates of funding. The state microwave network is scheduled to be complete in FY08.

The GSD also saves money as it consolidates data traffic into some large trunks and drops lease arrangements on others. (Trunks are large fiber optic lines capable of carrying a great amount of data.) The Office of Communications is just beginning to systematically quantify these savings, and actual numbers are not yet available.

MAGnet and the upgrading of the state microwave network are similar to projects that surrounding states undertook and completed in the 1990's. New Mexico is playing technological catch-up, having delayed potential savings by failing to invest adequate resources in these projects.

The MAGnet Project plans to use the state microwave network as an aggregation point in Raton this year, and initial tests show that per circuit cost will be about one-eighth the cost of a circuit purchased from the local telecommunications provider, even when maintenance and repair costs are included. (2)

It will cost an additional $800,000 to $900,000 to complete the MAGnet Project. Completing the state microwave system digitalization is projected to cost an additional $12 million.

RECOMMENDATIONS

The State Communications Division and the Chief Information Officer should be directed to conduct a cost-benefit analysis of accelerated deployment of these two projects and present the analysis to the Department of Finance and Administration and the Legislature. This will define the potential cost savings:

The analysis should include individual agency productivity measures. For example, DPS investigators and District Attorney Office investigators may be able to increase their productivity by tapping into a central DNA database that couldn't previously be accessed because it requires major bandwidth to transmit the information.

The State Communications Division should also work with the Chief Information Officer to map state agencies' and educational institutions' circuit telecommunications requirements over the next five years. The next phase of the MAGnet Project will be to begin moving voice communications into the plan. The purpose of the mapping survey is to determine whether excess bandwidth will be available in rural areas to sell to the private sector. This bandwidth could only be sold if there is no other local telecommunications provider positioned to provide the service.

FISCAL IMPLICATIONS

The state General Services Department Secretary believes about half the $23 million dollars the state spends on telecommunications can be saved over the next two years, through a combination of efforts, which include the MAGnet Project and digitalization of the state microwave. Those efforts will also include redesigning the line trunk capacity for the state, and a statewide RFP for wireless service. That number is impossible to independently verify at this time, since actual costs savings have yet to be realized.

MAGnet Project. The CIO has completed nearly half the project, for combined savings of about $500,000. Overall savings may be $1 million yearly by the time the project is complete.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004	800.0	232.7		607.3	(567.3)	
2005		271.5		708.5	271.5	
2006		310.2		809.8	310.2	
2007		349.0		911.0	349.0	
2008		387.8		1,012.2	387.8	
TOTAL	**800.0**	**1,551.2**		**4,048.8**	**751.2**	

State Network. Another appropriation for the Legislature or a $10 million bond issue will be necessary to complete the state network digitalization project, with savings beginning to accrue as soon as FY04.

There is no benefit in delaying the project rollout. An effort should be made to move as quickly as possible to complete the project so that cost savings can begin.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004		N/A			Not Yet Available	
2005		N/A	10,000.0			
2006		N/A				
2007		N/A				
2008		N/A				
TOTAL		**N/A**	**10,000.0**			

ENDNOTES

1. Marcia Martinez, GSD contractor
2. Jody Blest, Project Manager for the CIO.
3. Larry Martinez in the Office of Communications.

Sell Excess Mainframe Capacity and Support Services

The General Services Department should market excess capacity on the state's mainframe computer and other support services to other local and state agencies.

BACKGROUND

New Mexico purchased a mainframe computer back in the 1960s to process state government data. The General Services Department (GSD) manages the mainframe.

Until 2002, most state agencies used the mainframe to handle their data processing needs. In FY03, the Taxation and Revenue Department (TRD) purchased client servers and began moving their data off the mainframe computer to take advantage of the newer technology. TRD plans to complete the transfer of data by FY06. The Human Services Department (HSD) also leased replacement equipment in FY01 and began moving its data off the mainframe.

Because both agencies process huge amounts of information, their data transfer initiatives leave significant unused capacity on the state's mainframe computer and corresponding excess staff to administer that capacity. Although the GSD's programmers are retraining in newer computer languages to adapt, their number now exceeds demand for the state's mainframe operations.

FINDINGS

GSD knows it now has excess mainframe capacity, but it does not know how much. The department stopped performing capacity estimates in 1998, although it hopes to complete a new evaluation in late 2003.

Other state agencies object to the rates currently charged for mainframe services. These rates are bundled, making it difficult for agencies to match services received to rates charged. According to some estimates, the GSD overcharges millions of dollars every year. This general perception leads other state agencies to purchase client servers elsewhere and move their operations off the mainframe. The GSD is in the process of restructuring rates to better reflect the true cost of services provided.

State agencies submit proposals to the state's Chief Information Officer (CIO) to justify their technology purchases. The CIO checks these proposals for duplication, efficiency, and contract structure. But the CIO lacks the authority to stop a project from going forward or to review sole-source or emergency contracts as alternatives. This weak accountability system makes it difficult to measure whether state agencies are planning appropriately for their information technology needs.

In FY01, the HSD invested $15 million to lease client servers and move off the state's mainframe computer based on an assumption that the department could finance the transition with federal funds and matching state funds. The HSD submitted a plan to the federal government, but Washington rejected it. As a result, the HSD owes IBM some $12 million, plus an additional $3.3 million to the GSD — and its client servers have still never been used, in part because the department's child support enforcement and welfare programs have to be redesigned for the new computer environment but the department lacks the resources to do so.

Meanwhile, state government as a whole has no long-term plan for the mainframe computer. But agencies continue to move off the mainframe, and the GSD winds up with excess mainframe computing capacity and a surplus of staff members to support mainframe operations.

The city of Albuquerque, which currently manages its own data and that of Bernalillo County, has expressed interest in purchasing excess mainframe computer capacity from the state. The technology platform used by Albuquerque is mainframe-based, but the city lacks programmers trained in mainframe technologies. Instead, the city pays consultants $250 an hour to help them support their mainframe needs. In the next three to five years, Albuquerque plans to complete a new technology platform and no longer require mainframe applications for current data. But they would still like to store archival data on the mainframe.

Officials from the GSD and Albuquerque have agreed to exchange the data necessary to determine whether purchasing excess capacity from the state is a viable business solution and to identify any potential technical barriers.

RECOMMENDATIONS

The state should maximize its technology resources by minimizing excess capacity on its mainframe computer. GSD should complete its capacity evaluation quickly, draft a new competitive rate structure, and adopt a renewed mission focused on external customers. The state should then actively market its excess mainframe computer capacity to potential customers, from the City of Albuquerque to other local governments and public school districts.

GSD and the City of Albuquerque should continue to develop a long-term plan to transfer city operations to the state. Determining technology requirements soon will ensure a smooth, efficient transition.

The state should also develop an information technology strategic plan for the long-term use of the mainframe computer. There may always be a need for the state to maintain mainframe technology, but if agencies are going to continue to move to client server technologies, the mainframe is going to have excess capacity for the foreseeable future.

FISCAL IMPLICATIONS

The precise fiscal implications of this recommendation are difficult to determine until the current GSD rate restructuring effort to identify capacity is completed later in 2003.

ENDNOTES

1. Clint Hubbard, CIO for the City of Albuquerque
2. Marcia Martinez and John Fitter, consultants for GSD

IT 5

Mandate Direct Deposit of All State Payroll Checks

The state should mandate the use of direct deposit of employees' paychecks to reduce the cost of printing and distributing checks.

BACKGROUND

New Mexico state agencies use one of five payroll systems. Each enables either direct deposit of paychecks into the recipients' bank accounts or the printing and distribution of traditional checks. Some departments even pay courier services to distribute state employees' payroll checks.

The Labor Department (DOL) has plans to transfer its payroll processing to the Department of Finance and Administration (DFA). The timing of the transfer has not yet been determined.

Current state law (Section 50-4-2 NMSA 1978) prohibits a mandated direct deposit of employee paychecks. This statute, enacted before the rise of the Internet and the generalized acceptance of e-commerce, requires state employees to voluntarily authorize their paychecks to be directly deposited into their personal accounts.

The Department of Transportation (DOT) requires its new hires to enroll in direct deposit and strongly recommends that all of its existing employees do the same, giving them the option of having their payroll checks mailed to their homes. The New Mexico Livestock Board (NMLB) also prints and mails checks to its employees' homes or post office boxes. NMLB reports that at least once a month one of these checks is reported as lost in the mail. New Mexico law sets certain time requirements for state employees to receive their paychecks. In the case of checks that are lost in the mail, state agencies could be found to be in violation of this law.

FINDINGS

- Most state agency payrolls are processed by DFA. Of 20,543 state employees, 77 percent (or 15,818 employees) of those whose paychecks are processed by DFA have requested direct deposit, while 23 percent (or 4,725 employees) are still being issued printed checks.
- Another 2,200 state employees belong to the DOT payroll system, with 86.4 percent (or 1,900) of them taking advantage of direct deposit and 13.6 percent (or 300) receiving printed checks.
- The DOL payroll accounts for an additional 614 state employees, with 73.6 percent (or 452 employees) of them participating in direct deposit and 26.4 percent (or 162 employees) receiving printed checks.
- There are 250 annual state employees and 750 seasonal state employees receiving payment through the New Mexico State Fair Commission (NMSFC) payroll system. All of these employees receive payment via printed checks because the majority of seasonal employees tend to lack bank or credit union accounts.
- Of the total number of New Mexico state employees — 23,684 — fully 77 percent, or 18,228, are on direct deposit. The number of state employees receiving printed checks is 5,456, or 23 percent of the total.
- The state is currently in negotiations for a new fiscal agent bank services contract. The agent selected will act as the state's bank and be responsible for the payment of all state payments and direct deposit checks. Proposed costs for processing these payments and direct deposits differ from the existing contract and may narrow the annual savings estimated for this report.
- In a survey of 10 state agencies with employees in different cities around New Mexico, the agencies reported spending $64,000 a year on courier services to distribute payroll checks.

RECOMMENDATIONS

The state should revise Section 50-4-2 NMSA 1978 to eliminate the word "voluntary." This will empower the state as an employer to determine how it can pay its employees in the most efficient and effective manner.

The state should require the use of direct deposit to reduce the costs of producing and distributing payroll checks, with the possible exception of the New Mexico State Fair Commission's seasonal employees. Mandated direct deposit would reduce the costs of paper, courier services, and postage. Moreover, state employees could depend on receiving their paychecks on time.

FISCAL IMPLICATIONS

It costs .08 cents more to process a paper check than a direct deposit transaction. The state currently processes 5,456 paper checks. If the state processed these checks using direct deposit, taxpayers would save $436.48 per pay period, or $11,348 a year. Add to that the estimated cost of $64,404 a year for courier service to deliver paper checks, and total annual taxpayer savings reach $75,752.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004						
2005		65.8		10.0	65.8	
2006		65.8		10.0	65.8	
2007		65.8		10.0	65.8	
2008		65.8		10.0	65.8	
TOTAL		**263.2**		**40.0**	**263.2**	

ENDNOTES

1. Focus Group Meeting of CIO/IT Managers from State Agencies
2. Stan Valdez, DOL
3. Chester Zadroga, HRMS
4. Section 50-4-2 B (NMSA, 1978, 1993 Repl. Pam.
5. Victoria M. Vigil, DOT
6. Angelina Zak, NMLB
7. Payroll Processing Disbursement Print Totals Report, Cathy Meyer (HRMS) and Mike Vaisa (DFA), Payroll Run Date: May 27, 03
8. Victoria M. Vigil, DOT
9. John Schwartz, DOL
10. Janice Edwards, NMSFC)
11. RFP 30-341-40-12282 Request for Proposals, Fiscal Agent Bank Services, issued April 14, 2003.
12. Victor Vigil, Office of the State Treasurer.
13. Anthony Armijo, DFA Financial Control Division,

A2

Outsource Labor Department Website Development and Maintenance

The Labor Department's website development and maintenance should be outsourced.

BACKGROUND

The Labor Department currently employs one full-time webmaster and two full-time webmaster assistants to develop and maintain the department's static website. The website includes information on job services, unemployment benefits, labor market information and employer services.

Originally, the department's website was developed to provide labor market information. Through time, other divisions and bureaus requested that additional information be posted on the website. The individual who initially managed only a small website on a part-time basis began to take on these additional duties, turning the position into a full-time job. It appears that the individual presently in the position acquired the job in an ad-hoc manner, and has limited formal training in webmaster design and maintenance. The webmaster requires the help of two assistants to manage the website. A quote from an independent firm indicated that a website of similar scope and size could be managed for approximately $2,400 per year and designed and developed for $3,000. As outlined below, the department is presently spending over $122,000 per year on these services.

FINDING

The department is spending excessive amounts for website development and maintenance.

RECOMMENDATION

Outsource future development and maintenance of the Labor Department's website.

FISCAL IMPLICATIONS

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004				58.6		-3
2005				119.8		
2006				119.8		
2007				119.8		
2008				119.8		
TOTAL				**537.8**		**-3**

Current Costs:

Position	Annual Salary	Benefits	Total
Webmaster	43,339	13,001	56,340
Assistant 1	23,905	7,172	31,077
Assistant 2	26,726	8,018	34,744

Grand Total: **$122,161**

Expected Costs if Outsourced:

Design and Development: $3,000 one-time cost

Maintenance: $2,400 annual cost

ENDNOTES

1. Quote from XYZ to MGT of America to design and maintain company website.
2. Salaries according to Labor Department's Human Resources Bureau.
3. Osogrande Technologies, Inc.'s website indicates a cost of $80/hour for website development and $20/quarter hour for website maintenance.

Chapter VI

Improving State Government Management

Chapter VI:

Improving State Government Management

New Mexicans spend nearly $900 million a year on the heart of their state government operations, including executive and administrative agencies that provide many of the services taxpayers and citizens rely on every day.

A series of recommendations in this report is based on the premise that what helps improve the working conditions and training opportunities of state employees will increase their effectiveness and benefit the citizens who pay for state government and expect high-quality, low-cost customer service in return.

For example, we propose streamlining the state's efforts to recruit and retain the best frontline workers. Last year, more than 120,000 New Mexicans applied for state jobs — and waited an average of four months to hear whether or not they had been hired. Meanwhile, important positions went unfilled, existing state employees' workloads grew, and customer service inevitably suffered.

We believe our recommendations regarding the state's human resources functions will provide better support for public servants and a greater return for taxpayers on their investment in the state's work force.

The state has to improve the management of overtime pay, too. More than $14 million a year is spent on overtime for state employees asked to work longer hours due to vacant positions in their agencies. In addition, we recommend improving the system of pay differentials — extra compensation for employees who remain "on-call" after their regular shift — and reducing the ratio of middle managers to frontline workers.

Finally, as part of improving state government's human resources system, we recommend increased training and employee incentives to make sure that those who provide vital services to New Mexican businesses and families continue to be the best.

Total recommendations:	**6**
Total five-year savings:	**$25.8 million**

CHAPTER VI - IMPROVING STATE GOVERNMENT MANAGEMENT

(Dollars in Thousands)

Issue No.	Recommendation	2004 General Fund	2004 Other Funds	2005 General Fund	2005 Other Funds	2006 General Fund	2006 Other Funds	2007 General Fund	2007 Other Funds	2008 General Fund	2008 Other Funds	Cummulative Total General Fund	Cummulative Total Other Funds
HR 1	Implement Workforce Planning and Reduce Manager-to-Staff Ratios	-	-	1,633.2	4,262.3	1,633.2	4,262.3	1,633.2	4,262.3	1,633.2	4,262.3	6,532.8	17,049.2
HR 2	Correct State Employee Misclassifications	-	-	-	-	-	-	-	-	-	-	-	-
HR 8	Improve State Government Human Resources	-	-	-	-	-	-	-	-	-	-	-	-
HR 3	Improve the State Employee Incentive Program	98.5	361.5	98.5	361.5	98.5	361.5	98.5	361.5	98.5	361.5	492.5	1,807.5
HR 5	Consolidate and Coordinate Training and Development Resources	-	-	-	-	-	-	-	-	-	-	-	-
HR 4	Manage Expenditures for Overtime and Pay Differentials	-	-	-	-	-	-	-	-	-	-	-	-
HR 6	Improve Application Process	-	-	-	-	-	-	-	-	-	-	-	-
HR 7	Move Risk and Benefit Administration to the State Personnel Office	-	-	-	-	-	-	-	-	-	-	-	-
Total		**98.5**	**361.5**	**1,731.7**	**4,623.8**	**1,731.7**	**4,623.8**	**1,731.7**	**4,623.8**	**1,731.7**	**4,623.8**	**7,025.3**	**18,856.7**

Implement Workforce Planning and Reduce Manager-to-Staff Ratios

The State of New Mexico can improve customer service for it's taxpayers and citizens through better workforce planning and realigning manager-to-employee ratios.

BACKGROUND

"Workforce planning, defined as a strategy and set of procedures by which the state's future personnel needs are assessed, enables agencies to ascertain their need for and availability of human resources to meet their objectives. All high-performing states prepare formal, centralized workforce and strategic plans."

That's what the experts say. But strategic planning and budgeting in New Mexico have historically been done without any formalized workforce planning at all. Not surprisingly, staffing levels have developed haphazardly and often out of alignment with agency missions. Nor are these staffing levels reviewed with any frequency. As a result, New Mexico state government has many managers supervising few front-line employees, costing taxpayers many dollars and reducing the number of employees available to provide actual customer service.

For the last decade, a minimal span of control — the ratio of managers to direct employees — has been driven by New Mexico's employee classification system and tight budgets. Before 2001, a typical strategy to increase staff salaries was to reclassify a job to a higher pay grade or promote an employee to a supervisory position. This practice caused manager levels to grow in many agencies.

The situation was exacerbated in 2001 when the classification system was changed. During the conversion, confusion and a lack of experience with the new system led to misclassifications, particularly in the Manager Category (MC). Attempts over the years to adapt to changing missions had also led to multi-level organizational hierarchies. These factors, together with a lack of formal workforce planning, gave rise to too many managers in some state agencies and a current average span of control of one manager to every nine employees.

To make matters worse, the state compensates some technical employees to perform supervisory functions. When managerial employees are combined with these technical employees being paid to supervise, the span of control is even less — one supervisor to every four employees, far below the industry standard.

New Mexico's Accountability in Government Act requires state agencies to produce a strategic plan, and the performance-based budgeting process developed by state lawmakers and the Department of Finance and Administration (DFA) mandates each agency to develop specific performance measures. However, neither requirement asks agencies to evaluate their current or future workforce needs in conjunction with the strategic direction of the program, or align the financial and human resources with those requirements. This deficiency has allowed the growth in management staffing at the expense of direct client services.

Organizations that increase levels of management may inadvertently create a paradoxical result, according to experts: "a workforce with steadily increasing numbers of supervisors and steadily declining accountability—a workforce that feels more and more overworked at the same time as its skills move further and further out of balance with the needs of the public it serves."

A flattened management structure allows front-line workers to exercise greater control over their work, and often leads to a deeper sense of pride and ownership in the outcomes of their performance. Translation: more efficiency and effectiveness. By reducing the ranks of middle management, the state could save taxpayers millions while improving customer service.

FINDINGS

- New Mexico does not use workforce planning as part of its strategic planning and budgeting process.
- A ratio recommended nationwide for the private and public sector is one manager for every eleven employees (1:11).
- Based on this ratio, New Mexico potentially has 511 too many employees classified in the MC.
- A significant number of MC employees are misclassified, resulting in inappropriate pay grades. A classification 'risk assessment' of MC positions was conducted by SPO. By applying the state's definition of manager to manager positions, the office determined that 421 positions were at a "high risk" of not being managers. The identified positions fail to meet a basic manager criterion of supervising other employees.

If all 511 managers remained employed by the state and retained their current salary, but were reclassified to a technical occupational group (TOG) at one-salary step lower, taxpayers could save about $55,188 per year. In the reduced costs of future salary increases, our estimates assume that employee compensation will increase an average of three percent each year over the next five years.

The state's current ratio of MC employees to Technical Occupational Group (TOG) employees is 1:8.71. Using the 1:11 ratio as a benchmark, the New Mexico gap is:

Benchmark	1:11
State of NM	1:8.7
Gap	1:2.3

Viewing selected agencies shows the following ratios compared to the benchmark:

Agency	Tech Employees	Mgrs	Ratio
RLD	202	35	1:5.77
OCA	483	69	1:7
EMNRD	293	109	1:2.69
HSD	1,332	242	1:5.5
Agency on Aging	30	22	1:1.36
Statewide	17,208	1,976	1:8.71
Benchmark			1:11

Further study is required to determine which of the state's MC positions are simply misclassified and which positions may be unnecessary altogether. Regardless of the cause, there are too many middle managers in state government. To bring the state's span of control ratio to 1:11 would require a reduction of about 511 manager positions. Many of those positions are no doubt critical to the operations of their agencies, in which case they should be more appropriately classified in a TOG rather than as a manager. Using SPO's risk assessment, the number of positions that fall into this category may be 421.

Some percentage of the 511 positions, however, may be unnecessary. If 421 of the 511 positions should legitimately be reclassified to TOGs, the potential number of unnecessary positions may be 90 (511-421= 90). The fact that the state currently has 171 vacant MC positions lends credence to this argument. State government could eliminate these positions without having lay off actual employees. The result? Savings of nearly $6 million a year (90 FTE x average salary of $50,386 plus benefits).

Viewing selected agencies and combining the TOG supervisors with the managers, compared to the same benchmark, is as follows:

Agency	Tech Employees less Supervisors	Mgrs plus Supervisors	Ratio
RLD	174	63	1:2.76
OCA	426	126	1:3.39
EMNRD	268	134	1:2
HSD	1,229	345	1:3.57
Agency on Aging	25	27	1:0.92
Statewide	14,926	4,258	1:3.51
Benchmark			1:11

This comparison underscores the issue of the span of control throughout state government. When comparing MC employees to all TOG employees (including supervisors), the ratio is currently 1:8.71. When TOG supervisors are combined with MC employees, the ratio is 1:3.51. This means the state is paying one employee to supervise only 3.51 employees. At some point in the near future, the total span of control at the TOG supervisor level should be addressed through a workforce planning process.

Over the past decade, the federal government has reduced its workforce to the lowest level since just after WWII. These cuts have come from across-the-board reductions and hiring freezes, rather than targeted reductions aligned with agency missions.

A more measured approach combining strategic planning, performance-based budgeting, and workforce planning, could streamline state government and save millions while safeguarding vital services and improving customer service for those who foot the bills — New Mexico taxpayers.

