

Legislative Council Service

Information Memorandum

DATE: December 16, 2010

TO: Government Restructuring Task Force Members

FROM: Kim Bannerman

SUBJECT: ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
REORGANIZATION — SECTION-BY-SECTION EXPLANATION

Following is a section-by-section explanation of the proposed reorganization of the energy, minerals and natural resources department (EMNRD). The bill moves the department of game and fish into the EMNRD. The majority of the bill deals with the elimination of the state game commission and the transfer of the state game commission's authority to the new game and fish division of the EMNRD. The bill combines the powers and duties of the coal surface mining commission and mining safety board with the mining commission and then eliminates the coal surface mining commission and mining safety board. The bill also addresses several of the government restructuring task force's recommendations relating to boards and commissions dealing with energy, minerals and natural resources matters. First, it eliminates both the technical advisory committee to the office of interstate markets and the natural lands protection committee. Second, it sunsets several boards and commissions that address energy, minerals and natural resources issues.

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 2 (page 2). Department established. This section adds the game and fish division to the EMNRD. It also deletes the administrative attachment of the state game

commission to the EMNRD because the state game commission is being eliminated.

Section 3 (page 3). Secretary's powers and duties. This section provides that the secretary of energy, minerals and natural resources' authority over the department or divisions of the department can be exempted by explicit statement in statute. This is a standard executive organization provision. The amendment is necessary because the Water Quality Act requires the water quality control commission to be exempt from the secretary's authority.

Section 5 (page 4). This section sunsets the New Mexico youth conservation corps commission in 2013.

Section 8 (page 5). State parks advisory board. This section specifically states that the state parks advisory board shall not be paid or receive per diem pursuant to a request of the boards and commissions committee.

Sections 10 and 11 (pages 8-9). These sections move control of the department of game and fish from the state game commission into the new game and fish division of the EMNRD and move the former conservation services division of the department of game and fish to the conservation services bureau of the game and fish division of the EMNRD.

Section 17 (pages 12-18). Powers of the game and fish division. This section transfers the powers of the state game commission to the game and fish division.

Sections 18 through 20 (pages 18-20). Bonding authority. These sections give bonding authority previously invested in the state game commission to the secretary of energy, minerals and natural resources.

Sections 21 through 51 (pages 20-59). Game and fish programs. These sections move the state game commission's authority over the game and fish programs of the state, including the authority to receive federal funds and enforce penalties, to the new game and fish division of the EMNRD.

Sections 53 through 59 (pages 59-79). Wildlife Conservation Act. These sections transfer oversight of the Wildlife Conservation Act, which deals with threatened and endangered species, from the state game commission to the EMNRD. The game and fish division and the secretary of energy, minerals and natural resources both have duties under the act.

Sections 60 through 87 (pages 79-101). Hunting and fishing. These sections transfer oversight of hunting and fishing activities in the state from the state game commission to the game and fish division of EMNRD.

Sections 88 through 90 (pages 102-104). Power to acquire land. These sections provide the game and fish division of the EMNRD with the authority to obtain lands for game and fish purposes, including eminent domain for rights of way necessary for use of such lands. These powers previously rested with the state game commission.

Sections 100 through 103 (pages 120-124). Fur-bearing animals. These sections transfer oversight of the hunting and trapping of fur-bearing animals from the state game commission to the game and fish division of the EMNRD.

Sections 104 through 109 (pages 124-128). Habitat protection. These sections transfer oversight of the Habitat Protection Act, which addresses the impact of motorized vehicle use on land, from the state game commission to the game and fish division of the EMNRD.

Sections 122 through 124 (pages 140-144). Off-Highway Motor Vehicle Act. These sections amend the act to specify that the game and fish division of the EMNRD subsumes the powers of the department of game and fish. They also prohibit members of the off-highway motor vehicle advisory board from receiving per diem at the request of the boards and commissions committee and sunset the off-highway motor vehicle advisory board in 2013.

Section 126 (pages 144-145). This section sunsets the tree planting advisory committee in 2013.

Sections 127 through 137 (pages 145-166). Combining the mining commission, the coal surface mining commission and the mining safety board. These sections combine the powers and duties of the mining commission, coal surface mining commission and mining safety board. The coal surface mining commission and mining safety board will be eliminated, leaving the mining commission as the only commission addressing mining regulations in the Surface Mining Act and Mining Safety Act. They increase the mining commission membership to include mining safety experts and sunset the mining commission in 2015.

Section 138 (page 166). This section sunsets the oil conservation commission in 2015.

Sections 142 through 148 (pages 169-176). These sections eliminate the natural lands

protection committee and transfers its powers and duties to the EMNRD.

Section 149 (pages 176-178). Temporary provision; transfers; references in law.

This section is a standard transfer section. It includes the transfer of:

- (1) functions, appropriations, personnel, property and contractual obligations from the department of game and fish and state game commission to the EMNRD;
- (2) functions, appropriations, property and contractual obligations of the coal surface mining commission and the mining safety board to the mining commission; and
- (3) functions, appropriations, property and contractual obligations of the natural lands protection committee to the EMNRD.

Section 150 (page 178). Temporary provision; duties of the state game commission.

This section clarifies that all duties of the state game commission shall become duties of the game and fish division of the EMNRD, and it states that all the state game commission's rules will remain in force unless repealed or amended by the game and fish division.

Section 151 (page 178). Repeal. This section repeals the sections establishing and setting forth the duties of the state game commission, and it repeals the sections creating and setting forth the duties of the coal surface mining commission and mining safety board.