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FISCAL IMPACT REPORT

ORIGINAL DATE 01/28/11

SPONSOR Bandy LAST UPDATED _____ HB 80

SHORT TITLE Merge Game and Fish with EMNRD SB _____

ANALYST Graeser

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY10	FY11		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
NFI	NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to
Conflicts with HB 84 and HB 206

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	NFI	unknown	unknown	unknown	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Energy Minerals and Natural Resources Department
Game and Fish Department

SUMMARY

Synopsis of Bill

House Bill 80 dissolves GFD as a standalone entity and includes it as a division of EMNRD. Both agencies deal with environmental related issues and outdoor activities such as hunting fishing, forest management and state parks operation. Other divisions of EMNRD are involved with renewable energy, mine reclamation and oil and gas well permitting. The DGF is already administratively attached to EMNRD.

The bill also eliminates the State Game Commission and transfers its duties to the Game and Fish Division and the EMNRD. HB 80 eliminates the Coal Surface Mining Commission and absorbs its duties into the Mining Commission. The bill eliminates the Natural Lands Protection Committee and requires the Secretary of EMNRD to assume the duties assigned to that committee. HB 80 also eliminates the Office of Interstate Gas Markets Technical Advisory Committee.

The legislation proposes a sunset review of several boards and commissions including the Youth Conservation Commission in 2017, the State Parks Advisory Board in 2017, the Off Highway Motor Vehicle Advisory Board in 2013, the Tree Planting Advisory Committee in 2015, the Mining Commission in 2017, the Oil Conservation Commission in 2015 and the Mining Safety Board in 2017.

FISCAL IMPLICATIONS

GRTF staff have prepared the following table, which shows the operating budget for the years FY08 through FY11.

	FY11		FY10		FY09		FY08	
	DGF	EMNRD	DGF	EMNRD	DGF	EMNRD	DGF	EMNRD
GF	0	21,690.1	0	24,850.8	336.8	27,388.3	333.1	25,923.5
OST	27,175.2	17,817.7	25,353.9	22,523.0	23,912.0	15,390.4	22,759.6	16,602.1
Transfers	0	3,466.6	0	2,962.3	5.0	2,918.6	5.0	2,949.3
Federal	11,293.7	28,014.5	10,942.5	27,918.2	12,417.2	25,492.2	12,778.7	24,349.9
Total	38,468.9	70,988.9	36,656.4	78,254.3	36,671.0	71,189.5	36,876.4	69,824.8
FTE	305	510	308	535	302.5	526	301.5	524

GRTF notes particularly that “DGF has not had an appropriation from the general fund for the past two years. Its revenues are primarily derived from sales of hunting and fishing licenses.”

17-1-14 NMSA 1978 states: “The state game commission shall have general control over the collection and disbursement of all money collected or received under the state laws for the protection and propagation of game and fish, which money shall be paid over to the state treasurer to the credit of the game protection fund, unless otherwise provided by law, and the fund, including all earned income there from, shall not be transferred to another fund. Chapter 17 NMSA 1978 shall be guaranty to the person who pays for hunting and fishing licenses and permits that the money in that fund shall not be used for any purpose other than as provided in Chapter 17 NMSA 1978.”

GRTF staff notes that the Department could lose \$12 million in Federal funds, if hunting and fishing license fees and some other revenues are not properly earmarked. “The bill does not change the intent of the statutory language that earmarks these revenues for the specific purpose of furthering the protection and propagation of game and fish. This makes financial integration of the entities difficult to impossible since DGF has no funds that can be used for the current ENMRD purposes. This is further complicated by the eligibility for federal funds qualifier that requires this protection of hunting and fishing license receipts in the manner stated in 17-1-14 NMSA 1978. This provision can be changed allowing more liberal use of the license monies but only at the risk of losing approximately \$12 million of federal grants annually. To the degree that these earmarks are maintained and the adherence of the federal requirements, this leaves the funds for EMNRD and DGF in silos with only minimal opportunity to produce savings from the general fund.”

GRTF staff also note that, “EMNRD currently supplies Youth Conservation Corps administrative services including rent for approximately \$50 thousand annually. No savings will accrue from the formal inclusion of the two departments.”