RECOMMENDATIONS

- Institute a workforce planning process to work in conjunction with strategic planning and budgeting by the FY06 budget request. The workforce planning process should report on

MC employees, TOG employees identified as supervisors, and TOG employees. The process should establish a state benchmark for supervisory span of control that includes both MC employees and TOG employees who are receiving pay to supervise.

- The goal of these plans should be to reduce the organizational layers and redistribute allocated staff from higher-level positions to front-line service-delivery.

- Require all agencies and SPO to review, revise, and appropriately classify all MC employees during FY04. During this process, the use of the supervisory pay incentive should be restricted to prevent managers from being reclassified to technical employees at higher pay.

- While workforce planning and reclassification of MC employees are ongoing, personnel services, benefits, and full-time position funding requests in affected agencies should be reduced to conform to a MC span of control ratio of 1:11 in the FY05 budget appropriation request. This process can begin in FY04 and continue into FY05 using natural attrition, turnover, and currently vacant positions.

- Requests to use the TOG supervisory allowance should be monitored by SPO and DFA in accordance with the overall span of control ratio.

FISCAL IMPLICATIONS

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004						
2005		1,633.2		4,262.3	1,633.2	-90
2006		1,633.2		4,262.3	1,633.2	
2007		1,633.2		4,262.3	1,633.2	
2008		1,633.2		4,262.3	1,633.2	
TOTAL		**6,532.8**		**17,049.2**	**6,532.8**	**-90**

This study shows the difference between state government's manager-to-staff ratio and the national benchmark of 1:11 is 511 positions. Assuming that 421 of those positions are misclassified as managers and the positions are reclassified during FY04, and assuming, as well, that the remaining 90 positions can be eliminated by the beginning of FY05, taxpayers could save up to $1.6 million a year in general revenue funds. A review of the manager-to-staff ratios that includes the TOG supervisors may result in additional opportunities for savings or efficiencies.

ENDNOTES

1. Strategic Management of Human Capital. Executive Office of the President, Office of Management and Budget. The President's Management Agenda, FY2002
2. Limited Government, Unlimited Opportunity. Texas Performance Review, GG10. Reduce Management Costs in State Government
3. Alex Markels, "Critical Slot: Restructuring Alters Middle-Manager Role But Leaves It Robust," *Wall Street Journal* (September 25, 1995), p. A1
4. Manager Category Risk Assessment, Agency Liaison Bureau, SPO
5. Agency Employee Breakdown report, SPO, April 16, 2003

Correct State Employee Misclassifications

The new employee position classification system (NM.HR.2001) should be revised to ensure that positions are properly classified, and the State Personnel Office should conduct regular compliance audits and parity studies to ensure the accuracy of employee classifications.

BACKGROUND

The new state employee position classification system, NM.HR.2001, implemented in 2001, was a necessary step forward to modernize New Mexico's state employee system. The changes significantly improved classification and compensation.

The previous classification system featured 1,200 job classifications for 20,000 employees, with multiple levels of the same classifications, such as financial specialist I, II, III, and IV. The new system consolidated employee classifications to about 300 and separated managerial from technical occupational groups (TOG), while implementing broader pay bands for technical occupational groups and pay opportunities for managerial classifications.

Implementation of the new classification system has been criticized for its lack of training and inconsistency of classifications between agencies. Many state employees do not understand the new classification system. They view the new system as a flat job classification structure that limits their promotional opportunities.

FINDINGS

Job classifications within and among state agencies are inconsistent for both the TOG and manager categories (MC). The new classification system should be revised and adjusted to enhance the effectiveness of the overall system.

Many state jobs are misclassified because they have been "parked" in a TOG or MC until the proper classification could be created. An example of this is the nurse consultant classification. In the old system, the classifications were Nurse 5 and Nurse 6. In the new system, the positions were cross-walked to physician assistants because of the pay range. However, employees in this classification do not operate as physician assistants and are not used in direct patient care, but they have impact on broader health issues.

Other state positions are not properly classified. For example, some budget analyst positions in the Department of Finance and Administration are classified as administrative operations managers for lack of a better classification or because the previous classification had a pay range that did not fit the job duties. The impact of the misclassifications is twofold. First, the integrity of the classification system is compromised by knowingly misclassifying positions. Secondly, employee morale is put at risk when some are classified as managers who neither perform the same tasks (such as manage programs) nor have direct fiscal responsibility, accountability, and authority.

SPO has conducted an initial study of manager classifications and has identified hundreds of managers that are over-classified in agencies. Because there are five levels of managers, most agencies slotted their management positions in the highest manager level, regardless of the size of the agency, function, or job responsibility and accountability. The annual salary range for the highest-level manager — executive — is $59,900 to $99,800. The annual salary range for the lowest level of manager is $27,400 to $45,600.

Employees do not understand the new classification and compensation system and, because of this lack of understanding, have been slow to embrace the new system. This is highlighted by employee groups calling for an end to NM.HR.2001 and actively seeking input from state employees who may have been "harmed" by the new system.

NM.HR.2001 has provided new tools to enhance the state employee compensation system, allowing agency managers the flexibility to encourage career advancement and pay raises based on clear performance measures. An employee's salary may be adjusted by up to 10 percent during a fiscal year. But the use of such tools is based on agency budgets — and many agencies lack the resources to effectively use the tools.

RECOMMENDATIONS

The State Personnel Office is responsible for ensuring that positions are classified properly and should do so by using compliance audits and parity studies — and, in fact, the SPO has made some improvement in these areas.

Now, it is critical that the office continue to refine the classification system and conduct job studies to include classifications that were not identified during the initial project. Specifically, SPO should identify positions that are not properly aligned and classify them correctly.

The integrity of the classification system must not be compromised by intentionally over-classifying or misclassifying positions. Misclassification of positions is what led to the creation and implementation of the new classification system in the first place. Managers should be trained in the new classification system so that they can use the compensation tools afforded by the system.

To address mis- and over-classification of state employee positions, SPO should flag any jobs in question. For current and future vacant positions, the office should request a Position Assignment Questionnaire to determine the appropriate classification. Flagged positions should not be filled until this process has been completed and the positions have been reviewed.

A task force comprised of human resource administrators and managers from SPO and the agencies, as well as personnel from DFA's State

Budget Division, should be assembled to evaluate and make recommendations on position misclassifications and over-classifications.

FISCAL IMPLICATIONS

Reclassifying employees could avoid $2.1 million in salary costs to the general fund over the next five years, assuming that such positions will be properly reclassified and the corresponding salaries reduced as these positions are vacated.

Historically, salary increases have been based on a percentage of the mid-point of the salary range for the classification (position). When the positions are properly classified, midpoints of the positions would decrease, and corresponding increases would occur at a lower rate.

Assuming an over-classification rate of 10 percent, some 2,000 positions may currently be paid at a higher pay band than justified. In most cases, the difference between an "advanced" and an "operational" position is one pay band that can vary between five and 13 percent with a mid-range of nine percent (range $35,000 to $40,000); the difference in mid-point is approximately $1 per hour. Assuming a 10 percent annual turnover rate for these positions, 200 state jobs could be filled at lower salaries.

Additional savings also could accrue as a result of reduced pay-for-performance increases that are also based on the mid-point of the salary range for the classification

ENDNOTES

1. Information and Statistical Report, State Personnel Office, 2003.
2. Classified Service Classification Plan, New Mexico State Personnel Board, November 8, 2002.
3. Classified Service Pay Plan, State Personnel Office, 2003.

HR 8

Improve State Government Human Resource Services

The state should improve support of human resources services for smaller agencies.

BACKGROUND

The trend in both private and public sector human resources support is toward a shared responsibility between a central personnel office and other divisions of the company or agencies of government. A harmonized strategy brings benefits such as coordination, expertise, and economies of scale. But the consolidated strategy can also create intractable bureaucracies - which is why a strategy of shared responsibility is increasingly being tested.

The *New Mexico Performance Review* team interviewed 18 people familiar with human resource management and the State Personnel Office (SPO). Many noted the need for increased standardization and consistency across agencies. A lack of resources affecting quality and timeliness of human resources services was often cited.

For the past 26 years, the Bureau of National Affairs (BNA), a publisher of materials concerning legislative and regulatory issues, has collaborated with the Society for Human Resource Management to conduct an annual national survey of human resources (HR) units in public, private, and nonprofit organizations. These surveys have looked at a variety of human resource issues, including the ratio of HR employees to the staffs they serve. For the entire 26 years of the survey, the average ratio across all organizations has ranged from one HR employee per 90 staff members to 110 staff members. In four out of the past five years, the ratio has remained constant at one HR employee to 100 staff members.

In New Mexico, state agencies with 100 or fewer full-time employees face unique obstacles in HR management. Typically, these smaller agencies have one or two staff members who perform all human resource functions for their agencies, sometimes on a part-time basis. A lack of expertise and training in this critical area can make it difficult for agencies to comply with state laws and court rulings, fill positions with qualified individuals in a timely manner, or manage their workforces effectively. This lack of expertise can also lead to errors.

FINDINGS

A total of 908 state employees work in 40 state agencies with fewer than 100 employees. The state's classification for human resource specialists includes trainers in the same general category.

An American Society of Training and Development (ASTD) survey suggests that a benchmark for trainer to employee ratio in the government sector is one trainer for every 584 employees.

Using the BNA and ASTD benchmarks, those 40 state agencies have an appropriate level of HR/Training resources when taken all together.

Agency FTE	1-100
# of agencies	40
# of employees	908
HR support @ 1:100	9
Trainers @ 1:584	1.6
Benchmark Totals	10.6
Actual	11

However, the trainers included in the human resources specialist classification do not perform regular, daily HR functions so should not be included in the overall HR resource assessment. Additionally, even when including trainers, according to the benchmark, only nine of the 40 agencies with fewer than 100 employees have adequate resources for the total number of employees.

RECOMMENDATIONS

The State Personnel Office should improve communication and coordination of human resource services with all HR staff, especially those in agencies of less than 100 FTE, to help guarantee a full range of personnel services and increase expertise in the current system.

SPO should establish a regular (bi-monthly or quarterly) seminar for HR representatives to:

- Provide a single point of information dissemination including the opportunity for HR staff to ask questions and receive answers in a community forum to ensure the same information and interpretation is being communicated across agencies;
- Develop working relationships among HR staff as resources for each other; and
- Regularly train HR staff on laws and court filings as it relates to them as well as workforce management and other relevant topics.

Attendance should be required of at least one member of the HR staff in all agencies at each seminar. The only exception is in those agencies with only one HR staff where they should be required to attend at least 2-3 seminars per year.

SPO also should develop for, its customer agencies, a single-point-of-contact system where one SPO staff is responsible for communication and coordination with the HR staff in the agencies to whom they have been assigned. The agencies should receive their information from and direct their questions to that person.

Additionally, each representative should be assigned to back-up another to ensure timely response to all requests and the primary representative should contact all HR staff (and their backups) in the agencies to which they have been assigned identifying themselves and their backup.

ENDNOTES

1. Trends in Human Resource Management: Lessons from the States, 2001 - Government Performance Project.
2. State Personnel Office Transition Report, December 9, 2002
3. Interviews conducted by Governor Richardson's Performance Review Task Force, April and May 2003.
4. Bureau of National Affairs, Bulletin to Management: Human Resource Activities, Budgets and Staff (Washington, D.C., June 2001), p. S-13.
5. State of the Industry, Report 2002. ASTD's Annual Review of Trends in Employer-provided Training in the United States. Van Buren, Mark E., and Erskine, William.

Improve State Employee Incentive Program

The state should enhance the employee incentive program to encourage suggestions for improving the efficiency and effectiveness of state government.

BACKGROUND

The State Personnel Board (SPO) rule on government cost savings incentive awards states that "Agencies may provide cash awards to employees with the approval of the State Personnel Board in accordance with the provisions of Section 10-7-12 NMSA 1978. The State Personnel Director and the Secretary of the Department of Finance and Administration (DFA) shall issue guidelines for submitting proposed awards to the Board."

The provision cited in that rule provides that "A state agency may provide an award to any employee whose accomplishment or written suggestion beyond the scope of his responsibility contributes to the efficiency, economy, or improvement of the agency operations and results in actual cost savings to the agency."

According to the rule, an award may be paid on a one-time basis and based upon actual cost savings in an amount not to exceed $2,000 or 10 percent of the actual cost saving attributable to the employee in the two-month period immediately preceding the award, whichever is less.

Guidelines for the State Employee Incentive Program (SEIP) were issued in 1993 and re-issued in 2000 to cabinet secretaries, agency directors, and personnel officers throughout state government.

The results have been less-than-stellar. In the past 10 years, the SEIP has been triggered a grand total of 10 times — only once since 1998.

One current request went before the SPO board in June, DFA recommended against approval on the grounds that the suggestion was within the employee's ordinary scope of responsibility. Despite this recommendation, the SPO board approved the award, paving the way for the employee to receive $1,873 out of a total savings of $18,732.

The actual taxpayer savings directly attributable to employee suggestions since the SEIP was created have not been tracked in a central file. Awards are documented at the time that they submitted to the SPO and to the DFA.

FINDINGS

The current State Employee Incentive Program has been underused, largely because of the requirement that the "accomplishment or written suggestion be beyond the scope of [an employee's] responsibility." That provision in the rule has made it difficult to define or interpret what is "beyond the scope," and, as a result, the program has rarely been used to reward employee suggestions, regardless of the degree of innovation or size of the savings produced. Most state employees are discouraged from participating in the SEIP because of a general perception that making state government more efficient should be part of the job.

Although the current program is governed by a state personnel rule, the program has not been actively promoted or advertised. Employees who are unaware of the program can hardly be expected to apply for an incentive award.

Other states have used employee incentive programs effectively, in part by not requiring that suggestions be "beyond the scope" of an employee's regular job. In Texas, a similar program provides financial incentives to state employees who develop ways to improve efficiency and effectiveness of state government and has, since its inception, saved Texas taxpayers nearly $13 million. Each suggestion that is submitted gets evaluated, and if it saves taxpayers money, the employee may be eligible for an award of $5,000 or more.

RECOMMENDATIONS

If used correctly, SEIP could save lots of money. To encourage suggestions from front-line workers who know best what would help them fulfill their duties more effectively, SPO and DFA should redefine the parameters of what is or is not "beyond the scope of responsibility" of a state employee's job, and a corresponding statute change should be made to remove any reference to the suggestion being beyond the scope of responsibility.

The state should also aggressively advertise the retooled SEIP and celebrate successes by recognizing employees and agencies to foster an atmosphere that encourages and rewards innovation. The program should be advertised on the SPO web site, and information on the program should be incorporated in new employee orientations. Managers should be trained to look for opportunities in which employees could be eligible to receive an employee incentive award.

FISCAL IMPLICATIONS

The potential for cost-savings from employee suggestions is significant. A recent survey of state government employees produced approximately 4,000 suggestions to increase efficiency and save resources. Savings from a more aggressive approach to soliciting and implementing employee suggestions could total $2.3 million over the next five years. Taxpayer savings would come from reductions in spending directly attributable to these suggestions.

Per existing state statute, the maximum amount for an award is $2,000. Using conservative estimates, if the approximately 20,000 state employees produced 20 savings proposals each year that led to one-time savings of $25,000, those savings and their costs would be as follows:

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004		98.5		361.5	98.5	
2005		98.5		361.5	98.5	
2006		98.5		361.5	98.5	
2007		98.5		361.5	98.5	
2008		98.5		361.5	98.5	
TOTAL		**492.5**		**1,807.5**	**492.5**	

Note: This is based on an average of actual savings totaling $25,000 per year. Suggestions may yield a much higher savings. If actualized savings are lower than $20,000, the award would be reduced to 10 percent of actual savings. In such cases, costs would be less.

ENDNOTES

1. Report of the e-Texas Commission, December 2000, from Theory to Action

Manage Expenditures for Overtime and Pay Differentials

The state should study the costs and uses of pay differentials for state employees to make sure agencies are achieving the maximum benefits from these policies.

BACKGROUND

Pay differentials are financial tools used to make sure that the critical work of state government gets done under all circumstances. Some state employees are afforded incentives such as the following:

- Alternative work schedules. Shift pay is paid for work hours between 6:00 p.m. and 7:00 a.m. Employees receiving shift differential pay are generally direct-service personnel such as healthcare workers, correctional officers, probation officers, janitors, maintenance workers, food servers, and security personnel.
- After hours work. This is used to compensate employees who are required to return to work after hours.
- On-call pay. This pay differential is for state employees whose duties require them to remain close to phones or pagers. While on-call, employees must respond and report to their work locations immediately.

State Personnel Board rules allow for the following pay differentials:

- Shift Pay. Employees are paid, in addition to their regular salaries, no less than 60 cents per hour for each hour of regularly scheduled work between 6:00 p.m. and 7:00 a.m. Agencies are required to notify the state personnel director of any change in this rate.
- Call-Back Pay. Employees who are directed to return to work after completing their normal shifts and before their next shifts are paid in

accordance with the overtime rule. Agencies may establish a minimum number of hours to be paid when employees are called back in accordance with their agency policy.

- On-Call Pay. In accordance with the federal Fair Labor Standards Act (FLSA), agencies must develop policies to compensate employees who are asked to remain on-call after their normal work shifts. Agencies have to file their on-call compensation policies with the State Personnel Office (SPO).
- Out-of-State Differential. The state personnel director is authorized to pay an out-of-state differential to any employee up to the maximum of the employee's pay band if his or her salary is insufficient to adequately cover their pay while working out-of-state.
- Overtime. Employees who are not covered or exempt from FLSA's overtime provisions get paid overtime in accordance with their agency's policy.

FINDINGS

New Mexico state agencies have different missions that require a certain flexibility in determining policies and procedures. Sometimes, this entails the use of pay differentials. But the policies in place for pay differentials across state government are too general to be effective in many specific cases. These policies and their costs should be reviewed annually to ensure that they align with the agency's strategic mission and that they are contributing to the agency's effectiveness.

An analysis of policies and use of pay differentials should be prepared to determine who is receiving pay differentials, what the impact is, and whether policy changes are in order. It makes little sense to pay an employee on-call time if he or she is never called, or to pay for duplicate coverage by multiple employees. Flexibility to use the pay differentials is important, but taxpayers deserve to know that the system is being held accountable for being efficient and effective.

Shift pay is currently set at a minimum rate. An analysis of shift differential rates shows that the majority of agencies use the minimum or just above the minimum rate (60 cents to 80 cents).

The collective bargaining law that went into effect on July 1, 2003, requires the state and employee unions to bargain in good faith over wages, hours, benefits (except for retirement), and general working conditions. It is essential, then, that state government have a good understanding of the current costs as it negotiates with employee unions.

While SPO has written policies that allow for payment of pay differentials, there are no administrative payroll guidelines on how agencies should administer and code payroll. Agencies have varying interpretations of how to process payroll and the payroll codes that are utilized. Therefore, payroll coding and reporting is not consistent between agencies.

On-call and call-back time is also administered differently among state agencies. Many use different ratios in calculating compensation for on-call time. Some of these ratios are: 1:8 hours, 1:4 hours, and 1:1 hour. A 1:8 ratio translates into one hour of compensation for every eight hours on-call. Call-back time is also administered differently, with some agencies using a two-hour minimum before an employee can be called back to work, even if the employee actually spends only a half-hour at work. Other agencies compensate only for actual time worked and include travel time in calculating the call-back hours.

The FLSA establishes guidelines for the payment of overtime, with employees classified as covered and non-covered.

- Non-covered employees include elected officials and their personal staffs, policy-making appointees, legal advisors, legislative employees, volunteers, independent contractors, prisoners, and certain trainees.

- Covered employees are classified as either exempt or non-exempt:

  - Exempt employees are subject to FLSA record-keeping requirements but are not required to be compensated at a premium rate such as time-and-a-half for each additional hour worked over 40 hours within a work week. However, agencies may compensate FLSA-exempt employees in accordance with agency policies, usually paid as actual time or accrued actual time to be taken at a later date.

  - Non-exempt employees are also subject to FLSA record-keeping requirements and are required to be compensated at a premium rate of not less than one-and-a-half times the regular rate of pay for each hour actually worked over 40 within a work week.

RECOMMENDATIONS

Agencies should be directed to perform a cost-benefit analysis on the pay differentials they use to make sure they are achieving the maximum benefits from these policies. This analysis should be reported to DFA and SPO.

The cost-benefit analysis should answer the following questions:

- Analysis of overtime. How is it requested and approved? How many hours of overtime are being worked? Who is working overtime and for what purpose? How are FLSA-exempt employees being compensated for overtime? What are the associated costs of overtime? Is overtime cyclical or continuous? What are overtime variations attributed to (hours and costs)? Is overtime being worked by employees earning a high hourly rate? Could overtime costs be reduced by assigning overtime to employees earning lower hourly rates? What is the benefit to the agency of employees working overtime?

- Analysis of employees working on-call. How is it requested and approved? What is the calculation in determining on-call compensation? Who is receiving on-call and for what purposes? How often is an employee called? If an employee is never called, should his or her on-call status be cancelled? Is there duplicate coverage of multiple employees being on-call at the same time? When an employee is called, is the time requirement for calling back and reporting to the work station being met? What is the benefit to the agency of employees being on-call?

- Analysis of call-back. What is the criteria for the decision to call an employee back to the worksite? Who has the authorization to call-back employees and for what purposes? What is the benefit to the agency of employees being called back?

- Shift Pay. Who decides and authorizes shift work? Who determines the rate of shift pay? What classifications and positions are being paid shift pay? Are there classifications and positions that could be added or deleted from shift work? Are employees receiving shift pay while on sick leave or annual leave?

New Mexico state agencies should review FLSA coverage for employees and existing policies on how they compensate employees not covered or exempt from FLSA's overtime provisions.

SPO should conduct an annual review of all agency policies and the actual payments of the differentials and report findings to the Governor's office.

DFA should adopt payroll policies and guidelines to make payroll administration across all state agencies consistent.

Implementation of these recommendations would allow current resources to be used more efficiently and increase state government's knowledge of current practices as it enters into collective bargaining on these issues.

FISCAL IMPLICATIONS

The state currently pays more than $14 million in overtime and pay differentials a year. It isn't possible at this time to put a specific dollar amount on the cost savings from these recommendations, although the benefits to taxpayers would almost certainly be significant and long-term.

ENDNOTES

1. Overtime by Job Title, New Mexico Highway and Transportation Department, 5/9/2003.
2. Reconciliation of Payroll register to Transfer Orders, Department of Finance and Administration, 5/14/2003.

Improve Application Process

The application process for state employees should be revised to use both position registers and position-specific ads to help identify the best candidates and to shorten the amount of time required to fill vacant and critical positions.

BACKGROUND

The State Personnel Office (SPO) serves as the central point for the recruitment of qualified state employees. SPO is required to study the job market, create a fair pay structure, and implement procedures by which applications for employment in state government are received and evaluated.

