

Legislative Council Service

Information Memorandum

DATE: December 16, 2010

DISCUSSION DRAFT

TO: Government Restructuring Task Force Members

FROM: Kim Bannerman

SUBJECT: ENVIRONMENT DEPARTMENT REORGANIZATION—SECTION-BY-SECTION EXPLANATION

Following is a section-by-section explanation of the proposed changes to the department of environment (DOE). The bill transfers oversight of the Medical Imaging and Radiation Therapy Health and Safety Act provisions dealing with licensing from the DOE to the department of health (DOH). The bill also addresses several of the government restructuring task force's recommendations relating to environmental boards and commissions. First, it eliminates the water quality control commission's rulemaking authority and transfers it to the DOE. Second, it eliminates the occupational health and safety review commission, storage tank committee, wastewater technical advisory committee, occupational health and safety special committees and food service sanitation advisory council while transferring necessary powers and duties to the DOE or environmental improvement board (EIB). Third, it sunsets several boards and commissions that handle environmental matters. Any opinions expressed are those of the author and do not necessarily reflect the opinions of the New Mexico legislative council or any other member of its staff. Note that amendatory sections that are cleanup without substantive changes are not discussed.

Section 1 (page 2). This section eliminates the food service sanitation advisory council.

Sections 2 through 6 (pages 4-16). These sections eliminate the occupational health and safety review commission and transfers its powers and duties to the EIB. The occupational

health and safety special committees are also eliminated.

Sections 7, 8 and 17 through 33 (pages 16-22 and 27-81). These sections eliminate the water quality control commission's rulemaking authority and transfers it to the DOE. The water quality control commission remains in existence to set water quality standards and provide hearings on water quality matters, such as permit decision appeals and variance application decisions.

Sections 9 through 11 and 14 (pages 22-25 and 26). These sections eliminate the wastewater technical advisory committee and transfer its powers and duties to the DOE.

Section 12 (page 25). This section sunsets the water trust board in 2013.

Section 13 (pages 25-26). This section sunsets the environmental improvement board in 2015.

Section 15 (page 26). This section sunsets the radiation technical advisory council in 2015.

Section 16 (pages 26-27). This section sunsets the radioactive waste consultation task force in 2013.

Sections 35 through 37 (pages 88-89). Temporary provisions transferring duties and rules. These sections transfer:

- (1) the duties of the DOE relating to the Medical Imaging and Radiation Therapy Health and Safety Act to the DOH;
- (2) the water quality control commission's rulemaking authority to the DOE; and
- (3) the occupational health and safety review commission's powers and duties to the EIB.

These sections also provide that the transferring agency's rules remain in effect unless amended or repealed by the assuming agency.

Section 38 (pages 89-90). This is a standard transfer provision transferring the functions, appropriations, property and contractual obligations of:

- (1) the DOE and EIB relating to the Medical Imaging and Radiation Therapy Health and Safety Act to the DOH;
- (2) the occupational health and safety review commission to the EIB; and

(3) the wastewater technical advisory committee to the DOE.

This section also ensures that references in law to the eliminated boards and commissions will be deemed to be references to the new entities assuming the eliminated boards' or commissions' powers and duties.

Section 39 (pages 90-91). This section repeals sections of law dealing with the boards and commissions eliminated by the bill.