EMNRD notes a progressive fiscal effect over time: “...there would be a short term negative impact to the budget since the combination of departments would require expenditure of state funds and resources to ensure a unified operation of the new department. Long term savings will be realized by the elimination some exempt positions and the careful reorganization of Administrative Services between the departments.”

“The costs of integrating DGF into EMNRD are difficult to quantify. One time, non-recurring expenditures of funds may be needed to unify information technology systems, build and post signage, redo stationery and business cards, etc. to properly identify the new agency. Additionally, accounting system procedures between the two departments may need to be unified within the SHARE system as DGF and EMNRD currently use different systems for lower level accounting within each department.”

“In the long term, recurring savings may be realized due to incorporation of DGF into EMNRD and the combination of Administrative Service Divisions (ASD) and the possible elimination of one or more high level management positions. Savings could be realized by the elimination of duplicative services, however, many business practices/requirements may be unique to either department and would need to be maintained in the new department. Also, EMNRD ASD is currently operating with a 25% vacancy rate so there is little room to cut further.”

“While certain functions common to both agencies may be facilitated by combining the DGF with EMNRD, cost savings from this proposed legislation are not immediately apparent. Loss in efficiency is likely for the first few years due to necessary changes to fiscal procedures to assure compliance with federal and state fiscal requirements.”

“The savings from eliminating the commissions and committees listed in HB 80, such as the Coal Surface Mining Commission, are not significant. These entities have no employees or other ongoing costs; the only costs occur when a meeting or hearing is held. Meetings of these entities are rare, so there would be limited savings in per diem and mileage for public members and for providing public notice.”

SIGNIFICANT ISSUES

EMNRD comments extensively on the proposal:

“Merger of EMNRD and Game & Fish Departments. HB 80 will transform the Game & Fish Department into a division of EMNRD and have the Division absorb the duties of the Game Commission. Currently, while Game & Fish is labeled a “department”, it is not a cabinet level agency, and the State Game Commission is administratively attached to EMNRD (NMSA 1978, Section 9-7-3.B). However, the administrative attachment does not involve any shared administrative duties and Game & Fish functions as a separate agency. HB 80 would eliminate the free standing status of Game & Fish and allow the agencies to share administrative functions.”

“On the policy level, there are advantages to housing the state’s wildlife management programs within a larger natural resources agency. Several surrounding states, such as Colorado and Utah, have broader natural resource agencies that include the state wildlife agencies. There is currently considerable interaction between existing EMNRD programs and Game & Fish, and such interaction would ultimately be enhanced by unified agency.”

“The resulting integration will result in considerable short term challenges, particularly for fiscal and other administrative duties. Potentially, there could be long term savings from the sharing of administrative tasks (see Fiscal Issues).”

“Coal Surface Mining Commission/Mining Commission. HB 80 eliminates the Coal Surface Mining Commission and has the Mining Commission absorb its duties. This is a logical combination since both commissions cover similar areas and share many members. The combined workload would not be difficult for one commission to handle. The only issue is the need to continue compliance with federal law, in particular, the Surface Mine Control and Reclamation Act (SMCRA). SMCRA does not allow any state official acting under the Surface Mining Act to have an interest in a coal mining operation. Section 132 of HB 80 adds a new subsection H to the duties of the Mining Commission which should address this issue.”

“By combining two boards into one, the mining commission now has two different rulemaking procedures under two acts (Sections 69-25A-7 and -8, and 69-36-8). The procedures are similar but not identical. This should be workable, but the Legislature might consider repealing the rulemaking procedures in the Surface Mining Act and replacing with references to the procedures in the Mining Act.”

“HB 80 adds “the inspector” as a new non-voting member of the Mining Commission. The “inspector” is presumably the State Mine Inspector. This change is a remnant of an earlier draft when the Mining Safety Board was also proposed to be merged into the Mining Commission. However, there is no particular problem in having the State Mine Inspector on the Mining Commission and the Inspector brings additional mining expertise to the Commission.”