In FY02, some 120,000 applications were received and processed through SPO resulting in about 2,700 lists of applicants forwarded to specific state agencies.

The current process to fill a position begins when an agency produces the Job Related Qualification Standards (JRQS). These standards are drawn up by the agencies themselves and tend to be set low to attract as many candidates as possible. The open position must be entered into SPO's system by noon on Wednesday of each week to be advertised for the following week. Positions have a posting period of five or 10 days, according to the agencies' request. During the application period, applications or job interest forms are submitted to SPO. These applications are then evaluated and assigned to a "band" relative to the JRQS standards.

These bands include:

Band A – Meets or exceeds JRQS

Band B – Close to meeting JRQS

Band C – Falls short of meeting JRQS

Band D – Does not come close to meeting JRQS

The entire banded list (A through D) is sent to the agencies, where staff members interview applicants, make a selection, and enter the selection in an on-line database. Many agencies use a panel for interviews.

It now takes an average of 134 days, or more than four months, to fill a vacant non-licensed state government position. Awaiting the posting of vacancies and determining interviewing schedules eats up most of that time. Maintaining an open applicant pool for some positions could drastically reduce the time it takes to compile a list.

FINDINGS

Minimum qualifications for most state government positions are inadequately developed, in turn, causing unqualified employees to apply for positions and receive interviews even if they do not match the agency's needs. This can mislead applicants and is expensive particularly when panel teams of high-level employees are involved. In addition, applicants who do not meet the standards are sometimes hired anyway because of an urgent need to fill positions.

Our review of the Job Opportunities Bulletin showed that managerial positions often have no educational requirement but require three to four years of experience while clerical positions require more experience, typically between four and six years.

The lack of consistent JRQS standards for similar positions makes it difficult for SPO staff members to properly evaluate applicants and rank them. Moreover, the entire process is confusing for applicants. Applications are evaluated multiple times by different supervisors applying different standards. And of the 120,000 applications received by SPO in FY02, many are from current state employees seeking promotional or transfer opportunities. Furthermore, the lists are used for filling only one position.

Another issue concerns the timeliness of employment lists. Automation could improve the recruitment process, allowing the electronic receipt, processing, and evaluation of applications. The system could also produce lists of applicants for open positions as well as send applicants notification of their status or the availability of new positions. A web-based interactive database would enable on-line application submission, and could facilitate inexpensive, easy applicant contact to request further information or alert them to other state government job opportunities.

One more point: a pool of applicants could also be helpful for general classifications such as secretary, which have similar requirements and job responsibilities. In the job opportunities bulletin for the week of June 2, 2003, for example, there were eight separate job postings for secretarial positions. Five were in the same agency. Under the current system, applicants could apply for one or all eight positions by submitting multiple job interest forms to apply for each job posting. If an applicant applied for the eight vacancies, his or her application would be evaluated eight separate times.

RECOMMENDATIONS

The state should consider adopting a hybrid application process that uses (1) advertisement of actual vacancies, and (2) databases or registers for hard-to-recruit (information technology) or common (clerical and administrative) positions classifications. These registers would be extremely useful in identifying applicant pools for such positions.

SPO should develop standard Job Related Qualifications, or desirable qualifications for all technical occupation groups' classifications and manager classifications. Agencies can then add to and further define the qualifications they are seeking for specific positions.

Finally, the state should implement a recruitment-selection module of an enterprise resource planning (ERP) system for electronic receipt, processing, and evaluation of applications for state employment. In such a system, an application can be rated once and then found by anyone searching the applicant pool for desirable qualifications. The system should also be able to view all applicants and applications for hard-to-recruit and common positions.

FISCAL IMPLICATIONS

Greater efficiency in the application and hiring process will result in better qualified applicants, as well as interview panels who do not waste time interviewing unsuitable applicants.

ENDNOTES

1. Job Opportunities by Title, State Personnel Office, 6/4/2003
2. Bringing State Hiring Practices into the 21st Century, E-Texas, Chapter 6, 11/19/2002

Chapter VII

Making the Most of Our Transportation Dollars

Chapter VII:

Making the Most of Our Transportation Dollars

State taxpayers will shell out more than $635 million this year to build and maintain New Mexico's highways, roads, and other transportation infrastructure systems. No wonder. Transportation issues affect almost every New Mexican almost every day, and one of the greatest challenges for state government is to reduce road hazards, delays, and lost productivity.

All of that takes money, which is why a series of recommendations in this report calls for collecting the full amount of already authorized motor vehicle fees, as well as past-due fines. Existing laws in this area have evolved in a piecemeal fashion over the years and no longer reflect the true cost of doing business at the state's under-funded Motor Vehicle Division (MVD), which struggles to collect a hodgepodge of at least 80 separate motor vehicle-related fees.

We believe the state now has an opportunity to adequately fund and support MVD to improve customer service and save tax dollars. Part of this investment would help the agency go after authorized but uncollected fees, as well as past-due fines — as much as $7 million worth over the next five years.

In the course of our review, we have also discovered that the state could save as much as $325,000 a year by replacing standard materials used to build highway signs with newer, more effective and less expensive reflective sheeting. The state should move to implement this proposal right away.

The state's Motor Transportation Division (MTD) could also help preserve the condition of our roadways and bring in more revenue by revising the state's fee structure for oversize cargo load and overweight vehicle permits. The last time the state reassessed how much it charges was in 1980, when both inflation and truck traffic on state highways was far less than they are today.

The New Mexico Legislature should consider revising these permit fees for the first time in more than two decades. Doubling the current single-trip fees or even quadrupling the current multiple-trip fees would still leave the state near the bottom of the national fee structure. The additional revenue, however, would help maintain our roadways in good condition for New Mexico commerce and ordinary motorists.

Total recommendations:	**9**
Total five-year savings:	**$74.7 million**

CHAPTER VII - MAKING THE MOST OF OUR TRANSPORTATION DOLLARS

(Dollars in Thousands)

Issue No.	Recommendation	2004 General Fund	2004 Other Funds	2005 General Fund	2005 Other Funds	2006 General Fund	2006 Other Funds	2007 General Fund	2007 Other Funds	2008 General Fund	2008 Other Funds	Cummulative Total General Fund	Cummulative Total Other Funds
T 2	Collect Authorized Motor Vehicle Fees	-	1,150.0	-	1,150.0	-	1,150.0	-	1,150.0	-	1,150.0	-	5,750.0
T 3	Collect Past-Due Fines	618.8	1,000.0	1,203.8	1,500.0	1,703.8	2,000.0	2,500.0	2,500.0	-	-	6,026.4	7,000.0
T 11	Improve Citation Processing	246.1	-	471.1	-	471.1	-	471.1	-	471.1	-	2,130.5	-
T 12	Increase Oversize/Overweight Permit Fees	-	-	1,096.2	1,401.2	1,219.5	1,554.5	1,353.6	1,658.6	1,499.6	1,804.6	5,168.9	6,418.9
T 13	Maximize Port-of-Entry Fee Revenue	-	-	-	5,000.0	-	5,075.0	-	5,076.0	-	5,076.0	-	20,227.0
T 8	Eliminate Costly, Unnecessary Contracts	-	2,872.0	-	500.0	-	500.0	-	500.0	-	500.0	-	4,872.0
T 4	Renegotiate Print Shop Duplication Equipment Leases	-	53.9	-	53.9	-	53.9	-	53.9	-	53.9	-	269.5
T 5	Purchase Newer and Inexpensive Sign Shop Materials	-	100.0	-	150.0	-	325.0	-	325.0	-	325.0	-	1,225.0
T 6	Maximize Internal Engineering Design Services	-	1,750.0	-	1,870.0	-	4,000.0	-	4,000.0	-	4,000.0	-	15,620.0
Total		**864.9**	**6,925.9**	**2,771.1**	**11,625.1**	**3,394.4**	**14,658.4**	**4,324.7**	**15,263.5**	**1,970.7**	**12,909.5**	**13,325.8**	**61,382.4**

T2

Collect Authorized Motor Vehicle Fees

The state Motor Vehicle Division should collect all fees authorized by state statute for services it provides.

BACKGROUND

The Motor Vehicle Division (MVD) collects a range of fees for the products and services it provides – but it is failing to collect all the fees it is authorized to, costing the state revenue.

For example:

- Section 66-2-7(D), NMSA 1978 allows for a "reasonable charge" to be assessed for copies, printouts or abstracts of records, and for certifying these copies. This fee was authorized several years ago by state lawmakers, was in effect for a short period of time, and presently is no longer collected.
- Section 66-2-16(A), NMSA 1978 authorizes the secretary of the Taxation and Revenue Department (TRD) to set, by rule or regulation, a schedule of administrative service fees of fifty cents ($0.50) "for each item or transaction or service performed" by either MVD or its agent offices. Existing regulations establish these fees only for certain registration, title, and plate transactions. These limited fees should be expanded to include all authorized transactions.
- Section 66-2-16(E), NMSA 1978 authorizes the secretary of TRD "to establish by regulation fees to cover the expenses of providing additional services to the motoring public." Existing regulations establish only two limited fees, only one of which is regularly collected.
- Section 66-3-6(J), NMSA 1978 states "the department shall collect an administrative fee of fifty cents ($0.50) in addition to the actual cost of the temporary permit document or plate for each

temporary permit or plate issued by the department to individuals, financial institutions, manufacturers, transporters, wreckers or dealers pursuant to this section." These authorized fees are also not currently collected.

- Sections 66-3-17(B) and 66-3-24, NMSA 1978 allow a "reasonable fee" for a replacement or duplicate registration plate. Current practice is to charge $9.50 for replacement of a standard plate or issuance of a duplicate prestige or special plate. No statute specifically exempts veteran's plates from a replacement fee, but veterans are not charged for replacement or duplicate plates.
- Section 66-3-419(D), NMSA 1978 allows a "reasonable charge" for service branch decals for veterans' plates. This authorized fee is also not being charged.

FINDINGS

Existing statutes have evolved in a piecemeal fashion over the years, from a relatively consistent set of guidelines to a hodgepodge of disconnected laws that do not adequately compensate for the cost of doing business at MVD. Most changes in statute have been considered individually, without sufficient regard for how they dovetail – or fail to dovetail – with related statutes.

In addition, there are at least 80 separate motor vehicle-related fees currently authorized by statute and collected by MVD, most of which are distributed to other entities.

MVD has managed to make do with limited resources, aging equipment and infrastructure, shrinking budgets, and a tangled thicket of statutes and regulations. It has succeeded in providing basic driver and vehicle services and products to the vast majority of New Mexicans despite, not because of, these limited resources.

The state now has the opportunity to provide adequate funding and support to MVD to improve customer service and save tax dollars. MVD often requests budget increases to maintain acceptable service levels and to upgrade automated systems and infrastructure. Any additional allocation of fees to MVD to pay for its true cost of operations would improve customer service with little or no impact on the state's general revenue fund.

Collecting these fees becomes even more imperative when the state adds duties to MVD. Even though fees are already authorized for those duties, MVD's budget is not increased to provide those duties.

For example:

- Section 66-6-112(B), NMSA 1978 imposes a $25 administrative DWI hearing fee, but it does not specify that the fee should be retained to cover the cost of the hearing. The fee is, instead, distributed to the general fund.
- Section 66-3-416(C), NMSA 1978, a statute covering special plates for New Mexico State University (NMSU), stipulates that, after the first two years, $10 of the total fee charged is distributed according to a formula in Section 66-6-23.1, NMSA 1978 rather than to MVD to cover costs – even though those costs are still being incurred by MVD.

RECOMMENDATIONS

The state should implement and enforce the fees currently authorized in statute and all regulations affecting the Motor Vehicle Division.

The state should develop proposals for revising, amending, consolidating, and/or introducing legislation that clarifies terminology, allocates fee distribution to pay for services and products, reduces or eliminates contradictions and redundancies in state statutes, and enhances enforcement options.

FISCAL IMPLICATIONS

Any increased or additional fee assessed on a motor vehicle transaction would increase revenue to the general fund. Based on the number of driver and vehicle transactions recorded in FY02 – about 2.3 million – and assuming that an additional fifty cents should be collected on each transaction, the state could bring in about $1.15 million in additional revenue, starting in FY04. General fund revenue could reach $2 million if other fees are collected.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004				1,150.0		
2005				1,150.0		
2006				1,150.0		
2007				1,150.0		
2008				1,150.0		
TOTAL				**5,750.0**		

ENDNOTES

1. Section 66, NMSA 1978 – Motor Vehicle Code
2. Chapter 7, NMSA 1978, Taxation
3. Systems Reports prepared by Gene Blea, Systems Analyst, Information Systems Bureau, Administrative Services Division, Taxation and Revenue Department

4.

Collect Past-Due Fines

The state should collect citations that have not been adequately processed and posted due to inaccurate or incomplete information, generating as much as $13.6 million in revenue and improving public safety by ensuring that drivers' records are up-to-date.

BACKGROUND

Every citation issued in New Mexico is sent to the Motor Vehicle Division (MVD). MVD posts two types of citations: court citations and penalty citations. The courts send court citations to MVD after hearing the case, and MVD records the information on the official driving record. The state receives no revenue from these court citations.

Penalty citations are another matter. These occur when drivers choose to pay the fine rather than fight it in court. MVD collects these fines (in most cases) and posts the information on the official driving record.

MVD receives about 3,000 citations a day—approximately 1,500 each in penalty assessments and court citations.

Because the system used to process citations is complex, antiquated and labor-intensive, there are currently 805,214 citations on the error listing, representing an accumulation over the past 10 years. These are citations in which an error has been made (see Recommendation T11) and for which fines can neither be collected nor records updated until the matter is resolved.

MVD records show that the number of errors grows at a rate of 150 to 500 every day. Of the total citations in error, some 21 percent are penalty assessment citations -- citations for which revenue could be collected, regardless of how old the citation is. Court citations in error represent the remaining 79 percent and remain on the official driving record for only three years. If MVD eliminated all court citations older than three years, only 24 percent of court citations would need to be posted.

Lost revenue associated with penalty citations in error over the last two-year period totals at least $579,000. For the past ten years, losses reach approximately $13.6 million.

FINDINGS

MVD's system for handling traffic citations is inefficient and ineffective, and has cost the state significant revenue over the years. There are good reasons to pursue as many old, uncollected, and unrecorded citations as possible. First, they represent millions of dollars in uncollected revenue. Second, they pose a potential public safety risk because drivers' records are inaccurate and out-of-date.

MVD, which is already struggling with its current system and must make significant improvements to it, is clearly unprepared to take on a major effort to collect fines and penalties on old, incomplete, and inaccurate citations. Given current circumstances, and the promise of a better system in the fairly near future, the state should take immediate steps to collect as many of these old fines as possible.

RECOMMENDATIONS

The Motor Vehicle Department should determine what types of citations have the greatest likelihood of being collected, as well as those with the highest priority for public safety concerns.

MVD should then be authorized to hire 17 temporary employees to clear out the error listing backlog and post as many citations as possible so that records are updated and overdue fines can be collected at the time individuals with outstanding citations go to obtain or renew an identification card or driver's license.

Through New Mexico's participation in the National Driver System, these fines can be automatically collected when offending drivers show up anywhere in the nation.

Once the citations are entered into the database, no further collection effort is necessary, and the fines never expire.

To the extent that the general revenue fund doesn't benefit entirely from the revenues collected, the benefits and costs should be prorated among all parties that receive funds from the collections.

FISCAL IMPLICATIONS

Penalty assessment fines are from $40 to well over $200, with most falling in the range of $50 to $75. Assuming $50 is collected for 60 percent of all penalty assessments, $5.1 million could be collected over four years.

Court citations have no outstanding fines associated with them. But updating the drivers' records often results in suspension or revocation of license privileges — and a $25 reinstatement fee. Assuming $25 is collected on 50 percent of the court citations, some $1.9 million could be collected over four years.

General revenue fund costs include 17 temporary employees at $6.70 per hour, plus benefits, for three years to clear the error listings. An additional $85,000 in one-time costs for workspace and outfitting would be necessary.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004	381.2	1,000.0			618.8	+17
2005	296.2	1,500.0			1,203.8	
2006	296.2	2,000.0			1,703.8	
2007		2,500.0			2,500.0	
2008						
TOTAL	**973.6**	**6,026.4**			**7,000.0**	**+17**

In addition to the positive fiscal impact, implementing these recommendations would also help update MVD's records for use by taxpayers, insurance companies, and law enforcement.

ENDNOTES

1. System reports prepared by George Luna, Systems Analyst Manager, Information Systems Bureau, Administrative Services Division, Taxation and Revenue Department.
2. Section 66, NMSA 1978 – Motor Vehicle Code.

Improve Citation Processing

The Motor Vehicle Division should develop a more efficient and accurate system of collecting and processing traffic citations to enhance public safety, increase state revenue, and ensure that drivers' records are up-to-date.

BACKGROUND

State law mandates that every citation issued in New Mexico for a driving infraction must be sent to the Motor Vehicle Division (MVD). MVD posts two types of citations to an individual's driving record. The first type is a court citation - the notice MVD receives from local courts once a driver's ticket has been paid or otherwise handled. Although MVD does not share in any of the proceeds from these citations, the agency records the driver information in the individual's official driving record. The second type of MVD citation is a penalty assessment, the voluntary fine drivers pay instead of going to court. MVD collects these fines (with a few exceptions) and posts the information on the individual's official driving record.

MVD receives a total of some 3,000 citations every day, about half of which correspond to the two different types.

Because of the complex, antiquated, and labor-intensive system currently in place, over 805,000 citations, listed as "in error" in the official record, have accumulated over the past 10 years. The reasons generally fall into two broad categories:

- Citations missing required information. To be considered valid, citations must contain at least two of the following: date of birth, Social Security number, and or driver's license number. Officers try to collect all required information at the time of the traffic stop, but sometimes drivers either don't have the required documentation with them or provide incorrect data to the officer.
- Data entry errors and delay. Three temporary employees currently sort citations by

hand. They sift through 3,000 citations every day, sorting them into 12 categories, editing them for specific requirements, and coding each citation before sending it to the data entry unit. The data entry unit, currently including 13 clerks, then enters the data into the system, whether complete or incomplete. Because of high workloads and a lack of training, errors are common and the backlog large and growing. Correcting and re-posting an incorrect citation can take up to 12 weeks. Although the law requires the driver to pay the penalty within 30 days from the date of issuance, if the citation information is not on the drivers' record, MVD is not able to accept the payment.

Incomplete information and mistakes in data entry lead to many citations being thrown out, while others are simply posted incorrectly, making collection difficult at best. The state doesn't accept partial payments.

In addition to the issue of uncollected revenue, citations that are thrown out, entered inaccurately, or delayed in posting often result in drivers with suspended or revoked licenses remaining on the road.

These challenges continue to grow and cost taxpayers money. Records show that the accumulated errors in citation record-keeping at MVD varies from 150 to 500 each day. If MVD were to collect the outstanding fines on just the past two years' worth of citations currently on the "error list," state revenue would increase by about $579,000.

FINDINGS

MVD's system for handling motor vehicle citations is inefficient and ineffective, causing the state to forego revenues and creating a potential public safety risk.

Problems occur at a number of levels:

- Incomplete information collected by law enforcement;
- Failures of the courts to gather complete information at the time of disposition or otherwise communicate accurate data to MVD;
- Inadequate staffing and training at MVD to input data in a timely and accurate manner. Drivers are sometimes forced to make several attempts to pay a citation that has either been entered in the record inaccurately or not entered at all;
- Poor follow-up by MVD to correct errors and incomplete citation information when identified; and
- Duplication among law enforcement, the courts, and MVD in entering the same data multiple times.

MVD began a project, last year, to scan citation documents, but abandoned the project last fall. This pilot project would have allowed paper citations to be imaged, and automatically sorted and processed, eliminating the need to sort them by hand reducing the data entry required. In addition to reducing workloads and errors, imaging could also have reduced the document storage space requirements, another growing problem at the agency.

The current automated system cannot recognize a partial payment. If a partial payment is made, the system clears the violation completely, including any suspension or revocation. A new application that allows partial payments would enable more penalties to be collected and eliminate the need to return partial payments to the sender — and stop the unintended clearance of suspension or revoked licenses.

MVD deserves praise in at least one respect. The agency is in the beginning stage of a pilot project called TRACS. Working with law enforcement agencies, TRACS enables officers issuing citations to record the information electronically from their vehicles on the road.

When a citation is issued, the data flows directly to MVD or to the courts, without the need for additional data entry. This pilot project, if successful, will reduce error rates, enable records to be updated quickly, and allow citations to post so that payments are accepted when they are paid. TRACS saves time for law enforcement, making it easier and faster to input data and send it to the correct locations for their own record keeping needs. It also has the potential to significantly improve customer service. TRACS was funded by a $1.2 million federal grant through the Highway Traffic Safety Bureau.

MVD has another pilot project with the Metropolitan Court in Albuquerque (Metro Court) accepting electronic data from the court. The Metro Court project enables the electronic transfer of information to MVD on citations disposed of in the Metro Court. This electronic transfer has eliminated the need for manual sorting and data entry for about 90 percent of these Metro Court citations. It also allows drivers' records to be updated nightly. Overall, the pilot seems to be successful, although some technical challenges exist in making MVD and court computer systems compatible. These challenges are being addressed. The expansion of this pilot to all courts would require each court to obtain the technology needed to fit the pilot's requirements — an improvement that looks like it will save time and money while improving customer service.

RECOMMENDATIONS

The state should continue the Metro Court pilot project and expand it to all courts.

The Motor Vehicle Department and the courts should also enter into formal agreements for the courts to collect missing information from drivers who appear before them for citation disposition.

When complete driver information is unavailable to an officer while issuing a citation, the registered owner of the vehicle should be cited for the violation. This would ensure that accurate information about the violator would be obtained and would help avoid the violation being sorted into the reject file.

The state should change existing policy to allow law enforcement agencies that issue citations and the courts to destroy citations that MVD is not required to record. Under current policy, citations such as warnings and those dismissed by the courts must be sent to MVD, only to be sorted and destroyed. This accounts for as much as 50 percent of citations handled by the agency and takes up a lot of staff time, adding to the delay in posting active citations. By allowing issuing agencies and the courts, rather than MVD, to dispose of these citations, the process will be simplified and MVD will be able to focus on reducing the time lag in posting active citations.

The state should resume the imaging project that was abandoned last fall.

The state should design and implement an information technology application to allow MVD to accept partial payments as well as track payments.

FISCAL IMPLICATIONS

MVD should hire two contract programmers at $24 per hour plus benefits for eight months to redesign the existing system so that it can accept and track partial payments.

Moving to the imaging system would save taxpayers an estimated $655,500 over four years, beginning in FY05. Other general revenue fund savings include $108,000 per year in full-time positions that will no longer be needed in MVD and $232,000 per year in increased collection of fines.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004	117.0	363.1			246.1	
2005		471.1			471.1	
2006		471.1			471.1	
2007		471.1			471.1	
2008		471.1			471.1	
TOTAL	**117.0**	**2,247.5**			**2,130.5**	

ENDNOTES

1. System reports prepared by George Luna, Systems Analyst Manager, Information Systems Bureau, Administrative Services Division, Taxation and Revenue Department.
2. Section 66, NMSA 1978 – Motor Vehicle Code.

Increase Oversize/Overweight Permit Fees

The state should enhance the permitting process for oversize cargo loads and overweight vehicles, and revise the current fee structure to pay for the improvements.

BACKGROUND

The state Motor Transportation Division's (MTD) office for oversize cargo loads and overweight vehicles currently issues permits for "superloads" to carriers that cross through New Mexico or operate within the state. The law provides that all cargo loads over 140,000 pounds must have the approval of the state Department of Transportation's (DOT) Bridge Section. An analysis is conducted to ensure that bridges and highways are built to withstand the amount of weight anticipated in the permit.

In 1998, MTD received funding for Y2K-related system upgrades. The division used the funding for a new permitting system, including the POE 2000, with which MTD has had problems from the outset. The contractor, the University of New Mexico-Alliance for Transportation Research Institute (UNM-ATRI), has failed to keep the system fully operational and the division has resorted to working with UNM-ATRI on a day-to-day basis to keep the system running.

MTD processes about 25 "superloads" each day. The division faxes the application to the bridge section where employees input the data and then telephone the permit office with an approval or denial. MTD staffers input the approved applications into the POE 2000 system to issue the actual permit. The entire process for a "superload" permit takes about two hours.

The Taxation and Revenue Department recently solicited bids for electronic credentialing. The second phase of that project provides for an Internet-based permitting system in conjunction with a Commercial Vehicle Information System and Network (CVISN) to make it possible for carriers to electronically conduct business with the state.

FINDINGS

MTD is New Mexico's lead agency for size and weight enforcement, making sure that vehicles are properly routed and flagged for the safety of the motoring public. MTD must maintain an effective enforcement plan directly related to DOT receipt of the federal highway trust funds.

According to the consumer price index; inflation has doubled since 1980 — the last year that New Mexico raised the fees for oversize loads and overweight vehicle permits. A revision of permits fees — the first in more than two decades — would help bolster the state's road fund and pay for a new permitting system.

MTD has surveyed all 50 states and found that the Legislature could double the permit fees for single trips and even quadruple its multiple trip fee, good for a year, and still rank at the low end of the national fee structure. Today, the oversize permit fee for a single trip ($15) is half the national average ($30), while the overweight permit fee ($15) for a single trip is less than one-third the national average ($48).

RECOMMENDATIONS

The legislature should revise the permit fees for oversize cargo loads and overweight vehicles. The additional revenue should be dedicated to helping the Department of Public Safety and the Department of Transportation develop an Internet-based permitting system to increase state efficiency while offering the commercial vehicle industry better customer service.

A bill was introduced during the 2002 legislative session to double the permit fees for oversized loads and overweight vehicles. The proposed bill would have allotted half of the fee increase to MTD to pay for CVISN and the oversize/overweight permitting system.

The Internet-based permitting system would decrease manual work by DOT employees, increasing the efficiency of the permit office and improving the customer service it gives the commercial vehicle industry. Revising the oversize/overweight permit fee by 100 percent would build the state's road fund by $1.2 million a year and pay for MTD's permitting system. The New Mexico Trucking Association supported a permit fee revision in 2002 with the understanding that the new electronic permitting system would be funded with the increase.

FISCAL IMPLICATIONS

Beginning in FY05, the bulk of the savings from implementation of this recommendation would come from new revenues generated from revising the permits fees from $15 to $30 for a single trip permit. The multiple trip permit would be revised from $60 to $120. The three-year average increase in collections would be approximately 8.9 percent per year.

The estimated fiscal impact below reflects an 8.9 percent increase for a three-year average. MTD issued more than 71,000 permits in fiscal year 2002. The recommendation would require a third-party vendor providing the recurring operation and maintenance of a new permitting system.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Road Funds Cost**	**Road Funds Savings**	**Net Cost/Gain To Road Fund**	**Change in FTE**
2004						
2005			280.0	1,401.2	1,096.2	
2006			280.0	1,554.5	1,219.5	
2007			280.0	1,658.6	1,353.6	
2008			280.0	1,804.6	1,499.6	
TOTAL			**1,120.0**	**6,418.9**	**5,168.9**	

ENDNOTES

1. Data provide by MTD
2. MTD Oversize/Overweight Permit Office Employees
3. DOT Bridge Section Personnel

Maximize Port-of-Entry Fee Revenue

The state should improve its auditing efforts of interstate motor carriers to enhance collection of the weight and distance tax.

BACKGROUND

Federal law calls for the governor of each state to appoint a lead agency under the terms of the Motor Carrier Safety Assistance Program (MCSAP). In New Mexico, that agency is the Motor Transportation Division (MTD) of the state's Department of Public Safety.

Washington can sanction states without an effective motor carrier safety program and an effective size and weight plan. With commercial vehicle safety tied directly to federal highway trust funds, MTD conducts vehicle and driver inspections, funded by the Federal Motor Carrier Safety Administration. MTD collects fees at ports of entry to the state — $6,379,000 in FY02. This revenue, along with fees collected by the Commercial Vehicle Bureau of the Motor Vehicle Division, is deposited into the state's road fund.

The weight and distance tax is collected by both MTD and MVD. New Mexico is one of only four states with a weight and distance tax for commercial motor vehicles.

The state's Taxation and Revenue Department (TRD) has nine auditors assigned to conduct weight and distance tax audits. Six are based in Albuquerque, three in Santa Fe. These state employees conduct audits on New Mexico-based carriers, and about 91,790 interstate carriers have weight and distance accounts with the state. Of these, about 1,800 New Mexico-based carriers engage in interstate transportation.

Federal law requires that the state examine the weight and distance, International Fuel Tax Agreement (IFTA), and International Registration Plan (IRP) compliance of 15 percent of New Mexico-based interstate carriers every five years. This represents roughly three percent a year, and failure to meet this quota can put future federal funding at risk.

Although difficult to quantify, MTD seems to have positively affected the level of voluntary compliance with weight and distance fees by examining interstate carriers' tax permits and registration documents at roadside and ports-of-entry.

FINDINGS

The state performs no audits on New Mexico-based carriers that operate exclusively within state borders or on weight and distance carriers based outside of the state. This means that some 2,200 New Mexico-based carriers and 91,790 interstate carriers aren't subject to New Mexico audits.

Past weight and distance audits on large interstate motor carriers have turned up an average error rate in their mileage reporting of about five percent, resulting in an average assessment of $100,000 per audit. The last official audit conducted was prior to 1998. During a more recent study of non-filers, a total of $3.8 million was recovered. The audit was conducted by the Commercial Vehicle Bureau, of the Taxation and Revenue Department. Although not technically considered an audit, the state notified motor carriers failing to file quarterly weight and distance reports that they had 30 days to file or risk having their tax identification permits revoked.

A combination of lawsuits against the state and the elimination of certain permit fees has led to a drop in state revenue collected at ports of entry. MTD reports a 36.5 percent decline from FY00 to FY02 or nearly $4 million. This trend is discernible at each of the major state ports of entry:

Revenue Collection Decline
FY00 through FY02

Port	Percent Decline
Gallup	35.5
San Jon	35.4
Lordsburg	39.7
Anthony	32.6
Raton	32.5
Average for small ports	36.5

These figures make it abundantly clear that declining port of entry revenue is a statewide phenomenon and not simply a local aberration.

Moreover, the state has discontinued its Tax Identification Card for carriers, a program under which carriers paid $6 for the card. Weight and distance carriers now are allowed to set up accounts with MVD and are issued, at no cost, the new Tax Identification Permit. A photocopy of this permit is placed in each unit operated by the carrier. Every quarter, each carrier is required to report mileage traveled in New Mexico to MVD — essentially, an honor system for carriers.

Weight and distance carriers registered with the state currently pay a tax of $0.03168 per roundtrip haul or $0.02112 per one-way haul for cargo loads of 78,000 pounds or more. Motor carriers that are not registered with New Mexico pay a trip tax, also known as the Mileage Tax, of $0.12 per mile for loads over 78,000 pounds.

MTD no longer has the ability to verify the mileages traveled throughout the state by each unit. Because the new Tax Identification Permit may be photocopied, MTD has no mechanism to verify whether or not units are registered in New Mexico, short of stopping every commercial motor vehicle at the ports of entry and verifying registration information. Even if such a cumbersome system were implemented, the state would still have no idea whether the carrier's mileage reporting is accurate. Under the current weight and distance system, carriers can underreport their mileage, or not report it at all, and suffer no consequences.

A 1996 study to identify weight and distance tax replacement revenues considered three potential sources:

- An annual highway user fee in conjunction with the registration fee,
- Increased permit fees per trip and for oversize load or overweight carriers, and
- Increased receipts through improved accountability and better compliance

A number of other potential revenue sources were studied as part of a possible replacement package for weight and distance revenues:

- Reduced Administrative Costs. Audit and registration requirements would be simplified by combining an annual user fee with the annual registration filing. New Mexico has started using the International Fuel Tax Agreement (IFTA) reporting mechanism as a tool for weight and distance filing. Any audit savings from the registration and tax processing side — an estimated $1 million a year — would probably go to cover existing International Registration Plan and IFTA audit needs.
- Increased permit fees. New Mexico's over-dimensional permit fees are well below the national average.
- Increased compliance. As with any tax, compliance with the weight and distance tax is something less than 100 percent. A fee that is due upon annual registration would be more difficult to evade than a fee based on self-reported mileage. Estimates of increased fuel tax collections with the implementation of IFTA range from eight to 12 percent. Collecting a highway user fee at the time of registration would result in a similar increase in collections.

In addition, trip tax fees could also be raised.

RECOMMENDATIONS

The state should improve its auditing efforts of interstate motor carriers to enhance collection of the weight and distance tax. This will require more audits and 12 additional auditors in the Department of Public Safety (DPS). The auditors should be housed in DPS' Motor Transportation Division, the state's lead agency for commercial motor vehicle enforcement, and should work in close coordination with TRD and DOT.

A new weight and distance survey should be conducted to update the data from the most recent survey, done in 1996.

The state should also re-instate the unit-specific Tax Identification Card that has been discontinued in recent years.

FISCAL IMPLICATIONS

The savings below are based on the amount of revenue that was lost when the state discontinued the Tax Identification Card in the wake of a lawsuit. The amount of growth from 1999 to 2000 was one percent at the ports of entry and 0.7 percent voluntary compliance with weight and distance tax. In FY00, port of entry revenue was approximately $3.7 million more than in FY02. The MVD revenue difference for the same period was $1.8 million.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004						
2005				5,000.0		+12
2006				5,075.0		
2007				5,076.0		
2008				5,076.0		
TOTAL				**20,227.0**		**+12**

ENDNOTES

1. Mark Rowley, Deputy Chief, MTD
2. In Motion, Inc., 1996 Proposed Rate Structure for Weight/Distance Tax Replacement Revenues, 1996
3. Department of Public Safety Employee Interviews, 2003.

Eliminate Costly, Unnecessary Contracts

The Department of Transportation should continue to cut non-essential contracts consistent with the Governor's request to save taxpayer money while improving the agency's customer service.

BACKGROUND

The state's Department of Transportation (DOT) contracts with outside companies to provide support for many of the agency's key operating processes. These contracts are generally for supplemental work and services that department staffers are unable to provide. The contracts call for estimated payments that depend on the scope of work actually performed and are paid as the work is completed.

FINDINGS

In a recent, comprehensive evaluation of existing contracts, DOT found unused fund balances on many outstanding contracts. The department should continue to evaluate whether its existing contracts with outside firms are needed, whether some can be delayed, and whether the scope of certain work can be reduced or modified to cut costs and save taxpayers money.

The department should also study the feasibility of performing some tasks with existing state personnel and should continue to scrutinize all contracts for outside services to determine whether those services are truly essential.

RECOMMENDATIONS

The Department of Transportation's Contacts Administration Section should implement a formal process for on-going evaluation of contracts to determine whether they are essential.

The department should conduct annual reviews of unused fund balances on existing contracts.

FISCAL IMPLICATIONS

Our review of FY03 contracts shows that $2,871,971 remains in unused fund balances on existing contracts. These balances underscore the need to fully evaluate the necessity of these contracts and whether some services can be performed in-house by state employees to save tax dollars.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	General Fund Cost	General Fund Savings	Other Funds Cost	Other Funds Savings	Net Cost/Gain To General Fund	Change in FTE
2004				2,872.0		
2005				500.0*		
2006				500.0*		
2007				500.0*		
2008				500.0*		
TOTAL				**4,872.0**		

* Based on expenditure rates and volume of contracting services, an annual process of evaluation and review of remaining balances has potential savings through reverting encumbered balances.

ENDNOTES

1. SHTD Contracts Administration Section, Contract Review and Re-evaluation Report
2. S. Vincent Martinez, Administrative Services Division Director; Carol Lopez, Procurement Bureau, New Mexico Department of Transportation

Renegotiate Print Shop Duplication Equipment Leases

The state's Department of Transportation should reduce the cost of reprographics and duplication services in its print shop by renegotiating current contracts to lease equipment.

BACKGROUND

The Department of Transportation's (DOT) contracts with outside providers, for equipment used in the department's print shop, are negotiated on a usage basis. These contracts' provisions limit the flexibility of DOT personnel to make full use of the services.

The department pays a premium when demand exceeds the usage requirements outlined in the contract. The lease costs in the contracts include a basic monthly fee plus additional charges for anything over 20,000 copies.

FINDINGS

DOT has had a contract with an outside provider during the past five years to lease four high-end duplicating machines (known as DocuColor/DocuTechs) to print and copy department reports and other documents.

The department reports satisfaction with the maintenance service provision of the contract and has few complaints about the level of service or the quality of the leased equipment.

The department solicited cost estimates from other companies to provide an equal level of service and found that a number of other outside vendors could provide the same service at lower prices.

Because replacing the current leased equipment could lead to downtime and possible delays in DOT's print shop operations, the current vendor agreed to renegotiate the contract and reduce the monthly operating costs by $4,489.88.

RECOMMENDATIONS

The Department of Transportation should renegotiate its current contract with the outside vendor for the use of print-shop equipment and services at a reduced rate. The department's evaluation of fixed-rate price agreements should be the starting point for negotiations on the reduced costs.

FISCAL IMPLICATIONS

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	General Fund Cost	General Fund Savings	Other Funds Cost	Other Funds Savings	Net Cost/Gain To General Fund	Change in FTE
2004				53.9		
2005				53.9		
2006				53.9		
2007				53.9		
2008				53.9		
TOTAL				**269.5**		

ENDNOTES

1. S. Vincent Martinez, Administrative Services Division Director; Rick Gomez, General Services Bureau, Department of Transportation
2. Cost Analysis of Duplication services at SHTD

Purchase Newer and Inexpensive Sign Shop Materials

The Department of Transportation could save tax dollars by using higher-quality, lower-cost materials in highway and traffic signs.

BACKGROUND

It's safe to say that most New Mexico motorists don't pause to consider the cost of the signs they use to guide themselves along the state's roads and highways. But the fact is, the state's Department of Transportation (DOT) maintains a central sign shop whose main purpose is to manufacture and distribute signs to the department's six district offices around the state for installation.

Every year, DOT produces and distributes more than 1,200 signs to district offices. These signs cover an average expanse of 160,800 square feet a year at a cost of $5.02 (Type III) and $8.10 (Type IX) per square foot. (Type III and Type IX refer to the sheeting material types that are industry standards for reflectivity, density, and weight).

The total cost of providing New Mexico motorists and tourists with clear and accurate highway signs is $1.4 million a year.

FINDINGS

DOT has looked into the feasibility of contracting with outside firms to manufacture highway signs. The department has also studied the possibility of maintaining internal production capacity and using modern, alternative materials to cut costs.

According to DOT's analysis, outsourcing the manufacture of highway signs would be more expensive than keeping the function in-house. The current system would also be more efficient in preventing delays in supplying signs, especially in emergencies.

The bottom line is that the cost of internal sign manufacturing, including personnel and overhead, is less than the purchase of pre-made signage, as the following chart shows:

Type III:
- Outside contract $5.58 per square foot
- In-house $5.02 per square foot

Type IX:
- Outside contract $8.33 per square foot
- In-house $8.10 per square foot

New technology in the materials and process of sign manufacturing has made it more cost-effective to use reflective sheeting without any loss of quality or durability.

RECOMMENDATIONS

The Department of Transportation could save tax dollars by continuing to purchase new materials, as long they meet quality and durability tests, with which to manufacture all state road and highway signs at its central sign shop.

The department should also:

- Review material suppliers for market evaluation and availability of more efficient material products,
- Develop a bid process to reduce the current costs of obtaining materials from suppliers, and
- Phase in the use of newer, less expensive manufacturing materials after a thorough evaluation and testing.

FISCAL IMPLICATIONS

DOT efficiency studies show that, by replacing standard materials with new, less expensive materials, DOT could save $325,000 a year in its Operations Field Supplies budget.

Savings estimates in the following chart are reduced for the first two-years to reflect the costs associated with the testing and transition process.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	General Fund Cost	General Fund Savings	Other Funds Cost	Other Funds Savings	Net Cost/Gain To General Fund	Change in FTE
2004				100.0		
2005				150.0		
2006				325.0		
2007				325.0		
2008				325.0		
TOTAL				**1,225.0**		

While the FHWA and AASHTO have approved the use of new materials, the department would prefer an independent "side-by-side" field test on the new material. A transition to the use and purchase of these materials using multiple vendors would require a staged implementation. This implementation plan would produce fewer initial savings but would assure that quality standards are met, saving money in the long run.

ENDNOTES

1. Internal Audit Reports - DOT Office of Inspector General
    a. Sign Shop Reflective Sheeting Purchases File: 98-14-1
    b. Sign Shop Inventory File: 03-11-03
    c. Sign Shop Inventory File 02-50-06
    d. Overhead Rate Audit File 02-15-12
    e. Overhead Rate Audit File 03-15-02
    f. Overhead Rate Audit File 03-15-02
2. Sign Shop Efficiency Study, State Maintenance Bureau, DOT

Maximize Internal Engineering Design Services

The state's Department of Transportation should depend on staff design specialists to reduce its dependence on outside consultants, save money, and improve performance.

BACKGROUND

The state Department of Transportation's (DOT) highway improvement program spends about $250 million a year on projects, half of which are designed internally by department specialists. The remainder are drawn up by outside design firms under consultant contracts costing state taxpayers $10 million a year.

State lawmakers authorized the department to issue $1.2 billion in bonds in 1998. This is the Major Investment Program (MIP), which addressed 16 critical highway infrastructure projects. MIP increased the state's highway programs by about $1 billion over a five-year period.

During the course of MIP, all design services were contracted out to private design firms in an effort to meet the program's requirements.

FINDINGS

A consultant design section has been established within DOT's design bureau unit whose sole purpose is to oversee external consultant contracts. The department dedicates time and resources to the process of soliciting outside bids and proposals. These costs should be taken into account when evaluating the overall taxpayer expense represented by outside consultant contracts.

Taxpayer funds are also spent to train design consultants in the standards set by the department. These standards are created and maintained to ensure some degree of uniformity in the delivery of plans and specifications by the various outside design consultants. In the long term, these taxpayer funds tend to benefit the outside consultants, not the internal department employees who should be building up their experience and knowledge base. Some argue that DOT's outside contracts help stimulate the state economy, create jobs in the consultant firms, and act as an incentive for competition amongst consultant design and engineering firms.

Still, out of 17 independent studies in recent years of the relative costs of using in-house staff or outside consultants for state transportation projects, 14 found that consultants are more expensive on average. Eighty percent of the studies found that in-house staffs not only furnish highway engineering designs at lower cost than do outside consultants, but that outside firms also cost about 20 percent more than in-house staff when designing roads and bridges. The difference is almost entirely due to the extra costs of preparing contracts and in-house supervision of outside firms.

Reasonable public policy holds that the use of outside consultants during workload peaks or for projects requiring specialized expertise is fine. But these decisions should be the result of objective assessments of the comparative cost effectiveness of in-house versus contract consultant engineering services.

The department has invested taxpayer resources in a project management system, Primavera, to increase the capacity of internal staff members to fully manage production schedules from 50 to 70 percent of projects.

RECOMMENDATIONS

The Department of Transportation's internal design staff should evaluate all routine projects to determine whether taxpayer savings can be gained through in-house design. Whenever feasible, in-house personnel should be used.

The department is currently reviewing all major projects for potential split-cost solutions and has already saved money by participating in partnerships with outside consultant design firms. In these cases, state employees have designed some portions of a project while outside consultants designed other portions — saving money and expediting services.

For example:

- US 666 (renamed US 491) from Shiprock to Gallup, was previously planned using outside consultant design exclusively. While reviewing this project, a public-public partnership agreement was drafted between DOT and the Navajo Nation. The Navajo Nation will contribute significant labor into the cultural resources requirements of the environmental stages of project development. In addition, the department will jointly design the project with consultants on a 50-50 basis, saving taxpayers $1.7 million in development costs.
- US 64/87 from Raton to Clayton was previously planned using only outside consultants. In this project, the department hired a consultant to provide location studies to identify feasibility alternatives based on socioeconomic impacts. This "locally preferred alternatives" process is a national initiative. The consultant will train in-house state employees to run these studies in the future. The department will also handle 50 percent of the design process, saving taxpayers $1.9 million.

FISCAL IMPLICATIONS

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	General Fund Cost	General Fund Savings	Other Funds Cost	Other Funds Savings	Net Cost/Gain To General Fund	Change in FTE
2004				1,750.0		
2005				1,870.0		
2006				4,000.0*		
2007				4,000.0*		
2008				4,000.0*		
TOTAL				**15,620.0**		

*Estimated potential savings garnered from full use of internal design staffers. A typical program (not including MIP) of consultant design budget averages $10,000. That represents 50 percent of the design program. Maintaining 70 percent of the design program in-house would save $4,000 a year.