“Natural Lands Protection Committee. HB 80 eliminates this Committee and has the Secretary of EMNRD absorb its duties. This will streamline decision making under the Natural Lands Protection Act but will eliminate the opportunity for members of the public, including representative from ranching and farming communities to have any influence in the selection of lands to be acquired by the state or be approved for a conservation easement tax credit. The Committee also has a role under the Land Conservations Incentives Act, which HB 80 failed to address. (see Amendments).”

“Office of Interstate Gas Markets Technical Advisory Committee. HB 80 proposes to repeal NMSA 70-11-5, which establishes the Office of Interstate Gas Markets Technical Advisory Committee. Since the committee has been dormant for many years and its functions are no longer relevant, it may be appropriate to repeal the entirety of 70-11.”

PERFORMANCE IMPLICATIONS

EMNRD notes that “...merging the two departments will significantly impact the ability of the support programs in the agencies to properly function in the short run. These programs will be expending considerable effort to effectively combining the agencies.”

ADMINISTRATIVE IMPLICATIONS

EMNRD notes, “...the Surface Mining Act must remain no less effective than SMCRA. Any proposed changes to the Surface Mining Act must be submitted to and approved by the Department of Interior, Office of Surface Mining (OSM) and subject to public comment after publication in the Federal Register. The statutory changes proposed in this bill will require various rulemakings in order to change commensurate provisions in rule. For example, eliminating the Natural Lands Protection Committee would require that the Natural Heritage Conservation Act rules be changed to eliminate mention of the committee.”

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 80 conflicts with HB 84 which proposes to merge EMNRD, Department of Game & Fish and the Environment Department.

HB 80 conflicts with HB 157, which creates a Natural Resources and Environment Department.

HB 80 conflicts with HB206 , which merges EMNRD and Game and Fish, but does not dissolve the boards and commissions, except for the State Game Commission.

HB 80 is a companion to HB 88, which also covers executive branch agency sunsets.

HB 80 may be a companion of HB 106, which clarifies the role of administratively attached agencies.

See the FIR of HB 54 for a comprehensive listing of legislation proposed by the government reorganization task force (GRTF). Note: four or five bills within the package have not yet been introduced. These are not included in the listing in HB 54.

TECHNICAL ISSUES

Game and Fish identifies one technical issue with this bill:

“On page 63, line 1 of the draft, the words ‘but not limited to’ are deleted. The agency is concerned that this may unduly limit the ability to take management actions under the Wildlife Conservation Act.”

EMNRD notes the following technical issues and suggest amendments in the “Amendment” section of this review.

Section 145. Reference to “mining safety board” should be deleted in subsection I. (see Amendments). Mining Safety Board was part of an earlier draft of this legislation.

Natural Lands Protection Act. In section 139, the amendments to Section 75-5-4 result in the EMNRD Secretary making a recommendation of lands to be acquired under the Act without any reference as to who makes the final decision. This section should be changed to show the Secretary making the selection (see Amendments).

Duplicative or conflicting provisions.

The bill attempts to change various statutes that are impacted by the intent of the legislation, however, not all necessary changes to statutes have been included. The amendments section of this analysis attempts to capture several other statutory changes that may be appropriate as well.

-Water Quality Control Commission. The reference to Game & Fish Department in 74-6-3 needs to be amended. See below.

-Natural Lands Protection Committee. Additional references to the Committee are found in the Land Conservations Incentives Act, Section 75-9-4 and in 75-10-7 (see below for amendment).

OTHER SUBSTANTIVE ISSUES

GRTF staff note the statutes creating the agencies:

- “Sections 17-1-1 through 17-7-3 NMSA 1978 charge the Department of Game and Fish (DGF) with protecting game and fish and providing these resources for public recreation. The department operates under the direction of a seven-member State Game Commission appointed by the governor with the advice and consent of the Senate. The department is divided into four programs: Sport Hunting and Fishing, which regulates all hunting and fishing activities statewide; Conservation Services, responsible for habitat management, biological support, and land acquisition; Depredation Services, which oversees depredation complaints as well as the implementation of intervention options for dealing with animals causing property damage; and Administration, which provides agency wide administrative direction, oversight, and infrastructure support services. The commission employs a director responsible for administration of the department.”
- “The Energy, Minerals and Natural Resources Department (EMNRD) was created by Sections 9-5A-1 through 9-5A-7 NMSA 1978. The statute creates six divisions: Energy Conservation and Management, Forestry, State Parks, Mining and Minerals, Oil Conservation, and Administrative Services.”