ENDNOTES

1. Louisiana Transportation Research Center, Summary of Report Number 309, May 1998, Wilmot, Rogers
2. Transportation Research Record 1654, Paper No. 99-1403, Wilmot, Deis, Schneider, Coats
3. State of New York, Office of the State Comptroller, Report 97-S-12, 1998

Chapter VIII

Saving Money, Improving Service

Chapter VIII:

Saving Money, Improving Service

New Mexicans expect a lot from their state government. From police protection and health and human services to complex infrastructure projects and a clean environment, the architecture of modern state government is increasingly complex and linked to the progress and prosperity of the state as a whole. This report contains nearly two dozen recommendations across a broad array of issues to make sure that state government remains a positive force in the daily lives of New Mexicans.

One of the most critical issues today, and for the foreseeable future, is water. Water rights in New Mexico are set by the courts, which has led to protracted and costly litigation over this precious resource for decades. We recommend a specific strategy for reaching negotiated settlements with the Navajo Nation in the San Juan Basin and the six Pueblos on the Rio Grande for the use of water. Taxpayers would save nearly $4 million in legal costs per year, New Mexicans across the state would have more access to water, and the social fabric of our state would be strengthened.

A series of proposals leading to cost savings and improved services include requiring state documents to be printed on both sides of the page to save money and conserve paper, reducing the costs of state travel through increased use of teleconferencing and other technologies, discontinuing the practice of providing automatic transcripts of uncontested cases in the state's Oil Conservation Division, and other common-sense changes.

State government should set the standard for efficient energy use in its facilities, too. Taxpayers spend more than $60 million a year to keep the utilities turned on in state agencies, school districts, and college and universities buildings. If these public entities were encouraged to step up their efforts to conserve energy and retrofit buildings with basic energy efficiency measures, the potential savings would be substantial.

Another important idea in this report is evaluating the cost-effectiveness of moving *New Mexico Works*, a federally funded program with a current annual budget of $14 million, in-house as part of the Department of Finance and Administration. The state could save federal funds which could help increase and improve direct training services available to *New Mexico Works* clients.

Finally, we strongly urge state government to adopt electronic procurement cards — known as P-Cards — for purchases of $1,500 or less. Like most bureaucracies, state government is a paper-intensive operation with so many hands touching so many forms to document so many purchase orders each year that an estimated $114 is added to the cost of each purchase. A P-card system could help alleviate this problem.

Total recommendations:	**23**
Total five-year savings:	**$101.7 million**

CHAPTER VIII - SAVING MONEY, IMPROVING SERVICE

(Dollars in Thousands)

Issue No.	Recommendation	2004 General Fund	2004 Other Funds	2005 General Fund	2005 Other Funds	2006 General Fund	2006 Other Funds	2007 General Fund	2007 Other Funds	2008 General Fund	2008 Other Funds	Cummulative Total General Fund	Cummulative Total Other Funds
A 5	Negotiate Water Settlements	-	-	-	-	-	-	-	-	-	-	-	-
A 6	Consult with Middle Rio Grande Tribes	(111.5)	-	(223.0)	-	(223.0)	-	(223.0)	-	(223.0)	-	(1,003.5)	-
A 7	Maximize Funding Sources for Water Projects	-	-	-	-	-	-	-	-	-	-	-	-
A 11	Retrofit Fixtures to Achieve Energy Cost Savings	-	(4,000.0)	1,600.0	(4,000.0)	3,200.0	(4,000.0)	4,800.0	(4,000.0)	6,400.0	(4,000.0)	16,000.0	(20,000.0)
T 9	Retrofit Fixtures to Achieve Energy Cost Savings	-	104.9	-	105.0	-	110.0	-	115.0	-	120.0	-	554.9
A 12	Require all New State Buildings to Comly with ASHRAE Standards	189.6	2,001.0	379.2	2,001.0	568.8	2,001.0	758.4	2,001.0	948.0	2,001.0	2,844.0	10,005.0
A 15	Require all State Agencies to Use Existing Natural Gas Marketing Agreement	55.2	-	780.0	-	780.0	-	780.0	-	780.0	-	3,175.2	-
A 13	Reduce Travel Expenses	840.0	-	980.0	-	1,120.0	-	1,260.0	-	1,400.0	-	5,600.0	-
A 14	Set all Copiers and Printers to Duplex	200.0	-	200.0	-	200.0	-	200.0	-	200.0	-	1,000.0	-
A 4	Enhance Labor Department Penalties	-	697.7	-	1,395.4	-	1,395.4	-	1,395.4	-	1,395.4	-	6,279.3
A 8	Abolish Office of Interstate Natural Gas Markets	66.1	-	50.0	-	50.0	-	50.0	-	50.0	-	266.1	-
A 9	Eliminate Transcription of Uncontested Cases	5.0	-	10.0	-	10.0	-	10.0	-	10.0	-	45.0	-
CM 2	Streamline Sapital Projects Payment Process	-	14.0	-	14.0	-	14.0	-	14.0	-	14.0	-	70.0
CM 1	Update Architect and Engineer Rate Schedule	-	62.1	-	62.1	-	62.1	-	62.1	-	62.1	-	310.5
CM 3	Provide Certain Architectural Services In-House	-	756.4	-	756.4	-	756.4	-	756.4	-	756.4	-	3,782.0
CM 5	Eliminate Unnecessary Postage	171.0	444.0	341.9	888.1	512.9	1,332.1	512.9	1,332.1	512.9	1,332.1	2,051.6	5,328.4
CM 7	Improvement Management of Legal Contracts	92.6	210.9	269.6	614.4	518.5	1,181.5	622.2	1,417.8	622.2	1,417.8	2,125.1	4,842.4
CM 8	Enhance Employee Benefits Services	337.1	1,463.9	420.0	1,825.1	420.0	1,825.1	420.0	1,825.1	420.0	1,825.1	2,017.1	8,764.3
CM 9	Increase Procurement Card Use	874.7	2,249.1	1,749.3	4,498.2	1,749.3	4,498.2	1,749.3	4,498.2	1,749.3	4,498.2	7,871.9	20,241.9
HHS 9	Provide New Mexico Works Services In-House	-	-	-	3,371.9	-	3,371.9	-	3,371.9	-	3,371.9	-	13,487.6
CM 11	Implement Statewide Single Audit	-	-	162.7	418.5	162.7	418.5	162.7	418.5	162.7	418.5	650.8	1,674.0
HHS 14	Improve State's Financial Management Practices	-	-	-	-	-	-	-	-	-	-	-	-
CM 12	Enhance State Tax Collections	-	-	500.0	-	500.0	-	500.0	-	500.0	-	2,000.0	-
Total		**2,719.8**	**4,004.0**	**7,219.7**	**11,950.1**	**9,569.2**	**12,966.2**	**11,602.5**	**13,207.5**	**13,532.1**	**13,212.5**	**44,643.3**	**55,340.3**

Negotiate Water Settlements in Pending Adjudications Involving Indian Tribes and Pueblos

The state should adopt a policy preference for settlement of all pending adjudications involving Indian tribes and Pueblos.

BACKGROUND

One of the biggest challenges in New Mexico is quantifying everyone's water rights. The method for quantification is an "adjudication" in state or federal court. New Mexico is currently involved in a number of adjudications. Unfortunately, this approach has resulted in protracted and costly litigation and huge expenditures of state resources for decades. These adjudications include water rights claims of Indian Nations.

In the 1990s, the federal government took a more active role to encourage Indian water rights settlements to save money. Many of the adjudications involving Indian water rights in New Mexico are in settlement negotiations. Sixteen tribes/pueblos are involved in these adjudiciations, as follows:

Rio Pojoaque (Aamodt): This case was filed in 1966 and involves the Pueblos of Nambe, Pojoaque, Tesuque, and San Ildefonso. The parties are currently engaged in global settlement negotiations.

Rio Pueblo de Taos/Rio Hondo Systems (Abeyta): This case involves the Pueblo of Taos, non-Pueblos, and the United States. The Pueblo filed claims on its behalf in 1989, 1992, 1996, and 1997.

Rio Chama (Aragon): This case involves claims of the Pueblo of San Juan and the Jicarilla Apache Nation. This case was filed in 1969.

Rio Santa Cruz and Rio de Truchas Systems (Abbott): The Pueblos of San Ildefonso, San

Juan and Santa Clara are involved in this case, with some of San Ildefonso's claims already settled.

Rio San Jose (Kerr-McGee): This case involves the Pueblos of Acoma and Laguna. A new Special Master was assigned this case in 2001 and litigation of the pueblos' claims are underway.

Rio Jemez (Abouselman): The Pueblos of Jemez, Zia, and Santa Ana are parties to this case that was filed in 1983. The court has issued a stipulated order regarding certain pueblo water rights and the parties are operating under a shared shortages agreement.

Zuni River (A&R Productions): The Zuni Pueblo, Navajo Nation, and Ramah Chapter of Navajo Nation are parties to this case that was filed in 2001.

San Juan River: This case involves the Navajo Nation and was filed in 1975. Efforts are underway to settle this case.

Santa Fe River (Anaya): This case involves Cochiti Pueblo and was filed in 1971.

FINDINGS

Protracted litigation with Indian tribes over water rights has been costly and time consuming both for the state and tribes/pueblos, as well as for all other parties in such cases. The Aamodt adjudication involving the Pueblos of Nambe, Pojoaque, Tesuque and San Ildefonso, for example, has languished in the courts for some 30 years. Other adjudications involving tribes and the state haven't fared much better, some of them going unresolved for 15 to 20 years.

In a 2001 report to the Legislature, the State Engineer estimated that the state's cost of litigating all remaining water rights could reach $500 million over a 20-year period. According to data in the report, litigating water rights with the Navajo Nation alone could cost $1.5 million a year — for as many years as it takes to resolve it.

Negotiating water rights *prior* to adjudication would be a more effective and less costly way to go than litigation. For example, New Mexico successfully negotiated water rights with the Jicarilla Apache Nation - a case in which allocation of water rights was worked out with existing state staff and resources in just seven years.

There are numerous reasons that tribal and non-Indian interests might prefer negotiations to litigation, including such shared goals as:

- Reliable access to water - all parties to settlement agreements share an interest in securing access to water of adequate quantity and quality to satisfy their present and future needs;
- Management of water resources - negotiated settlements can provide an opportunity to enhance coordinated management of regional water resources;
- Improved community relations - fostering better community relations is particularly important where water conflicts interfere with sound local governance and interactions among neighboring water users;
- Economic development - local parties often share an interest in winning federal support for water and economic development projects in the region; and
- Certainty - crafting stable, comprehensive, and lasting settlements can provide added certainty to water users that their future water needs will be met.

In addition, there are two public mandates to negotiate rather than litigate Indian water rights in New Mexico:

- The Governor has entered into an official agreement with Indian tribes predicated on a "government to government" relationship. This agreement declares that issues of mutual concern to the respective governments shall be addressed by negotiations and that each government shall consult with the other before resorting to litigation.
- The Legislature passed a law in the 2003 session directing the Interstate Stream Commis-

sion and the State Engineer to "consult directly with the governments of Indian nations, tribes, and Pueblos to formulate a statement of policy and process to guide final adjudication or settlement of all water rights claims by Indian nations, tribes and pueblos."

Taxpayers would also benefit from more negotiation and less litigation. Reaching settlements with Indian tribes and pueblos will be less costly in terms of money, time, and maintaining good relations.

RECOMMENDATIONS

The state should strive to finalize all settlements, where negotiations are ongoing in adjudications, with Indian tribes in a prompt fashion. The state should also consult with Indian tribes and pueblos in other pending adjudications to ascertain whether settlement is a viable option, and if so, strive for a prompt settlement of such cases as well. Furthermore, the state should seek assistance and support from the federal government to participate in and fund such settlement efforts.

Lastly, the Governor should direct the State Engineer and the Interstate Stream Commission to step up their efforts toward this end immediately.

FISCAL IMPLICATIONS

The state could avoid costs of about $1.5 million a year from the general revenue fund if a water rights settlement was reached between New Mexico and the Navajo Nation through negotiation rather than litigation.

ENDNOTES

1. Winter Doctrine, United States Supreme Court, 1908
2. New Mexico ex rel. State Engineer v. Aamodt et al
3. State of New Mexico v. Kerr-McGee; State of New Mexico ex rel. State Engineer v. Abbott
4. Ernest Coriz, Office of the State Engineer

Consult with the Six Middle Rio Grande Pueblos on Water Rights

The state should consult with the six Middle Rio Grande Pueblos to establish a global process for the settlement of their water rights.

BACKGROUND

The Middle Rio Grande has yet to be adjudicated and is home to six Pueblos: Cochiti, Santo Domingo, San Felipe, Santa Ana, Sandia, and Isleta. There are numerous challenges that exist in the Middle Rio Grande that both Indians and non-Indians must face together. The Middle Rio Grande Conservancy District, a political subdivision of the state, is the entity they physically delivers the water to the both the Pueblos and non-Indians farmers. The area is plagued with drought, and surface flows are subject to federal water restrictions due to the presence of the endangered silvery minnow. The river also is located in the vicinity of a number of municipalities.

There is no superintending authority refereeing the competing interests on this river, leading to lack of certainty and arbitrary management. Quantification of water rights in the Middle Rio Grande is one mechanism that would institute better management and allocation of the water resources.

It is essential that the state consult with the six Middle Rio Grande Pueblos to ascertain whether they would want to participate in negotiations over their water rights. It also is vital that all six pueblos agree upon a uniform process instead of negotiating separately with each pueblo in a piecemeal fashion. Obviously, the state must include the Pueblos' trustee – the United States — in these discussions, and of course, federal funding and support is key to the success of such an undertaking.

FINDINGS

Protracted litigation over water rights with other tribes in New Mexico has been costly and endless. Our experience tells us that the negotiation of Indian water right claims is both more effective and less costly.

In addition, the Governor's Indian policy requires that issues of mutual concern to the state and Indian governments "shall be addressed by negotiations and each government shall consult with one another prior to the filing of litigation."

The Legislature passed a law in the 2003 session directing the Interstate Stream Commission and the State Engineer to "consult directly with the governments of Indian nations, tribes, and Pueblos to formulate a statement of policy and process to guide final adjudication or settlement of all water rights claims by Indian nations, tribes and pueblos."

The estimated cost of litigating water rights with the six Middle Rio Grande Pueblos would total $2.4 million a year for the foreseeable future to pay for technical and legal staff (at a cost of $223,000) and contracts with other specialists to conduct studies and develop technical models.

RECOMMENDATIONS

The state should consult with the six Middle Rio Grande Pueblos to establish a global process for the settlement of their water rights. Specifically, the Governor's Office should establish a team, including Pueblo and federal representatives, to formulate a process for negotiating water rights on the Middle Rio Grande. In addition, the state should seek in conjunction with all six Pueblos, federal participation and support of any process agreed upon by the participants.

FISCAL IMPLICATIONS

If the State hired four FTEs at a total cost of $223,000 annually, New Mexico could save taxpayers nearly $2.4 million a year in general revenue fund costs over a period of twenty years by negotiating a settlement with the six Pueblos.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004	111.5				(111.5)	+4
2005	223.0				(223.0)	
2006	223.0				(223.0)	
2007	223.0				(223.0)	
2008	223.0				(223.0)	
TOTAL	**1,003.5**				**(1,003.5)**	**+4**

ENDNOTES

1. Winter Doctrine, United States Supreme Court, 1908
2. Report to the Agriculture and Water Committee, 45th Legislature by T.C. Turney, State Engineer
3. Ernest Coriz, Office of the State Engineer

Maximize Funding Sources for Water Projects

The state should redirect capital outlay appropriations for local irrigation projects to the state's irrigation programs to leverage the maximum amount of available federal funds.

BACKGROUND

In 2003, the Legislature dedicated nearly $1.7 million from the state general fund to 33 local projects throughout the state to pay for irrigation and related services. The appropriation was part of the state's oversight and administration function for a variety of programs to meet New Mexico's irrigation challenges.

A partial list of these programs underscores the variety of efforts around the state:

- New Mexico Irrigation Works Construction Program
- Improvement to the Rio Grande Trust Fund
- Water Project Finance Act, Water Trust Fund, Water Project Fund, and the Water Trust Board
- Acequia and Community Ditch Fund Act
- Conservancy of Water District Act
- Irrigation District Act
- The Soil and Watershed District Act (Section 73-20-1, NMSA 1978)
- Endangered Species Act (ESA), Middle Rio Grande Work Group
- Federal Water Resources Act of 1986, undertaken by the US Army Corps of Engineers in conjunction with the New Mexico State Engineer and the Interstate Stream Commission
- Interstate Stream Commissions Loan Program
- New Mexico Interstate Stream Commission 80/20 Program

- US Army Corps of Engineer (COE) 215 Program
- COE 1113 Program

As New Mexico's four-year drought stretches into a long-term crisis with no end in sight, the importance of these projects is heightened.

FINDINGS

New Mexico is not maximizing the use of the state's general revenue fund for irrigation projects. The Legislature has funded 100 percent of many local irrigation projects when a good number of them could qualify for 75 percent federal funding. These federal-state or federal-local match programs often offer the added benefit of having experienced staffers from the State Engineer's office to provide oversight and quality control.

RECOMMENDATION

The state should require legislative capital outlay appropriations related to irrigation works construction to be reviewed for eligibility for the state's irrigation programs and, if eligible, redirect the state spending through these Irrigation Programs to improve accountability and maximize federal funding.

FISCAL IMPLICATIONS

Assuming that the Legislature would otherwise appropriate $1,651,000 of general revenue funds on individual irrigation-related capital outlay projects, this recommendation would transfer 82.5 percent of that cost to federal (75%) and local (7.5%) matching funds to save state taxpayers $1,362,000 annually which could be reallocated to other important projects.

ENDNOTES

1. House Taxation and Revenue Committee Substitute for HB 200 as amended, 2003.
2. Ernest Coriz, Office of the State Engineer

Retrofit Fixtures to Achieve Energy Cost Savings

State agencies should implement energy efficiency retrofits in state facilities to save on utility costs.

BACKGROUND

Like New Mexico families, state government is hit by the rising costs of electricity, gas, water, and sewer services. In FY02, the executive agencies of state government alone spent $13 million to keep the lights on and provide other utilities.

In the decade from 1992 to 2002, New Mexico governors have issued a series of executive orders to address utility costs in state government to conserve energy and save taxpayers money — about $300,000 a year.

Public schools, colleges and universities, and most state government agencies outside the 13 executive branch departments have not been required to participate in this effort, although some have undertaken initiatives of their own to reduce energy use and save money.

FINDINGS

The state spends more than $60 million a year on utilities for all state agencies, school districts, and colleges and universities. If these public entities were encouraged to step up their efforts to conserve energy and retrofit buildings with basic energy efficiency measures, the potential savings would be substantial.

State agencies should conduct an inventory of buildings that have not yet been targeted for energy efficiency upgrades or technological retrofits. Installing energy efficient lighting in state buildings, for example, can reduce energy consumption by as much as 50 percent. Modernizing climate control systems in buildings and lowering temperature settings when offices are closed can reduce heating and cooling energy consumption by 10 percent.

New Mexico's Public Facility Energy Efficiency and Water Conservation Act has gained attention for its efforts to encourage state building energy efficiency retrofits through what is called "performance contracting," whereby an energy efficiency contractor is compensated from the resulting savings in utility costs. Depending on the circumstances, this can be an effective approach. With performance contracting, the up-front capital investment by the state can be eliminated, increasing net savings during the first several years. But, because savings under this approach are shared with the contractor as compensation for the initial capital investment, taxpayer savings in subsequent years are less.

RECOMMENDATION

The Governor should direct executive-branch agencies and encourage non-executive agencies, school districts, and colleges and universities to implement energy efficiency measures, such as energy-efficient lighting and temperature controls, in all state facilities that haven't yet been retrofitted. To reduce implementation costs and bring in utility savings immediately, the emphasis of the Governor's directive should be on conducting retrofits in-house and limiting outside contracts for the service. This will require an initial investment to purchase the necessary fixtures and other start-up costs.

FISCAL IMPLICATIONS

From FY04 through FY08, an estimated four million square feet of state building space could be retrofitted each year, at a total cost for the five-year period of $20 million. While actual savings will begin to accrue in FY04, no FY04 savings have been included in the table below to reflect the time it will take to complete the retrofits in the first year. Annual savings will reach $8 million in FY09, the first full year of system-wide savings, when the estimated total of 20 million square feet of state government buildings have been retrofitted.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004			4,000.0			
2005		1,600.0	4,000.0		1,600.0	
2006		3,200.0	4,000.0		3,200.0	
2007		4,800.0	4,000.0		4,800.0	
2008		6,400.0	4,000.0		6,400.0	
TOTAL		**16,000.0**	**20,000.0**		**16,000.0**	

Note: The following assumptions have been included in the fiscal impact statement:

1) Based on retrofit experience and research, $400,000 per year in utility savings will be achieved for every one million square feet of space retrofitted, at a cost of $1 million — for a 2.5 year "pay-back" period.

2) For a total cost of $4 million, four million square feet per year will be retrofitted, yielding $1.6 million in annual utility savings.

3) These savings are cumulative. Retrofitting accomplished in earlier years will continue to provide savings in subsequent years.

ENDNOTES

1. Energy Conservation and Management Division Cost records, Energy, Minerals and Natural Resources Department
2. Public Service Company of New Mexico Utility billing history
3. EMNRD Utility Data Base for cabinet-level state agencies
4. Architects and Engineers Guide to Energy Conservation in Existing Buildings—Volume 2, Energy Conservation Opportunities, United States Department of Energy April 1990.
5. *The New Mother Lode—The Potential for More Efficient Electricity Use in the Southwest* by the Southwest Energy Efficiency Project (SWEEP)—Hewlett Foundation Energy Series
6. Report on traffic light replacement, City of Albuquerque
7. Harold Trujillo, P.E., Energy Conservation and Management Division (ECMD) , EMNRD
8. Michael McDiarmid, P.E., ECMD , EMNRD
9. Brian Johnson, P.E., ECMD , EMNRD
10. Dan Hagan, P.E., ECMD , EMNRD
11. Chris Wentz, ECMD , EMNRD
12. Craig O'Hare, ECMD , EMNRD

Retrofit Fixtures to Achieve Energy Cost Savings

The state should implement energy efficiency measures in all state government buildings, using the Department of Transportation's successful energy management plan as a model for reducing electricity and water use and saving money.

BACKGROUND

The Department of Transportation (DOT) has established a comprehensive energy management plan for its headquarters building in Santa Fe, which has saved more than $600,000 since 1998.

The building's lighting system was renovated with electronic ballasts and 32-watt lamps. More than 30 patrol buildings in district offices were upgraded with energy efficient lighting, ceiling and wall insulation, and infrared heating systems. Water systems were retrofitted with low-flow toilets and sinks, and drip irrigation for exterior landscaping resulting in additional taxpayer savings and water conservation.