GRTF staff also establish the mission for each as stated by the agency:

- “The mission of the Department of Game and Fish is to provide and maintain an adequate supply of wildlife and fish within the state of New Mexico by using a flexible management system that provides for their protection, propagation, regulation, conservation, and use as public recreation and food supply.”
- “The mission of EMNRD is to position New Mexico as a national leader in energy and natural resource areas. This includes developing reliable supplies of energy and energy-efficient technologies with a balanced approach toward conserving renewable and nonrenewable resources; protecting the environment and ensuring responsible reclamation of land and resources affected by mineral extraction; growing and managing healthy, sustainable forests; and improving the state park system that protects New Mexico’s natural, cultural, and recreational resources for posterity and contributes to a sustainable economy statewide.”

For reference, GRTF staff note the following list the programs and program purpose statements for each agency:

“The Energy, Minerals and Natural Resources Department has six programs including program support. All also have protection of the environment responsibilities but generally are involved with working closely with industry such as fossil fuel producers and mining interests. The state parks program is obviously involved with environmental issues but also has components of recreation and customer service.”

- “Renewable Energy and Energy Efficiency- The purpose of the renewable energy and energy efficiency program is to develop and implement clean energy programs in order to decrease per capita energy consumption, use New Mexico's substantial renewable energy resources, minimize local, regional and global air emissions, lessen dependence on foreign oil and reduce in-state water demands associated with fossil-fueled electrical generation.-total FY11 Adjusted Op Bud, \$1.42 million; total FY 11 adjusted general fund, \$1.0 million; FTE, 15”
- “Healthy Forests- The purpose of the healthy forests program is to promote the health of New Mexico's forest lands by managing wildfires, mitigating urban-interface fire threats and providing stewardship of private and state forest lands and associated watersheds. - total FY11 Adjusted Op Bud, \$15.3 million; total FY 11 adjusted general fund, \$3.4 million; FTE, 69.”
- “State Parks- The purpose of the state parks program is to create the best recreational opportunities possible in state parks by preserving cultural and natural resources, continuously improving facilities and providing quality, fun activities and to do it all efficiently.-total FY11 Adjusted Op Bud, \$32.7 million; total FY 11 adjusted general fund, \$10.1 million; FTE, 287”
- “Mine Reclamation- The purpose of the mine reclamation program is to implement the state laws that regulate the operation and reclamation of hard rock and coal mining facilities and to reclaim abandoned mine sites.-total FY11 Adjusted Op Bud, \$7.1 million; total FY 11 adjusted general fund, \$0.5 million; FTE, 32”
- “Oil and Gas Conservation- The purpose of the oil and gas conservation program is to assure the conservation and responsible development of oil and gas resources through professional, dynamic regulation.-total FY11 Adjusted Op Bud, \$9.1 million; total FY 11 adjusted general fund, \$3.8 million; FTE, 62”
- “Program Support- The purpose of program support is to provide leadership, set policy and provide support for every division in achieving their goals.-total FY11 Adjusted Op Bud, \$5.3 million; total FY 11 adjusted general fund, \$2.9 million; FTE, 45”

Similarly, GRTF staff note that the Department of Game and Fish has four programs. “Each is directly related to aspects of hunting and fishing as well as promoting practices that maximize the opportunity to participate in the activities.”

- “Sport Hunting and Fishing- The purpose of the sport hunting and fishing program is to provide a statewide system for hunting activities as well as self-sustaining and hatchery-

supported fisheries taking into account hunter safety, quality hunts, high demand areas, guides and outfitters, quotas and assuring that local and financial interests receive consideration.-total FY11 Adjusted Op Bud, \$21.3 million; total FY 11 adjusted general fund, 0; FTE, 200.5”

- “Conservation Services- The purpose of the conservation services program is to provide information and technical guidance to any person wishing to conserve and enhance wildlife habitat and recover indigenous species of threatened and endangered wildlife.-total FY11 Adjusted Op Bud, \$7.8 million; total FY 11 adjusted general fund, 0; FTE, 40.5”
- “Wildlife Depredation and Nuisance Abatement- The purpose of the wildlife depredation and nuisance abatement program is to provide complaint administration and intervention processes to private landowners, leaseholders and other New Mexicans so they may be relieved of and precluded from property damage, annoyances, or risks to public safety caused by protected wildlife.-total FY11 Adjusted Op Bud, \$1.1 million; total FY 11 adjusted general fund, 0; FTE, 4.”
- “Program Support-.The purpose of program support is to provide an adequate and flexible system of direction, oversight, accountability and support to all divisions so they may successfully attain planned outcomes for all department programs.-total FY11 Adjusted Op Bud, \$8.3 million; total FY 11 adjusted general fund, 0; FTE, 60.”

“There appears to be the greatest opportunity for comingling of common interests with DGF and the Healthy Forests and State Parks programs.”

EMNRD comments on the changes related to the Parks Advisory Board” “Section 8 of this bill eliminates per diem and mileage for Parks Advisory Board (PAB) members and sunsets the Park Advisory Board as an entity on July 1, 2017. The PAB provides a valuable role to EMNRD/SPD by advising the Division on matters of policy and statewide recreation planning. By removing the per diem and mileage payment PAB members, it will be more difficult to entice people to join the PAB. In FY10, EMNRD/SPD spent \$3.4K on per diem and mileage to reimburse PAB members attending meetings.”

EMNRD is concerned with the sunset review of a number of boards and commissions that support the Department. “Sections 133 and 134 provides for the sunset of the Mining Commission and the Oil and Gas Commission. Upon sunset, these sections also would repeal several sections of the Mining Act and the Oil and Gas Act. However, several of the sections proposed for repeal deal with other agency functions and not those of the sunsetted commissions. For instance, Section 69-36-6 is the only section that covers the establishment of the mining commission. 69-36-7 and 69-36-8 cover the specific rulemaking authority and procedures under the Mining Act. 69-36-9 only deals with the authority of the director of the EMNRD mining and minerals division. Only Section 69-36-6 should be repealed in Section 133. In Section 134, only Section 70-2-4 and subsection B of 70-2-6 refer to the Oil Conservation Commission (see Amendments).” For the purpose of sunset review, these comments may not be relevant. If, after sunset review as scheduled, the legislature elects not to renew these commissions, then the comments would become relevant.

ALTERNATIVES

EMNRD suggests an alternative: “Authorize the merger but delay the effective date by a year to allow the agencies time to properly plan and implement the necessary changes.”

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The two agencies will continue to function separately.

AMENDMENTS

Game and fish requests consideration of the following proposed amendment: “Based on the technical and substantive issues identified in the analysis, the Department of Game and Fish proposes the following amendment, or suggests that bill drafters clarify terms of the bill: On page 63, line 1 of the draft, the words ‘but not limited to’ are deleted. The agency is concerned that this may unduly limit the ability to take management actions under the Wildlife Conservation Act.”

EMNRD proposes a number of amendments:

By combining two boards into one, the mining commission now has two different rulemaking procedures under two acts (Sections 69-25A-7 and -8, and 69-36-8). The procedures are similar but not identical. This should be workable, but the Legislature might consider repealing the rulemaking procedures in the Surface Mining Act and replacing with references to the procedures in the Mining Act.”

SECTION 133. A new section of the New Mexico Mining Act is enacted to read:

"[NEW MATERIAL] TERMINATION OF AGENCY LIFE—DELAYED REPEAL.--The mining commission is terminated on July 1, 2015 pursuant to the provisions of the Sunset Act. The commission ~~committee~~ shall continue to operate according to the provisions of Sections 69-36-6 through 69-36-9 NMSA 1978 until July 1, 2016. Effective July 1, 2016, Section[s] 69-36-6 ~~through 69-36-9~~ NMSA 1978 is ~~are~~ repealed."

SECTION 134. A new section of the Oil and Gas Act is enacted to read:

"[NEW MATERIAL] TERMINATION OF AGENCY LIFE—DELAYED REPEAL.--The oil conservation commission is terminated on July 1, 2015 pursuant to the provisions of the Sunset Act. The commission shall continue to operate according to the provisions of Sections 70-2-4 and through 70-2-6 NMSA 1978 until July 1, 2016. Effective July 1, 2016, Sections 70-2-4 and through 70-2-6(B) NMSA 1978 are repealed."