FINDINGS

DOT leads all other state agencies in energy conservation savings over the past five years. The department has reduced water consumption by 2,015,800 gallons, for an annual savings of $16,035 during that time, and cut electricity and gas consumption, saving an additional $88,889 a year during the same period. The department plans to conduct additional retrofitting in state district offices in subsequent fiscal years.

DOT has developed a strong alliance with the Energy Conservation Management Division of the State Energy, Minerals and Natural Resources Department, using matching grant money to further its goals of energy conservation and taxpayer savings.

RECOMMENDATIONS

State government should implement energy efficiency measures in all state government buildings based on the Department of Transportation's successful energy management plan.

FISCAL IMPLICATIONS

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	General Fund Cost	General Fund Savings	Other Funds Cost	Other Funds Savings	Net Cost/Gain To General Fund	Change in FTE
2004				104.9		
2005				105.0		
2006				110.0		
2007				115.0		
2008				120.0		
TOTAL				**554.9**		

Note: Savings are based on a comparison of energy usage and billing for the past two calendar years. Savings are contingent on additional retrofitting as well as use and market price for gas, electricity, and water.

ENDNOTES

1. New Mexico's Energy, Present and Future - Policy Production, Economics and the Environment- Decision Makers Field Conference 2002 - Brister and Price
2. Rick Gomez, General Services Bureau, DOT

Require All New State Buildings to Comply with ASHRAE Standards

The state should require all new state buildings to meet or exceed American Society of Heating, Refrigerating and Air-Conditioning Engineers standards to preserve energy and save money.

BACKGROUND

Federal law requires states to update their commercial energy codes to the most recently approved standards set by the U.S. Department of Energy (DOE). The generally accepted standards of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers, or ASHRAE, meet this mandate.

To comply with the federal requirement, states must upgrade their existing commercial building codes by July 15, 2004. Many have adopted the basic ASHRAE standards — known technically as Standard 90.1-2001 — to reach this goal. New Mexico, however, is still using an energy code nearly two decades old and recognized as inadequate when it comes to modern energy efficiency. Although the New Mexico Construction Industries Commission is considering adopting new codes, commissioners have failed thus far to reach a consensus.

In an effort to address state building energy efficiency without waiting for new building codes, the General Services Department (GSD) set policy requiring all executive branch state buildings to meet the ASHRAE standards set in 1989. Even greater energy savings could be achieved by updating that requirement to the newer ASHRAE standards adopted in 2001.

However, public schools, colleges and universities are not executive-branch agencies. The result: newly constructed college or university buildings are not meeting any ASHRAE energy efficiency standards. Fortunately, public schools are already partially meeting them as a result of a decade-old Energy, Minerals and Natural Resources Department (EMNRD) program that reviews public school facility plans and requires certain energy efficiency measures not required of other state building construction.

The potential energy savings at state colleges and universities is significant while there is additional savings still to be found at public schools.

FINDINGS

Energy efficient retrofits can reduce operating costs, and a careful selection of construction elements to meet ASHRAE standards can also reduce the cost of building new facilities.

A DOE study conducted specifically for New Mexico's EMNRD found that, for every million square feet of public school buildings constructed to meet ASHRAE standards, savings totaled $1,374,000. Some energy efficiency measures, like passive lighting to reduce the "heat load" of the building, bring lower costs for lighting and heating, ventilation, and air conditioning systems. In the past six years, New Mexico public schools have added about 1.5 million square feet of new construction each year. Under the EMNRD requirements for public schools, they are expected to incorporate energy efficiency measures involving special insulation or windows that can increase construction costs. Requiring public schools to adopt ASHRAE standards, however, could actually cut construction costs.

Unlike public schools, New Mexico higher education facilities aren't currently required to incorporate the kinds of energy efficiency measures that can increase construction costs. With an estimated 150,000 square feet per year of higher education facilities projected to be built over the next five years, it is critical to make sure they meet money-saving energy efficiency standards. By incorporating ASHRAE standards, these new college and university facilities could save taxpayers $244,000 per million square feet each year.

RECOMMENDATION

By executive order and under agreement with the Department of Education and the Commission on Higher Education, the state should require all new, state-funded construction and renovations, including public schools and universities, to comply with ASHRAE Standard 90.1-2001.

FISCAL IMPLICATIONS

Savings estimates for this recommendation are based on 1.5 million square feet a year of new construction or energy renovations for public schools, and 150,000 square feet a year for higher education facilities.

All figures constitute the incremental costs or savings compared to taking no action; utility savings are from projected operating costs based on a "no-action" alternative as opposed to current operating costs.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004		189.6		2,001.0	189.6	
2005		379.2		2,001.0	379.2	
2006		568.8		2,001.0	568.8	
2007		758.4		2,001.0	758.4	
2008		948.0		2,001.0	948.0	
TOTAL		**2,844.0**		**10,005.0**	**2,844.0**	

ENDNOTES

1. Energy Savings and Economic Analysis of Updating New Mexico's Commercial Building Energy Code by Pacific Northwest National Laboratory, US DOE, Report # PNNL/14073 – January 2003
2. DOE, Office of Energy Efficiency and Renewable Energy (http//www.energycodes.gov)
3. Public School Plan Review Database–FY02
4. Paul Aguilar, Analyst, Legislative Finance Committee, Interview
5. Harold Trujillo P.E., EMNRD
6. Daniel Hagan P.E., EMNRD
7. Craig O'Hare, EMNRD

Require All State Agencies to Use Existing Natural Gas Marketing Agreement

The Governor should direct all state agencies to use natural gas pricing agreements to save money, and should encourage all public school districts and institutions of higher education to do the same.

BACKGROUND

In the wake of deregulation of the natural gas utility industry, it is now possible for consumers to purchase natural gas directly from producers and save money. The Building Services Division (BSD) of the state's General Services Department (GSD) has, in place, a successful price agreement for the services of a natural gas marketer. These agreements have been shown to cut the cost of natural gas for state agencies.

The current state contract with natural gas marketer Wasatch Energy, LLC provides three pricing options:

- One-year commitment to purchase natural gas with a guaranteed seven percent savings over the tariff price of the Public Service Company of New Mexico (PNM),
- Save money month-to-month by purchasing natural gas at a price based on the index price at the San Juan Basin as of the beginning of each month, or
- Advance purchases of natural gas in packages of three or four months, at fixed prices, using the gas futures market — an option that offers the greatest potential savings and the greatest potential risk.

FINDINGS

BSD uses a combination of index price and negotiated fixed pricing to achieve 12 percent savings over Public Service Company of New Mexico pricing. Since the first agreement was executed in 2001, cabinet-level state agencies and the cities of Albuquerque and Farmington have saved a total of $142,450. Other state entities taking advantage of the price agreement include the Corrections Department (CD), the Office of Military Affairs (OMA), and the Public Employees Retirement Association (PERA), as well as the Santa Fe public school district. Albuquerque's public schools and the University of New Mexico have each executed their own agreements.

The state could save substantial tax dollars if all state agencies were directed to use the natural gas marketer price agreement where possible. The savings would be even greater if public school districts, and colleges and universities used the price agreement or executed their own agreements.

Unfortunately, some parts of the state, such as the Las Vegas and Raton areas, lack the pipeline infrastructure necessary to support use of this kind of agreement.

RECOMMENDATIONS

The Governor should direct state agencies to purchase natural gas, whenever possible, through the natural gas marketer price agreement available from the GSD. Agencies should exercise the guaranteed seven percent savings option.

Additionally, the Governor should encourage public school districts and institutions of higher learning to use the price agreement or offer state assistance so that they can exercise their own agreements.

FISCAL IMPLICATIONS

While the potential for greater savings exists through the other options, the guaranteed seven percent option is risk-free. In FY99, cabinet-level state agencies used $1,557,947 in natural gas based on the energy-tracking database maintained by the Energy, Minerals and Natural Resources Department (EMNRD). If all cabinet-level state agencies were to follow this lead, total savings to the state's general revenue fund would reach $109,000 per year. Given that BSD, CD, OMA, and PERA are all already using the price agreement, the estimated incremental savings would be $55,160 annually.

About $17.3 million of natural gas is purchased by New Mexico public schools, institutions of higher learning, and cabinet-level state agencies. EMNRD projects the potential incremental savings for all three entities to be $780,000 a year. This estimate takes into account that some state agencies, public schools, and colleges or universities are already using a natural gas marketer price agreement or are located in parts of the state without the required infrastructure.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004		55.2			55.2	
2005		780.0			780.0	
2006		780.0			780.0	
2007		780.0			780.0	
2008		780.0			780.0	
TOTAL		**3,175.2**			**3,175.2**	

Note: Savings are relative to the price that would be paid to a local natural gas utility. Natural gas prices will fluctuate significantly each year and throughout the period being considered.

ENDNOTES

1. EMNRD database on cabinet-level state agency utility expenditures
2. New Mexico State Department of Education expenditures report
3. Commission on Higher Education capital outlay report
4. Harold Trujillo P.E., Energy Conservation and Management Division, EMNRD
5. Dan Hagan P.E., Energy Conservation and Management Division, EMNRD
6. Louise Martinez, Energy Conservation and Management Division, EMNRD
7. Miguel Hidalgo and Eileen Marrujo-Gallegos, Commission on Higher Education

Reduce Travel Expenses

The state should use energy-efficient technology to reduce the total number of miles traveled in less-efficient vehicles and prioritize the use of existing or new fuel-efficient vehicles.

BACKGROUND

According to recent data from the federal Energy Information Administration (EIA), energy use in New Mexico's transportation sector ranked highest of all sectors for energy consumption in 2000. The primary sources of energy used in the state transportation sector are gasoline and diesel fuel.

Information compiled by the New Mexico Department of Transportation and Wright Express, the state's gasoline credit card contractor, shows that state government consumed 5.6 million gallons of gasoline last year, costing taxpayers $8.4 million based on an average price of $1.50 per gallon.

FINDINGS

From 1998 through 2002, New Mexico state government acquired 2,623 vehicles, not including police cruisers and heavy equipment. More than 500 new vehicles a year are added to the state inventory, for a total statewide fleet of some 3,500.

Many New Mexico state government fleet vehicles are sport utility units or older model trucks and cars with outdated fuel-efficiency performance. Overall, the current state fleet fails to meet federal Corporate Average Fuel Economy (CAFÉ) standards.

According to the U.S. Department of Energy and the Environmental Protection Agency Web site (www.fueleconomy.gov), between $300 and

$500 per vehicle could be saved in fuel costs each year by choosing more fuel-efficient vehicles.

RECOMMENDATIONS

The state should include transportation energy efficiency requirements in a Governor's executive order requiring state agencies to develop a transportation efficiency plan that provides for:

- Specific operational and procedural changes. The Governor should set a goal of reducing state fuel costs by 10 percent by:
  - Establishing travel policies within agencies that encourage ride-sharing, and increased use of teleconferencing or telecommuting to reduce miles traveled,
  - Allocating existing vehicles based on intended use to maximize fuel efficiency possible for each vehicle trip, and
  - Adhering to regularly scheduled maintenance plans to ensure that vehicle engines are tuned, air filters replaced, tires properly inflated, and recommended grades of motor oil used.
- Fuel Efficient Vehicle Acquisition. The Governor's executive order should also call for a number of measures, including:
  - Planning for the purchase of state vehicles according to the purpose and required use of those vehicles as well as compliance with the federal Energy Policy Act of 1992 and the state Alternative Fuel Vehicle Acquisition Act to acquire more energy fuel-efficient vehicles to replace older less fuel-efficient vehicles.
  - All new vehicles purchased should meet or exceed federal automobile CAFÉ standards, unless the intended use justifies otherwise. Acquiring CAFÉ-compliant vehicles would result in an improved fleet average fuel economy of at least seven miles per gallon over the 18 miles per gallon average performance of the current fleet. This measure alone would save taxpayers $140,000 a year on fuel for every 500 new vehicles purchased.

FISCAL IMPLICATIONS

State taxpayers could save more than $4.3 million over the next five years by acquiring or converting to more fuel-efficient vehicles in the state fleet. This estimate includes $840,000 in fuel savings (10 percent of the estimated $8.4 million a year spent on fuel) from operational and procedural changes, and $140,000 additional savings per year from the purchase of about 500 new fuel-efficient vehicles.

Significant vehicle acquisition costs could be avoided by purchasing smaller, less-expensive, more fuel-efficient vehicles instead of sport utility vehicles or large sedans. Other cost savings from tire replacement and improved maintenance may also be possible. To maintain a conservative savings estimate, however, vehicle acquisition savings are not included in the following chart.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004		840.0			840.0	
2005		980.0			980.0	
2006		1,120.0			1,120.0	
2007		1,260.0			1,260.0	
2008		1,400.0			1,400.0	
TOTAL		**5,600.0**			**5,600.0**	

ENDNOTES

1. Energy Information Administration www.fueleconomy.gov (Department of Energy and Environmental Protection Agency)
2. NM State Highway and Transportation Department
3. Wright Express (WEX) Fuel Card
4. Louise Martinez, Rene Parker, Richard Leonard, Energy Conservation and Management Division, EMNRD

Set All Copiers and Printers to Duplex

State policy should require that all printed and photocopied documents be double-sided to save on paper costs and reduce waste.

BACKGROUND

Most state government documents and photocopied reports are printed only on one side of a sheet of paper. Most reports prepared by private consulting firms or other entities doing business with the state are single-sided and double-spaced as well.

This unnecessary waste of paper not only makes no environmental sense, it also costs taxpayers an estimated $500,000 to $700,000 a year. State computer printers and photocopiers are capable of duplexing (printing on both sides).

FINDINGS

With few exceptions, the quality (and utility) of a government document is not impaired by printing on both sides of the paper. In fact, duplexing produces more manageable documents than single-sided copies, taking up less space in brief cases and file cabinets, and costing less to mail.

Taxpayers could realize significant savings in postage, record keeping, and, especially, paper procurement costs by adopting a state government-wide policy to duplex all appropriate documents.

RECOMMENDATIONS

The state should immediately adopt a policy that all appropriate printed documents be double-sided. This policy should extend beyond state agencies to contractors doing business with the state, including bids, reports generated under contract, and other documents. This policy could be implemented via a Governor's executive order on Resource Efficiency in State Government.

FISCAL IMPLICATIONS

Duplexing could reduce overall paper consumption by 30 percent a year, for an estimated annual savings of $200,000 a year.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004		200.0			200.0	
2005		200.0			200.0	
2006		200.0			200.0	
2007		200.0			200.0	
2008		200.0			200.0	
TOTAL		**1,000.0**			**1,000.0**	

ENDNOTES

1. Penny Clark, Craig O'Hare, EMNRD

Enhance Labor Department Penalties

The state's Department of Labor should revise both the interest rate charged for unpaid employment taxes and the fee for late filing of wage reports.

BACKGROUND

The New Mexico Department of Labor (DOL) is responsible for collecting from employers state unemployment insurance taxes and unemployment wage reports. The interest charged against unpaid taxes and the fees assessed for the late filing of wage reports are deposited into the state's penalty and interest fund (pursuant to Section 51-1-34(B)(2), NMSA 1978). Although the revenue in this fund has historically been appropriated to fund the Labor and Industrial, and Human Rights divisions, state statute calls for the funds to be used for administering employment security services. The misuse of this revenue has created a financial burden on other Labor Department programs, which have to chip in to help support collection functions.

The department currently charges 12 percent simple interest per year (1 percent per month) for unpaid unemployment insurance taxes. By way of comparison, the Taxation and Revenue Department (TRD) charges 15 percent compound interest for unpaid income taxes.

Section 51-1-12, NMSA 1978 allows DOL to charge a one-time late wage report fee of $50. Many employers would rather pay the late fee than pay the tax assessment on time because the fee is less expensive than the interest they forego by paying their taxes on time.

Administering late fee reports also creates financial burdens on the department, which has to dedicate personnel and resources to the effort —

all for a late fee that is substantially lower than the rate charged by other states.

FINDINGS

Current law lacks the teeth to motivate employers to comply with the law by filing reports and paying taxes on time; many prefer to pay small fines and penalties. The administrative burden of collecting late taxes could be eased substantially by amending state law to encourage employers to file wage reports and pay their taxes on time. The result would be less money spent on bureaucracy and administration and more resources available for program participants.

RECOMMENDATIONS

The Legislature should amend Section 51-1-36, NMSA 1978 to increase the interest rate for unpaid taxes to 15 percent compounded quarterly.

The Legislature should also amend Section 51-1-12, NMSA 1978 to increase the fee for late filing of wage reports to at least $75 to encourage compliance.

To ease the department's financial burden of collecting unpaid taxes, the Legislature should earmark the additional revenue for employment services administration.

FISCAL IMPLICATIONS

Amounts included in the estimated fiscal impact table below are estimates based on a late wage report fee of $75 and 15 percent interest rate compounded quarterly.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004				697.7		
2005				1,395.4		
2006				1,395.4		
2007				1,395.4		
2008				1,395.4		
TOTAL				**6,279.3**		

Revising the late wage report filing fee from $50 to $75 will increase state revenue by $1,187,400 a year. Revising the fee to $100 would result in an increase of $2,374,800 annually; while revising it to $125 would result in an increase of $3,562,100 annually.

ENDNOTES

1. N.M.S.A. 1978, §51-1-36
2. N.M.S.A. 1978, §7-1-67(B)
3. Arizona Statutes Annotated, A.R.S. § 23-
4. State of Texas, V.T.C.A., Labor Code § 213.022
5. State of Utah, UT ST § 35A-4-305
6. Rachel Moscowitz, Actuarial Research Report dated May 30, 2003

Abolish Office of Interstate Natural Gas Markets

The Office of Interstate Natural Gas Markets should be abolished to save money and streamline the state bureaucracy.

BACKGROUND

The Office of Interstate Natural Gas Markets (OINGM) in the Energy, Minerals and Natural Resources Department (EMNRD) was created in 1989 to develop and implement natural gas marketing strategies. The idea was to address policies and rulings by the Federal Energy Regulatory Commission (FERC), the California Public Utilities Commission (CPUC), and other regulatory bodies outside the state that affect the production and sale of New Mexico natural gas.

The immediate impetus for creating the state office was FERC Order No. 636, which eliminated the merchant function of interstate pipelines and left the state's natural gas producers in need of marketing services. The private sector eventually stepped up after Order No. 636 and now provides marketing services. The OINGM, created during urgent circumstances, has been left to monitor developments in California — the principal market for the state's natural gas — and at FERC.

In the early years of the OINGM, taxpayers spent as much as $600,000 to operate the office, an appropriation that has dwindled to $50,000 in recent years, mainly to oversee contracts. As many as five or six full-time state employees were assigned to the OINGM at one time, but the last of these positions was eliminated in the late 1990s. The office currently has no employees; an attorney and an administrative assistant in the EMNRD have absorbed the duties of the OINGM.

The OINGM now uses most of its annual appropriation to subscribe to trade publications or retain legal counsel in California, since the EMNRD has no staff attorneys. Few filings before FERC or CPUC have affected New Mexico's interests during the past few years.

FINDINGS

Interstate markets function, in the modern age, such that New Mexico natural gas producers can market their gas effectively on their own. If a serious natural gas market problem were to arise, the OINGM would be unable to address it anyway without substantial new funding. FERC remains the focal point of interstate natural gas marketing issues. Because legal representation before FERC is so expensive, the existing contract funds are insufficient to intervene in actions pending at FERC.

Rather than maintain a separate office with an annual appropriation, which is unneeded in some years and inadequate in others, the Governor and the Legislature should provide the funding and staffing required to address any natural gas market issues as they arise.

A recent appropriation serves as an example of the approach the *New Mexico Performance Review* recommends. In San Juan Basin, natural gas producers have been unable to command the kinds of prices common elsewhere in the state because of concerns over the capacity of existing pipelines to transport the natural gas out of the basin. The Legislature appropriated $100,000 to update a six-year-old study of the need for additional pipeline capacity.

RECOMMENDATION

The state should abolish the Office of Interstate Natural Gas Markets during the next legislative session by repealing Sections 70-11-1 through 70-11-5, NMSA 1978, and discontinue the $50,000 annual appropriation for contracts.

FISCAL IMPLICATIONS

Implementation of this recommendation would save $23,700, during FY04, in funds appropriated in the previous fiscal year that would revert to the state's general revenue fund; these savings also include those from the cancellation of existing contracts. An additional $42,400 in FY04 funds would also revert to the general fund or could be rededicated to other needs at the EMNRD. Savings in each year from FY05 through FY08 would be $50,000 from discontinuing the annual appropriation for contracts.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004		66.1			66.1	
2005		50.0			50.0	
2006		50.0			50.0	
2007		50.0			50.0	
2008		50.0			50.0	
TOTAL		**266.1**			**266.1**	

ENDNOTES

1. 2002 Transition Report for Governor-elect Bill Richardson, Energy, Minerals and Natural Resources Department, page 10
2. Stephen C. Ross, Assistant General Counsel, Energy, Minerals and Natural Resources Department, survey response and contracts status report
3. Bob Gallagher, New Mexico Oil and Gas Association
4. Tom Nance, Independent Petroleum Association of New Mexico

Eliminate Transcriptions for Uncontested Cases

The state's Oil Conservation Division should discontinue the practice of employing a court reporter to transcribe hearings on uncontested cases.

BACKGROUND

The Oil Conservation Division (OCD) of the Energy, Minerals and Natural Resource Department (EMNRD) is required by state statute to prepare a transcript of the testimony at every division hearing. OCD contracts with a court reporter for the preparation of such transcripts, at a cost of some $25,000 a year.

No other state agency is required by statute to produce transcripts of every hearing. A search through the New Mexico statutes shows that OCD is the only state agency without the flexibility to prepare transcripts only when needed.

FINDINGS

Many OCD hearings concern uncontested matters in which the hearing examiners could draft orders without reference to a transcript. A tape or other electronic recording would serve as ample record of the proceeding, which could subsequently be transcribed if necessary or requested. According to OCD, eliminating the transcription of hearings in uncontested cases could save up to 40 percent of the division's annual court reporting costs.

Attorneys practicing before OCD have indicated that they would prefer the current practice of transcribing all hearings be continued. No doubt. But the *New Mexico Performance Review* team believes that parties who request transcripts, not taxpayers, should bear the cost —

particularly if transcripts are unnecessary for the division to keep accurate and accessible public records of its proceedings.

RECOMMENDATION

The state should change current law in the next regular legislative session, amending Sections 70-2-13 and 71-5-17.5, NMSA 1978 to eliminate the requirement that a transcript be prepared of the testimony in all uncontested cases before the division.

FISCAL IMPLICATIONS

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004		5.0			5.0	
2005		10.0			10.0	
2006		10.0			10.0	
2007		10.0			10.0	
2008		10.0			10.0	
TOTAL		**45.0**			**45.0**	

OCD estimates that it would save 40 percent of its current transcription costs if this recommendation were adopted.

ENDNOTES

1. Memoranda from David K. Brooks, Assistant General Counsel, Energy, Minerals and Natural Resources Department dated August 2 and 22, 2001
2. Florene Davidson, Administrative Bureau Chief, Oil Conservation Division, Energy, Minerals and Natural Resources Department

Streamline Capital Projects Payment Process

The state should streamline its contract payment process to comply with state law and avoid costly penalties for late payments.

BACKGROUND

Section 57-28-5, NMSA 1978 entitles construction contractors to receive penalty payments if the state fails to pay invoices within 21 days of receipt. Those penalties are 1.5 percent of the undisputed invoice amount per month.

FINDINGS

Under the current tracking process for capital payments, each request is handled multiple times by at least six different Property Control Division staff members, leading to delayed processing, duplication of effort — and, all too often, penalties for missing the prompt-pay deadlines.

During FY03, 208 capital pay requests were processed through the Property Control Division. Of those, 41 percent were issued after the expiration of the 21-day period, costing taxpayers $650,035 in penalty payments.

RECOMMENDATIONS

The Property Control Division (PCD) should streamline the capital pay process by requiring only the project manager's approval to authorize payment and establishing management tracking procedures to ensure that payments are made within the 21-day window. The Cabinet Secretary will need to authorize the single approval by the project manager for all payments processed through PCD. To insure proper internal controls, the PCD director should also sign off on all final payments to contractors.

FISCAL IMPLICATIONS

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	General Fund Cost	General Fund Savings	Other Funds Cost	Other Funds Savings	Net Cost/Gain To General Fund	Change in FTE
2004				14.0		
2005				14.0		
2006				14.0		
2007				14.0		
2008				14.0		
TOTAL				**70.0**		

In FY03, the Property Control Division paid $14,000 to Longhorn Construction for late penalty charges.

Based on an average 15 minutes to review and sign a pay request, PCD identified a savings of $14,282 in salaries for the six individuals who currently serve as part of the approval process. Although this does not represent a direct savings, further cost efficiencies can be achieved that will allow the six individuals to be used in other areas of PCD.

ENDNOTES

1. Bill Taylor, Director, Property Control , General Services Department
2. Cindy Long, Capital Planner, Property Control Division, Generals Services Department

Update Architect and Engineer Rate Schedule

The Property Control Division should streamline the process and improve accountability measures in the current system of contracting for Architect and Engineer services.

BACKGROUND

The current request for proposal (RFP) process for architect and engineer services establishes an estimated dollar amount for these services as a proportion of the total project. Awarding of contracts is based on an evaluation process overseen by the Property Control Division (PCD).

Once a contract is awarded by PCD to an architect or engineer, negotiations are conducted between PCD and the architect to determine cost. The current Architect and Engineer (A/E) Rate Schedule approved by the Board of Finance for use by PCD to determine A/E fees is never incorporated into the negotiations nor the RFP process, and the current contracting system does not provide sufficient control or oversight by the state. State government contracts with architects, engineers, and construction firms have an average of two to five amendments each for additional services and additional costs added after the negotiations and RFP process.

FINDINGS

The current Architect and Engineer Rate Schedule can be updated to current standards with no additional cost to the state. Through performance based contracting, PCD should tie a clearly defined “deliverable,” or product, to every RFP sent out through the State Purchasing Division.

In FY03, PCD processed 57 amendments totaling $414,044 for architects and engineer contracts. At least 15 percent of those amendments were preventable, according to PCD staff.

RECOMMENDATION

The PCD should update the Architect and Engineer Rate Schedule to current standards, then seek approval of the new schedule by the Board of Finance. PCD should develop clearly defined deliverables and ways to measure them, and incorporate these and the Architect and Engineer Rate Schedule into all RFP's for architect and engineer services. The contractor should be held accountable for delivering the products and services contained in the contracts.

FISCAL IMPLICATIONS

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004				62.1		
2005				62.1		
2006				62.1		
2007				62.1		
2008				62.1		
TOTAL				**310.5**		

Through the above requirements of the RFP process, the state can minimize the number of amendments for additional services and additional costs. By minimizing this paperwork, the state can save the staff time in each agency and department where amendments are processed. The state could also improve accountability from each contractor working under formal agreement with the state.

ENDNOTES

1. Bill Taylor, Director, Property Control , General Services Department
2. Cindy Long, Capital Planner, Property Control Division, Generals Services Department

Provide Certain Architectural Services In-House

The state's Property Control Division should provide in-house architectural services on small capital projects and pursue legislation to redefine such small projects to more closely meet industry standards.

BACKGROUND

According to Section 15-3B-5, NMSA 1978, a staff architect may develop plans for state projects involving repairs, replacements, or remodeling not to exceed $500,000. On average, eight percent of the total of a construction contract represents architectural and engineering services — four percent for architecture and four percent for engineering.

FINDINGS

About $1.8 million is allocated for architectural and engineering services on current construction projects. Some 84 percent, or $1.5 million, is defined as small construction. The Property Control Division (PCD) has three licensed architects on staff who are also required to perform additional project management duties for construction projects. PCD has indicated that these project management duties could be delegated to the Construction Bureau, allowing staff architects to assume the responsibility for in-house architectural design services for the projects now contracted out. This would save state taxpayers thousands of dollars.

The definition of a small project, as outlined in current legislation, is regarded as too restrictive by PCD and should be redefined as projects of simple design and repair able to be completed with state staff architects, not requiring any engineering design work.

RECOMMENDATION

The state should provide in-house architectural services on small capital projects for future contracts. In addition, PCD should support legislation to redefine small construction projects to more closely meet industry standards. This new definition should be based on the complexity of a project, rather than on the dollar amount of project.

FISCAL IMPLICATIONS

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004				756.4		
2005				756.4		
2006				756.4		
2007				756.4		
2008				756.4		
TOTAL				**3,782.0**		

The architectural portion of current contracts represents half of the total architectural and engineering costs. Providing the architectural services in-house would reduce contract costs by 50 percent of the current budgeted architectural and engineering contracts.

ENDNOTES

1. Bill Taylor, Director, Property Control , General Services Department
2. Cindy Long, Capital Planner, Property Control Division, Generals Services Department

Eliminate Unnecessary Postage

State agencies should reduce postage costs by making more efficient use of interagency mail distribution and email.

BACKGROUND

Many state agencies in Santa Fe needlessly pay postage to send mail among each other through the U.S. Postal Service instead of using existing interagency services for hard copy mail. Better yet, agencies should make more effective use of email to communicate among themselves.

The General Services Department (GSD) operates an inter-agency mail service that delivers to 58 state offices in the Santa Fe area. The cost to participating agencies is a minimal $20 a month for one stop a day and $40 a month for both morning and afternoon pick ups and deliveries.

Some years ago, a consolidated mailroom for Santa Fe-area state offices was established in the GSD Simms Building, but agencies weren't required to participate. A few agencies have experimented on their own with more efficient uses of interagency mail. The Human Services Department and Department of Health, for example, developed a color-coded envelope system to facilitate separating interagency mail from outside mail intended for delivery by the U.S. Postal Service.

FINDINGS

State agencies budgeted a total of $12.3 million for postage in FY03. GSD recently tracked receipt of payments mailed through the U.S. Postal Service from agencies eligible for interagency mail services and found that of some 900 payments a month, more than half (as many as 400 pieces of mail) were sent through the postal service when they could have been sent by interagency mail at a fraction of the cost. Some agencies were even posting individual checks in separate envelopes instead of bundling them together into one interagency envelope.

Other mail delivery practices could stand improvement, too. Many state agencies have a bulk mail permit or pre-sort permit at a cost of $150 a year. All but two agencies in Santa Fe have separate mailboxes at a cost of up to $750 per year. Most agencies have at least one postage machine, which can cost as much $8,910 a year to lease.

RECOMMENDATION

The state should issue an executive order requiring all eligible agencies to use interagency mail services with color-coded envelopes and instructing all state agencies to use email when possible. All state agencies should review mailing lists and add "INTERAGENCY MAIL" to any applicable address labels.

GSD should use U.S. Postal Service audit tools as a basis to consult with other Santa Fe agencies about possible savings on bulk mail and pre-sort permits, shared postage machine use, and mail handling consolidation.

FISCAL IMPLICATIONS

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	General Fund Cost	General Fund Savings	Other Funds Cost	Other Funds Savings	Net Cost/Gain To General Fund	Change in FTE
2004		171.0		444.0	171.0	
2005		341.9		888.1	341.9	
2006		512.9		1,332.1	512.9	
2007		512.9		1,332.1	512.9	
2008		512.9		1,332.1	512.9	
TOTAL		**2,051.6**		**5,328.4**	**2,051.6**	

Savings are estimated at 5 percent a year for three years based on $12.3 million of mail costs in the FY03 operating budget line item for postage. Year one savings would be $615,000; year two savings would be $1,230,000 and year three savings would be $1,845,000. The revenue split is based on 27.8 percent general fund and 72.2 percent other revenue sources.

ENDNOTES

1. Bill Richardson's Plan to Save Taxpayers $90 Million
2. Roberta Miller, Accounts Receivable Supervisor, General Services Division
3. Sig Rivera, Mailroom Supervisor, GSD

Improve Management of Legal Contracts

The state should restructure its legal defense strategy, analyze litigation risks, implement contract management processes, and establish brief banks.

BACKGROUND

When companies or individuals sue the state, the Risk Management Division (RMD) of the General Services Department (GSD) defends the state on behalf of taxpayers and all New Mexico citizens. About half of the lawsuits filed against the state are civil rights cases; the remaining run the range of general liability, law enforcement, medical malpractice, workers compensation, auto liability, and other issues. Most are settled out of court. Of some 700 pending cases in May 2003, 22 were in litigation — a mere three percent.

From state agencies and state universities to local governments without other liability coverage, RMD is the first defense counsel. But, a majority of the lawsuits are actually handled by private law firms with specialized expertise. The state currently manages 37 contracts with such outside firms at a total cost of $13.5 million over the past two fiscal years ($6.7 million in FY01 and $6.8 million in FY02).

RMD's Legal Bureau and Claims Bureau, where claims are initially investigated, do not work in close cooperation. In fact, the state has not systematically managed contracted attorney services, nor used a formalized, automated system to analyze results or review current lawsuits in light of previous case history or precedent. Motions and legal briefs are not aggregated. The memory banks of individual staff members are the state's primary archive of investigation history.

Meanwhile, outside law firms are paid by the hour, under state law, and generate new briefs and other case-related documents for every lawsuit, no matter how similar to previous cases.

In early 2003, GSD began a transition to a legal defense system using litigation risk analysis (LRA) to contract with fewer law firms and establish a contract management system with in-house attorneys. LRA is a tool for analyzing case histories, identifying common circumstances and decisions, predicting future risk, and estimating reasonable litigation or settlement costs. RMD is evaluating other cost-savings measures, including the possibility of contracting directly with court reporters and experts, building a legal brief bank, and an approach that identifies billable phases at the time the initial case strategy is drafted.

FINDINGS

RMD is evaluating a software system to warehouse and analyze case histories. Current contractors could provide historical data for closed cases. An LRA system could improve case management and contract administration, as well as capture historical information not currently recorded.

Initial analysis of risks presently occurs on an informal basis. Agencies have not always been actively involved in developing the strategies to defend lawsuits, and settlement decisions have sometimes been made with little apparent regard for whether settlement could encourage additional lawsuits.

Staff expertise is a critical factor in legal case management. RMD's Claims Bureau investigators are well-regarded for their sense of the value of cases, but costly duplication could be avoided by establishing generic documents (adaptable briefs, motions, filings) instead of paying attorneys to recreate briefs and documents for each new case.

RECOMMENDATIONS

The Risk Management Division should use an automated LRA system to help draft case strategies based on the historical record of settlements and costs, especially when there is clear liability but no agreement on the settlement value of the case. RMD should also incorporate data from current contract attorneys and investigators into this automated system. State agencies involved in the lawsuits should be included in determining case strategies and settlement decisions.

RMD should implement a contract management system using in-house attorneys to evaluate proposed case strategies and settlement recommendations from contract attorneys. These in-house attorneys should also monitor case progress and verify contractor billings. Contract attorneys should be given clear direction on what scope of work will be billable, and contract managers should be trained to audit those billings.

RMD's in-house attorneys should maintain an updated generic document library, or brief bank, for use by contract attorneys.

To encourage collaboration between the Legal and Claims bureaus, the state should consider elevating the legal bureau chief to the level of deputy director with the responsibility of supervising both bureaus. The Workers' Compensation Bureau could conceivably be brought under the deputy director's guidance, too.

Legal Bureau staff members should be converted from exempt to classified state employees. A Legal Bureau position that is currently vacant should be converted to a high-level clerical support position to maintain the database and tracking system in support of the LRA and contract management system.

Section 15-7-3, NMSA 1978, Subsection A, Paragraph (12) of state statute should be amended to delete the word "exclusive" before "control and supervision of the director and the secretary of general services" to clarify that RMD attorneys

attorneys can be under the jurisdiction of the State
Personnel Act.

Section 41-4-23, NMSA 1978, Subsection B, Paragraph (5) should also be amended to delete the requirement to pay contract attorneys "on a per-hour basis".

FISCAL IMPLICATIONS

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004	11.1	103.7	25.4	236.3	92.6	
2005		269.6		614.4	269.6	
2006		518.5		1,181.5	518.5	
2007		622.2		1,417.8	622.2	
2008		622.2		1,417.8	622.2	
TOTAL	**11.1**	**2,136.2**	**25.4**	**4,867.8**	**2,125.1**	

Estimated savings by RMD are 30 percent of the FY02 contract attorney costs ($6.8 million) over four years, based on the need to contract with fewer outside attorneys. The estimate also takes into account the implementation of better scope definition, a billing review, and creation of a brief bank.

Savings could reach five percent in year one ($340,000), an additional eight percent in year two ($544,000), 12 percent in year three ($816,000), and another five percent in year four ($340,000) — for a total over five years of $7 million. Litigation expenses are paid from the Public Liability Fund, which is derived from covered agencies, with about 30.5 percent supported by the state's general revenue fund.

First-year costs associated with training and software licenses for eight people would be an estimated $36,500: $18,500 for the LRA, $10,000 for case management, and $8,000 for improved billing practices and cost containment strategies. The base salary of the current position would cover any fiscal impact associated with converting a vacant position to a data administrator.

ENDNOTES

1. Edward J. Lopez, Jr., Cabinet Secretary, General Services Department
2. Litigation Risk Analysis, Inc. (www.litigationrisk.com)
3. Donna K. Smith, Director, Risk Management Division
4. Sean Olivas, Attorney, Keleher & McLeod, Albuquerque, NM
5. Manuel Tijerina, Legal Bureau Chief, Risk Management Division

Enhance Employee Benefits Services

State employee health benefits programs should be marketed to all government entities to maximize participation and increase buying power.

BACKGROUND

There are several health programs for public employees in New Mexico. State agencies provide group health benefits to their employees through the Risk Management Division (RMD) of the General Services Department (GSD). Public schools (except for Albuquerque's) are insured through the New Mexico Public School Insurance Authority (NMPSIA). Universities may carry separate insurance or be included in NMPSIA or RMD plans. Local governments and special districts may participate in RMD's plans. RMD, NMPSIA, APS and the Retiree Health Care Authority purchase benefits coverage through the Interagency Benefits Advisory Committee (IBAC) purchasing collective. Health insurance offered independently by universities and insurance offered to students is not included in IBAC.

RMD provides health benefits coverage to 23,000 state and local government employees — a total population of 53,000, out of 62,000 eligible, when dependents are added in. RMD handles about 18,500 appeals and inquiries a year related to enrollment and eligibility from agencies and local governments, COBRA administration, and insurance lines for auto, medical malpractice, or general liability.

RMD's benefits insurance covers medical, dental, vision, life, and disability insurance. Health risk assessment services aren't currently offered, and wellness and prevention programs are weak. State employees enroll and update information through agency human resource offices.

RMD currently self-administers three plans: workers' compensation claims for employees injured on the job, non-occupational disabilities for employees who are injured outside of work, and the COBRA plan for employees who continue their insurance coverage when they leave state employment. The division contracts for administration of the dental program at $750,000 a year, for the FLEX pre-tax program at $50,000 a year, and the vision plan for $300,000 a year.

RMD's efforts, since early 2003, to enhance benefits programs include adding coverage options for employees who wish to insure domestic partners or dependent children up to the age of 25 and implementing a web-based enrollment capacity to improve customer service. The division has just acquired a medical claims data analysis tool to allow evaluation of disease management, predict trends, identify vulnerable populations, analyze facility and provider care, compare prescriptions and tests ordered with treatment patterns by providers, and monitor provider case management, costs and billings.

FINDINGS

Nearly one in four New Mexicans has no health insurance coverage at all — one of the highest uninsured rates in the country. That uninsured number includes public employees.

Independently insured universities, local governments, and other political subdivisions should be able to participate at lower rates and with better health care programs through the IBAC. RMD could provide health care access to uninsured public employees by marketing services to other governmental entities. New participants would benefit from economy-of-scale savings in premiums and administration costs, and worker productivity would likely improve through access to health care and earlier treatment of health problems. RMD's participants would also benefit from a larger purchasing pool, and increasing data management and analysis capabilities.

Web-based enrollment would allow enhanced customer service and reduce the workload in state agency human resource offices. RMD estimates that this improvement would lead to an additional 23,600 transactions a year, for a total of 42,100.

Self-administering the dental, vision, and FLEX spending account plans could save about $1 million a year. Requiring universities to participate in the IBAC consortium would add about 56,000 members to the purchasing collective, which could, in turn, save about $1.5 million a year in reduced administrative fees.

Implementing a contract management and auditing function would provide better quality control and data analysis to map trends, identify wellness program training opportunities, discourage unnecessary treatment, and hold down costs. Because most insurance carriers and third-party administrators for health insurance programs are located in Albuquerque, the contract manager/auditor could work out of RMD's office there as needed.

RMD is considering preventive and wellness programs with incentives, beginning with no-cost Health Risk Assessment (HRA) services sponsored by pharmacies to predict medication trends and future needs. Some 10 companies provide this service at no cost in order to enjoy access to the information for research and development. The vendor might even pay the state to provide the service. Participation by state employees would be voluntary, and individual employee information would be kept confidential.

RECOMMENDATIONS

The state should be the driving force to improve the health delivery system in New Mexico by leveraging its buying power and establishing standards for such aspects as the acceptable amount of time from request to appointment date or maximum waiting times in doctors' offices.

RMD should market health benefits services to public agencies and special districts to ensure that they are available to as many government employees and dependents as possible. Universities should be required to participate in the IBAC purchasing group as a separate pool. The state should study the feasibility of adding student health plans at public schools and institutions of higher education to IBAC, as well.

RMD should self-administer dental, vision, and FLEX plans and fully implement its web-based enrollment and eligibility program, including employee access to conduct transactions such as switching enrollment decisions or requests to change the status of dependents. RMD's toll-free phone service should be expanded to accommodate customer inquiries concerning benefits enrollment and eligibility, and for employees who don't have Internet access. This toll-free phone service should also be used to respond to inquiries from local governments about coverage under RMD benefits programs and customer or vendor queries about self-administering dental, vision, and FLEX accounts.

Finally, RMD should establish a contracts manager-audit function under the supervision of the director to maximize use of data analysis tools, identify wellness and prevention program needs, and audit self-funded and self-administered plans.

FISCAL IMPLICATIONS

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004	149.0	486.2	649.9	2,113.8	337.1	+7
2005	66.2	486.2	288.7	2,113.8	420.0	
2006	66.2	486.2	288.7	2,113.8	420.0	
2007	66.2	486.2	288.7	2,113.8	420.0	
2008	66.2	486.2	288.7	2,113.8	420.0	
TOTAL	**413.8**	**2,431.0**	**1,804.7**	**10,569.0**	**2,017.1**	**+7**

Recurring costs for seven new full-time positions would total $354,900 a year — $273,000 for salaries, plus $81,900 for benefits at 30 percent. Total first-year non-recurring costs would be $444,100 — $44,100 associated with new positions ($6,300 per full-time position for furniture, personal computers, and other equipment) and between $300,000 and $400,000 for automation to support centralizing the benefits enrollment-eligibility process, as well as for self-administering the dental, vision, and FLEX programs.

Of the total annual taxpayer savings of $2.6 million, $1.1 million is based on eliminating the following contracts: $750,000 a year for third-party administration of the dental program and $50,000 a year for the FLEX spending account program, plus $300,000 a year for administration and risk coverage for the vision program. The additional $1.5 million annual taxpayer savings would be the result of universities joining the IBAC consortium.

Benefits program revenue is derived from employer and employee payroll deductions associated with group benefits. The average payment breakdown is 62 percent for the employer share and 38 percent for the employee share. The employer share is 30.1 percent from the general fund and 69.9 percent from other revenue. The total revenue split is nearly 18.7 percent general fund and just over 81.3 percent combination of employer cost from other revenue sources, plus the employee payroll-deduction payments.

Of the total $13 million estimated taxpayer savings over five years, the general fund portion is $2.4 million. The net general fund savings over five years is $2,017,100.

ENDNOTES

1. Mark Tyndall, Compensation & Benefits Analyst, Risk Management Division
2. Don M. Gonzales, Deputy Director-Risk Finance, Risk Management Division
3. Donna K. Smith, Director, Risk Management Division
4. Mark Saiz, Training & Development Coordinator, Risk Management Division
5. Albuquerque Journal North, May 31, 2003, Page A-1.
6. Edward J. Lopez, Jr., Cabinet Secretary, General Services Department
7. Frank Griego, Benefits & Insurance Bureau Chief, Risk Management Division

Increase Procurement Card Use

The state should adopt a policy requiring all state agencies to use procurement cards, commonly called P-Cards, for purchases of less than $1,500 in value.

BACKGROUND

New Mexico, like most states, is a paper-intensive operation. It follows that the paperwork requirements for agencies to order and pay for goods and services is also labor-intensive. So many hands touch so many forms to document so many purchase orders each year that the prices of even low-cost goods and services are driven higher than need be.

More than 85 percent of the nearly half-a-million state checks issued each year to pay for goods and services are for less than $1,500. The cost to process the paperwork involved in making a purchase adds about $114 to the price.

FINDINGS

New Mexico spends millions of dollars each year preparing, processing, and printing paper documents on low-cost purchases when the necessary accountability measures could be achieved more easily and at less cost if handled electronically. A unique opportunity to improve this paper-heavy, labor-intensive process with minimal changes in state statutes or infrastructure exists —procurement cards for all state purchases of less than $1,500.