SECTION 139. **[changes in bold]** Section 75-5-4 NMSA 1978 (being Laws 1987, Chapter 192, Section 4, as amended) is amended to read:

"75-5-4. ADMINISTRATION OF THE ACT.—

B. The secretary of energy, minerals and natural resources shall ~~[present a list of projects to the committee based on priorities generated by the natural resources department.~~

~~C. The committee shall~~ **recommend select** lands to be acquired under the provisions of the Natural Lands Protection Act and, subject to appropriation for such purpose by the legislature, pay the state's share of acquisitions. No land shall be acquired unless a corporation jointly acquires the land with the state. A corporation ~~[must]~~ **shall** participate in acquiring a minimum of at least ten percent undivided interest in the land or the state cannot participate in the acquisition. Title to lands acquired shall be held as cotenants having undivided interests in proportion to the state's and the corporation's share of the acquisition and shall be held in the name of the state ~~[of New Mexico]~~ and the corporation.

SECTION 145. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS, APPROPRIATIONS, PERSONNEL AND PROPERTY—CONTRACTUAL OBLIGATIONS--STATUTORY REFERENCES.—

....

I. On July 1, 2011, all references in law to the coal surface mining commission ~~and the mining safety board~~ shall be deemed to be references to the mining commission.

SECTION 147.

New Sections:

74-6-3. Water Quality Control Commission Created.

A. There is created the "water quality control commission" consisting of:

- (1) the secretary of environment or a member of the secretary's staff designated by the secretary;
- (2) the secretary of health or a member of the secretary's staff designated by the secretary;
- (3) the director of the ~~[department of]~~ game and fish division of the energy, minerals and natural resources department or a member of the director's staff designated by the director;
- (4) the state engineer or a member of the state engineer's staff designated by the state engineer;
- (5) the chair of the oil conservation commission or a member of the chair's staff designated by the chair;
- (6) the director of the state parks division of the energy, minerals and natural resources department or a member of the director's staff designated by the director;
- (7) the director of the New Mexico department of agriculture or a member of the director's staff designated by the director;
- (8) the chair of the soil and water conservation commission or a soil and water conservation district supervisor designated by the chair;
- (9) the director of the bureau of geology and mineral resources at the New Mexico institute of mining and technology or a member of the director's staff designated by the director;
- (10) a municipal or county government representative; and
- (11) four representatives of the public to be appointed by the governor for terms of four years and who shall be compensated from the budgeted funds of the department of environment in accordance with the provisions of the Per Diem and Mileage Act [[10-8-1 NMSA 1978](#)]. At least one member appointed by the governor shall be a member of a New Mexico Indian tribe or pueblo.

75-9-4

A. The Land Conservation Incentives Act [[75-9-1](#) NMSA 1978] shall be administered by the secretary of energy, minerals and natural resources [~~in consultation with the committee established pursuant to the Natural Lands Protection Act [[75-5-1](#) NMSA 1978].~~].

B. The secretary of energy, minerals and natural resources may promulgate rules as may be deemed necessary to certify eligible projects for treatment in fulfillment of the purposes of this act. The secretary of taxation and revenue, in consultation with the secretary of energy, minerals and natural resources, shall promulgate rules as may be deemed necessary to administer the tax incentives provided for in the Land Conservation Incentives Act and shall coordinate the preparation of the report to the legislature showing the fiscal impact on the treasury of the credits claimed pursuant to that act.

75-10-7.

A. The department may acquire conservation or agricultural easements and hold them in the name of the state.

B. When approving a conservation project that is the acquisition of a conservation or agricultural easement by a conservation entity, the department shall require the conservation entity to:

(1) acquire no less than ten percent of the easement, and title to the easement shall be held by the conservation entity and a qualified entity as cotenants having undivided interests in proportion to each one's share of the acquisition; and

(2) submit a plan for the management of lands for which the conservation entity and the qualified entity are responsible. The department[, ~~in consultation with the committee,~~] shall review the plan to ensure compliance with the purposes of the Natural Heritage Conservation Act.

LG/bym