Procurement cards, commonly called P-Cards, are not new. In 1997, a state task force studied the New Mexico procurement process and, in a report entitled Procurement Re-Engineering Project, noted that "… the Procurement Card program, … is the best and most direct means of bringing about improvements and cost reductions…."

In response, the state set up a pilot project affording certain agencies the opportunity to test the P-Card for purchases of less than $1,500. The Department of Finance and Administration (DFA) drafted rules governing the use of the P-Card and offered to provide the cards and training to interested agencies. To date, there have been few takers.

RECOMMENDATIONS

The state should adopt a policy requiring agencies to use P-Cards for all purchases of less than $1,500 to make the system more effective and efficient. Most paper processing should be phased out, particularly the current middle review and approval steps, for small dollar-amount purchases.

This new streamlined payment system should also be used as a bargaining opportunity with vendors to gain discounts based on quick payments. Additionally, the state should market the new P-Card process to attract vendors willing to supply goods and services to the state.

FISCAL IMPLICATIONS

The Purchasing Division of the state's General Services Department calculates that the cost of processing a paper-purchasing document adds $114 to each purchase. Procurement consultants estimate the cost to range from $100 to $150 per transaction, and some private corporations peg the cost as high as $175. One expert even reports savings of up to 90 percent over the old paper-based system.

While New Mexico's savings may not be that high, the state could lower procurement costs substantially in the areas of paper, storage, postage, bank charges, and payroll by adopting the P-Card throughout state government.

Based on DFA records, some 490,000 purchase vouchers will be processed for FY03. Eighty-five percent, or 416,500, of them will be for purchases costing less than $1,500. Assuming a conservative $100 cost to make each purchase and a processing cost for P-Card transactions of only 15 percent less than traditional paper-based procurement, the state could save more than $6.2 million a year when the new system is fully operating.

If implemented over two years, the first year's savings could reach $3,123,750, of which 28 percent would accrue to the general revenue fund and 72 percent to other funds. Annual savings of $6,247,500 could be achieved in subsequent years. A reduction in full-time positions, through natural attrition and retirement, is factored into these potential savings.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004		874.7		2,249.1	874.7	
2005		1,749.3		4,498.2	1,749.3	
2006		1,749.3		4,498.2	1,749.3	
2007		1,749.3		4,498.2	1,749.3	
2008		1,749.3		4,498.2	1,749.3	
TOTAL		**7,871.9**		**20,241.9**	**7,871.9**	

ENDNOTES

1. Anthony Armijo
2. Mike Vineyard, Director SPO, GSD; Ronn Jones, Deputy Director, SPO,GSD; Terry Davenport, SPO,GSD, April 17, 2003
3. GSD, "*Procurement Re-Engineering Project*" Report, PREP Recommendations section, September 1997
4. GSD, "*Procurement Re-Engineering Project*" Report, Approximate Savings section, September 1997
5. M. Jae Moon "*State Government E-Procurement in the Information Age: Issues, Practices and Trends*", September, 2002

Provide *New Mexico Works* Services in House

The state should evaluate the effectiveness of the *New Mexico Works* program in improving customer service and saving tax dollars.

BACKGROUND

Since taking office in January 2003, Governor Bill Richardson has encouraged state agency directors to measure closely whether vital state services are most effective and efficient when performed by private contractors or if it is in the state's interest that such services be delivered by state employees.

The Governor issued administrative guidelines instructing state agencies how to manage their contracts. These new guidelines direct agencies to review and reevaluate existing and prospective contracts to determine whether taxpayer money can be saved while improving the service provided by each agency. The *New Mexico Performance Review* identified *New Mexico Works* as a currently contracted program that could be cost effectively operated by New Mexico state employees.

FINDINGS

- The Human Services Department (HSD) currently pays five different New Mexico universities a total of $14,471,444 to deliver services under the *New Mexico Works* Program.
- The program is funded from the federal Temporary Assistance for Needy Families (TANF) block grant program.
- HSD negotiated a 15 percent indirect cost allocation rate for its participation in the *New Mexico Works* Program.

- HSD's contracts for *New Mexico Works* expire on June 30, 2004.

New Mexico Works operates on a "work first" theme designed to place the emphasis of programs on work, job search, and short-term work-readiness or training programs. Educational efforts — particularly long-term, post-secondary education — don't count as a qualified work activity under current guidelines. Instead, long-term education is carried out under the state-funded *Education Works* Program.

Contractors hired by *New Mexico Works* determine if an individual New Mexican is eligible to participate in the program. The individual is then coded as a mandatory participant in the Income Support Division (ISD), and a referral is made to provide an orientation and carry out an assessment. The work program case manager and the participant develop a participation plan that identifies specific objectives, goals, and deadlines that the participant will meet in carrying out the participation plan.

The contractor may provide some work program activities directly, while other services may be supplied by another agency or program. In those cases, the case manager helps the participant to tap into services and follows up to make sure the services are being obtained or provided. Finally, the participant provides a monthly report of his or her activities. The case manager uses the reports to make sure participation requirements are being met. The participant and the contracted case manager periodically review the plan to measure progress.

Work participation activities include jobs, non-paying volunteer work, vocational training, job training, job searches, work readiness, continuing education, or participation in domestic violence programs.

New Mexico Works is a good candidate to move in-house because HSD has the management structure in place at county field offices to support the program. The county field offices could absorb the additional staff needed to effectively operate *New Mexico Works* within their jurisdictions. Most county directors indicate that they have space available; although some believe new lease space may have to be negotiated to accommodate additional staff. The infrastructure for supervision of additional full-time state employees is currently in place in each county field office.

New Mexico Works is federally funded, with a current annual budget of $14 million. The state could save federal funds by operating the program in-house, and those savings could help increase and improve direct training services available to *New Mexico Works* clients.

Universities contracting with HSD as part of *New Mexico Works* and some local communities oppose moving the program in-house to be operated by the state. But, our analysis shows that the move would allow for increasing and improving services for eligible New Mexicans.

RECOMMENDATION

The Department of Finance and Administration (DFA) should immediately approve 210 full-time positions to support the in-house operation of New Mexico Works within the HSD. The HSD should identify performance measures to determine the effectiveness of the conversion and see that the goals set out for the program are met.

FISCAL IMPLICATIONS

The fiscal impact statement below is based on a caseload of 100 participants. HSD is prepared to provide the same service level for *New Mexico Works* with 210 full-time staffers, including salaries, benefits, and office space. No additional costs for furniture or equipment will be necessary. Bringing the program into the HSD would cost $11,099,489 to build the capacity and manage the program. The state would save $3,371,900 a year by operating *New Mexico Works* in-house. These savings can be used to enhance training program services and provide additional support services related to work training.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004						
2005				3,371.9		+210
2006				3,371.9		
2007				3,371.9		
2008				3,371.9		
TOTAL				**13,487.6**		**+210**

*Staff Requirements for 210 FTE

Existing Annual Contractual Costs			
Contractors			$14,471,444
Annual Conversion Costs			
FTE Conversion			$11,099,488
Salaries			$ 6,965,968
Position	Quantity	Salary & Benefits	Total
Employment Assistance Analyst, Supervisor	10	$ 40,819.58	$ 408,195
Employment Assistance Analyst	146	$34,484.11	$ 5,034,680
Clerk Specialist	54	$28,205.42	$ 1,523,092
Space			$ 1,976,400
Number of FTEs	Sq. Ft. per FTE	Average Annual Cost (per Sq. Ft.)	Annual Total
75*	122	$216	$ 1,976,400
* 135 Contract staff are already housed at HSD.			
Administrative			$ 2,157,120
		Recurring Annual Savings	$3,371,956

ENDNOTES

1. Terri Trujillo, Work Programs Bureau Chief, Income Support Division, Human Services Department
2. Jessie Salazar, Work Programs Manager, Income Support Division, Human Services Department
3. Marise McFadden, Deputy Director, Income Support Division, Human Services Department

Implement Statewide Single Audit

State law should be amended to allow the State Auditor to conduct a single statewide audit, instead of agency-by-agency audits, to save tax dollars and free the Auditor to focus on specialized reviews of agencies as merited.

BACKGROUND

In 1984, the U.S. Congress passed the Single Audit Act (SAA), which allows states to consolidate their financial audits of all agencies into a single statewide audit. Arizona, Texas, and Washington have led the way among states to take advantage of this approach, which saves tax dollars and frees the state auditor to concentrate on specialized agency reviews as needed. These states have also used the Comprehensive Statewide Financial Report (CAFR) as a useful tool for providing state budget leaders and taxpayers an "annual report" of state finances.

Until FY02, New Mexico was the only state that still didn't prepare a CAFR. That year, a CAFR was prepared, but it was unaudited and, thus, lacked the official imprimatur of the state's budget leaders. In the most recent session of the Legislature, lawmakers mandated the compilation and audit of a CSFR.

FINDINGS

The Office of the State Auditor (OSA) is an independent representative of the citizens of New Mexico. OSA was created to oversee how government officials spend the hard-earned dollars taxpayers contribute to run their state government and provide vital state services. OSA conducts and oversees audits of government agencies, reports the findings to the citizens of New Mexico, and provides information and technical assistance to government agencies or independent public accountants. Currently, OSA audits or oversees the detailed audits of more than 500 state and local entities.

The concept of the single audit law enacted by Congress nearly two decades ago was to replace so-called multiple-grant audits with a single, comprehensive audit of state government as a whole or a series of audits that cover departments, agencies, and other organizational units receiving federal funds. The single audit is an organization-wide review that focuses on internal controls and compliance with laws and regulations governing federal financial assistance. The original law and its subsequent amendments lay out the following objectives:

- To promote sound financial management, including effective internal controls, with respect to federal awards administered by state government;
- To establish uniform requirements for audits of federal awards administered by state government;
- To promote efficient and effective use of audit resources; and
- To reduce the burden of oversight on state and local governments, Indian tribes, and non-profit organizations.

Many states have opted to conduct a single audit to cover the operations of the entire state government. They do this in different ways. In some cases, the auditing agency conducts the review. In others, the state hires independent auditors to conduct the entire review. Massachusetts and a few other states join forces with independent accounting firms to jointly perform the statewide audit.

Since 1987, the Texas State Auditor's Office (SAO) has conducted a single statewide audit and prepared an award-winning CAFR, maximizing the use of state audit resources by conducting performance audits of selected agencies based on risk assessment In the state of Washington, the CAFR is prepared from a central accounting system; audits of individual agencies' financial statements are not conducted. This approach frees audit resources to focus on compliance in the areas of greatest risk.

While many in state government are supportive of adopting the single audit as a cost saving and compliance tool, there are opponents to this approach. Some argue that it would be unconstitutional to eliminate the requirement of annual audits of each agency and express concerns about a lack of financial accountability. Opponents point out that small accounting firms may lose business to a larger firm or firms that may be more equipped to perform the statewide audit and prepare the CAFR.

The state constitution is silent on the issue of whether OSA must conduct annual agency audits. The project manager for the statewide audit team in Texas argues that it's more efficient to allocate audit resources where the potential for risk is greater and, that to increase each agency's potential for audit, those not audited one year should be assigned greater risk factors the next.

OSA has been dissatisfied with the quality of audits performed by some independent firms in New Mexico. To counter the potential that some private firms might lose business, statewide government audit contracts could be awarded to firms performing at the highest level. This would help strengthen accountability and ensure high quality audits.

Finally, it is important to note that local governments and school districts will continue to require annual audits, thereby assuring quality local firms the opportunity to compete for contracts.

RECOMMENDATIONS

The Office of the State Auditor should adopt the single audit approach of the CAFR to save taxpayers money, strengthen accountability, and focus scarce resources where they will do the most good. A portion of the savings should be used by OSA to concentrate on specialized agency audits such as performance, compliance, economy and efficiency, and program audits, where merited.

State law should be amended to authorize OSA to determine if state agencies should be audited, to establish the frequency of agency audits, and to develop risk-based criteria to determine the level of detail required for each agency's audit.

FISCAL IMPLICATIONS

More than $4.4 million in contracts were awarded in FY02 to independent public accountants or the Office of the State Auditor to review state agencies, district attorneys offices, courts, and institutions of higher learning. Additional contracts were awarded to audit public schools and local governments.

If this recommendation is approved, some local governments, school districts, retirement associations, and investment funds will still require routine annual audits. But, taxpayers could save some $3,162,400 on detailed agency audits, some of which should be reallocated to pay for the CAFR and specialized agency audits. Because New Mexico lacks in-house experience with this new approach, preparation and audit of the CAFR would cost an estimated $2 million for outside assistance. Half of the balance between that amount and the nearly $3.2 million savings should be used for specialized agency audits identified by OSA or the federal government.

Estimated Fiscal Impact
(Dollars in Thousands)

Fiscal Year	General Fund Cost	General Fund Savings	Other Funds Cost	Other Funds Savings	Net Cost/Gain To General Fund	Change in FTE
2004						
2005		162.7		418.5	162.7	
2006		162.7		418.5	162.7	
2007		162.7		418.5	162.7	
2008		162.7		418.5	162.7	
TOTAL		**650.8**		**1,674.0**	**650.8**	

ENDNOTES

1. United States Code, Chapter 75 of title 31, Section 1
2. National Association of State Auditors, Comptrollers and Treasurers, "Performance of Financial Management Functions in State Government".
3. The Legislature of the State of New Mexico, Laws 2003, Chapter 273, House 219, as amended, April 8, 2003
4. Office of State Auditor WEB site
5. David L. Clark, statement on the Single Audit Act Amendments of 1996 before the subcommittee on Government Management Information and Technology Committee on Government, May 13, 1999
6. National Association of State Auditors, Comptrollers and Treasurers, Audit of GPFS, Single Audit" report
7. Anthony Armijo, Director Financial Control Division, New Mexico Department of Finance and Manu Patel, Performance Audit Manager, Legislative Finance Committee, May 5, 2003 & May 20, 2003
8. Domingo Martinez, New Mexico State Auditor and Carl Baldwin, New Mexico Deputy State Auditor, May 28, 2003
9. Bill Morris, Project Manager Texas Statewide Audit, June 10, 2003
10. Contract Logs for IPA, State Agency and District Attorneys and Courts—02

Improve State's Financial Management Practices

The state should adopt and implement generally accepted accounting principles for its budget and accounting processes and systems.

BACKGROUND

The Government Accounting Standards Board (GASB) is the primary standard-setting body for state and local government accounting and reporting. The government accounting and reporting standards promulgated by GASB are referred to as generally-accepted accounting principles (GAAP). The modified accrual or accrual basis of accounting, as appropriate, is used in measuring financial position and operating results of governmental organizations.

Budgeting is an essential element of the financial planning, control and evaluation process of governments. In fact, in its 1987 codification, Section 1700.101, GASB specifically provides "Every governmental unit should prepare a comprehensive budget covering all governmental, proprietary, and fiduciary funds for each annual … fiscal period." This comprehensive budget can be developed using a number of budgetary approaches. Many governments adopt annual budgets in conformity with GAAP; however, preparation of the budget on a cash basis or another basis not consistent with GAAP complicates financial management and reporting. Where legal requirements dictate another basis, governmental units typically maintain the accounts and prepare budgetary reports on the legally prescribed budgetary basis to determine and demonstrate legal compliance, and maintain supplemental records for presentation of financial statements in conformity with GAAP.

Encumbrance accounting is used as an element of control in formal budgetary integration.

Encumbrances are commitments related to unperformed (executory) contracts for goods or services. The encumbrance accounting system acts as an early warning device. By controlling expenditure commitments, the government significantly reduces the opportunity to over-expend an appropriation.

FINDINGS

New Mexico's budget is not prepared on a basis consistent with GAAP; in fact, the budgetary basis is undefined. During a fiscal period, most New Mexico state agencies typically record their accounting transactions on a budgetary basis of accounting (cash transactions plus encumbrances) and at the end of the fiscal period, adjusting entries are prepared to convert the financial results to a GAAP basis of accounting for reporting purposes.

New Mexico uses encumbrance accounting to reserve budgeted funds for commitments. Section 6-5-3, NMSA 1978 provides "Before any vouchers or purchase orders are issued or contracts are entered into involving the expenditure of public funds by any state agency, the authority for such proposed expenditure shall be determined by the financial control division. After the authority for such expenditure is determined, the appropriate fund shall be shown by the division to be encumbered to the extent of such proposed expenditure."

In the interest of efficiency, the Department of Finance and Administration (DFA) does not require state agencies to encumber funds for small purchases during the fiscal year. At the end of a fiscal year, however, agencies must encumber their budgets for all unpaid expenditures that apply to that fiscal year for budgetary control purposes to ensure that the expenditures are charged against the appropriate budget fiscal year and to set funds aside to pay the expenditures when payment becomes due. The annual General Appropriation Act requires agencies to revert to the general fund unencumbered and unexpended appropriations made from the general fund.

New Mexico's current budgetary system is unworkable because state agencies expend significant resources to process a large volume (15,000) of purchase documents (the document that records the encumbrance in the central accounting system) at the end of each fiscal year. Each purchase document must be vendor specific. In prior years, agencies were allowed to process block encumbrance documents; however, many abused the privilege and used the block encumbrances to hold on to money that should have reverted to the general fund.

Many large state agencies that have multiple field offices and facilities around the state have a difficult time estimating their June expenditures for costs such as utilities and telecommunications; most times, the amount of these expenditures is unknown until the monthly statement arrives in July.

If an agency underestimates a June expenditure that will be paid in July or later, then the agency did not set enough money aside in the appropriate fiscal year to pay the expenditure. Under these conditions, Section 6-10-4, NMSA 1978 requires agencies to request DFA approval to pay a prior year bill with current year money. Two separate payment vouchers must be prepared to pay the bill from two different fiscal years.

To avoid reverting money to the general fund, state agencies are motivated to make large commitments at the end of a fiscal year; expenditures attributable to a subsequent fiscal year are applied to the current year budget.

These conditions cause actual budgetary basis expenditures, which include encumbrances, to materially depart from GAAP. This basis does not provide a standard method of accounting across state government because every agency makes its end-of-year spending decisions differently. Sound financial management decisions during a fiscal year become complicated if not impossible because the accounting information is poor. State agencies and the legislative and executive fiscal analysts must rely on New Mexico's unique budgetary basis of recording expenditures to prepare budget requests and to make recommendations for subsequent budget years because no better information is available on a timely basis.

RECOMMENDATION

DFA should adopt and implement GAAP for its budget and accounting processes and systems. The change would provide state agency management and fiscal analysts with better information on which to base their decisions. The specific business processes adopted by DFA for carrying forward encumbrances to a subsequent fiscal year should incorporate efficiencies that are lacking in the current system. DFA should provide state agencies with the appropriate training and oversight that is contemplated by Laws 2003, Chapter 273 (House Bill 219) to ensure a smooth transition to a GAAP basis of accounting. Finally, DFA should require agencies to zero out encumbrances that are more than two years old.

FISCAL IMPLICATIONS

The recommendation does not have the potential for saving money, but money due to the general fund would be transferred sooner rather than later. The opportunity for making decisions on good financial information and achieving efficiencies is monumental.

ENDNOTES

1. *Governmental Accounting, Auditing and Financial Reporting*, Government Finance Officers Association

Enhance State Tax Collections

State law should be changed to allow the exchange of information between the Department of Labor and the Taxation and Revenue Department.

BACKGROUND

The New Mexico Department of Labor (DOL) compiles employer and employee information that could also be used by the state's Taxation and Revenue Department (TRD) if the data could be shared under state law. Unfortunately, current state statutes prohibit such sharing — hindering TRD's efforts to collect taxes owed the state.

To report and pay Unemployment Insurance, employers across New Mexico file reports quarterly with DOL. These reports include the employer's identification number as well as the name, wages, and Social Security number of each employee.

Access to this information would enhance TRD's collections efforts by providing current employer and employee information as a tool for skip-tracing taxpayers and identifying potential wage levy sources. In addition, DOL data could be a useful source of income verification for those individuals requesting to pay delinquent taxes by installment.

TRD officials interviewed 13 state taxing authorities around the country. Representatives of every state interviewed indicated that DOL data was very useful in their collection efforts.

FINDINGS

There are more than $210 million in uncollected gross receipts and personal income taxes in New Mexico, money that could be helping to pay for vital state services. About 40 percent of the outstanding total in combined reporting system (CRS) taxes — about $62 million — and $63 million in personal income tax is owed by individuals. Every dollar of these uncollected taxes tilts the economic playing field against those New Mexicans who play by the rules and pay what they owe on time.

TRD has improved the automation of its tax collection efforts in recent years. Much of the CRS tax collection effort was automated in the 1980s, with periodic upgrades of the technology since then. Before installing an updated automation system in 2002, TRD's personal income-tax collection efforts were primarily manual.

As welcome as these technological updates have been, they still fail to take advantage of information compiled by other state agencies that could help improve collections even more. A useful source of data for TRD is in DOL.

Section 51-1-32, NMSA 1978, Disclosure of Information; Penalty — the statute applicable to DOL — provides for sharing the department's data under certain conditions. These conditions include a requirement for reciprocal exchange of information and a reasonable charge for the information.

Section 7-1-8, NMSA 1978, Confidentiality of Returns and Other Information — the statute that applies to TRD — also provides for sharing information with some entities, but excludes DOL and most other state agencies.

RECOMMENDATIONS

State law should be changed to allow the exchange of information between the Department of Labor and the Taxation and Revenue Department to improve the collection of taxes due and increase state revenue.

Specifically, Section 7-1-8, NMSA 1978, Confidentiality of Returns and Other Information, should be amended to include an exception for a reciprocal agreement between TRD and DOL. Section 51-1-32, NMSA 1978, Disclosure of Information; Penalty, should be amended to eliminate the requirement for state agencies to pay for DOL information.

FISCAL IMPLICATIONS

Using DOL data to identify sources to collect 0.5 percent of the outstanding taxes would supplement current TRD collections by at least $500,000 a year.

Estimated Fiscal Impact (Dollars in Thousands)						
Fiscal Year	**General Fund Cost**	**General Fund Savings**	**Other Funds Cost**	**Other Funds Savings**	**Net Cost/Gain To General Fund**	**Change in FTE**
2004						
2005		500.0			500.0	
2006		500.0			500.0	
2007		500.0			500.0	
2008		500.0			500.0	
TOTAL		**2,000.0**			**2,000.0**	

ENDNOTES

1. David Fergeson, Deputy Director, Collections, NMTRD, June 3, 2003
2. New Mexico Statutes 1978, Annotated, Section 51, Article 1
3. New Mexico Statutes 1978, Annotated, Section 7, Article 1

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