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FISCAL IMPACT REPORT

		LAST UPDATED	03/10/23
SPONSOR	SFC	**ORIGINAL DATE**	01/30/23
SHORT TITLE	Create Legacy Permanent Funds	**BILL NUMBER**	CS/Senate Bill 9/SFCS
		ANALYST	Sanchez

REVENUE*
(dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		
-	-	$417.0	Recurring	Distribution from Legacy Permanent Fund to Land of Enchantment Legacy Fund
Distributions from Land of Enchantment Legacy Fund to Agencies				
-	-	$1,418.0	Recurring	EMNRD – Forestry Division
-	-	$1,418.0	Recurring	EMNRD – Natural Heritage Conservation Act
-	-	$2,836.0	Recurring	NMDA - Department of Agriculture
-	-	$1,260.4	Recurring	NMED - Department of Environment
-	-	$472.7	Recurring	EDD – Outdoor Equity Grant Program
-	-	$1,418.0	Recurring	EDD – Outdoor Recreation Division
-	-	$1,008.3	Recurring	DCA – Cultural Properties Protection Act
-	-	$2,772.9	Recurring	Department of Game and Fish

Parentheses ( ) indicate revenue decreases.
*Amounts reflect most recent analysis of this legislation.

Relates to appropriation in the General Appropriation Act

Sources of Information

LFC Files

Responses to Received From
Department of Agriculture (NMDA)
Department of Cultural Affairs (DCA)
Department of Environment (NMED)
Department of Finance and Administration (DFA)
Department of Game and Fish (DGF)
Economic Development Department (EDD)
Energy, Minerals and Natural Resources Department (EMNRD)
State Investment Council (SIC)
The Office of the State Treasurer (STO)

SUMMARY

Synopsis of SFC Substitute for Senate Bill 9

The Senate Finance Committee Substitute for Senate Bill 9 (SB9) amends Chapter 75 NMSA 1978 (Miscellaneous Natural Resource Matters) to add new sections creating two new nonreverting funds at the State Treasury.

Section 2 creates the Conservation Legacy Permanent Fund (CLPF), which will be managed by the State Investment Officer with the same risk and return profile as land grant permanent funds are invested. The bill specifies that earnings from the investment of the fund shall be credited to the fund. The CLPF is directed to distribute income in excess of $5 million to the land of enchantment legacy fund on July 1st of each year. It stipulates that these distributions will only take place if the balance of the CLPF exceeds $150 million.

Section 3 of SB9 creates the Land of Enchantment Legacy Fund (LELF), which will be managed by the Department of Finance and Administration (DFA). On July 1st, 2024, and each year thereafter, DFA is instructed to distribute the greater of $12.5 million or 25 percent of the total balance of the fund as follows:

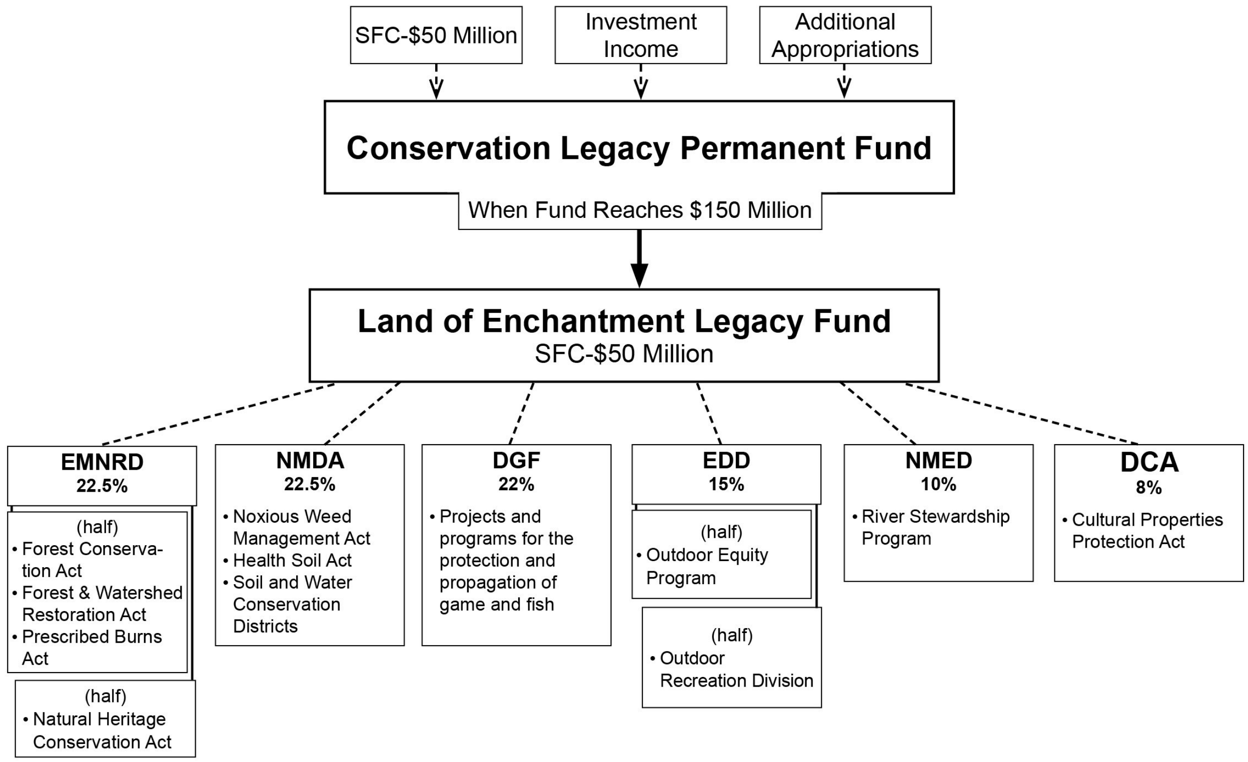
1) 22.5 percent to the Energy, Minerals and Natural Resources Department, split equally to support programs and projects under:
    a. (i) the Forest Conservation Act, the Forest and Watershed Restoration Act, and the Prescribed Burning Act; and
    b. (ii) the National Heritage Conservation Act;
2) 22.5 percent to New Mexico Department of Agriculture to support programs and projects under the Noxious Weed Management Act, the Healthy Soil Act, and the Soil and Water Conservation District Act;
3) 10 percent to the Environment Department for the River Stewardship Program;
4) 15 percent to Outdoor Recreation Division at the Economic Development Department, with 25 percent of that amount for the outdoor equity grant program and 75 percent for special projects and outdoor recreation infrastructure;
5) 8 percent to the Department of Cultural Affairs to support projects and programs under the Cultural Properties Protection Act; and
6) 22 percent to the Department of Game and Fish to support projects and programs for the propagation of game and fish.

(See also: Figure 1.1 on the next page)

Section 3 specifies that if the total balance of the fund is less than $12.5 million, the fund will distribute its total balance according to the apportionments specified above. Section 3 (C) also includes language requiring any unencumbered balances from distributions made to agencies to revert to the LELF at the end of the fiscal year in which they are distributed. Section 2 (D) includes language stipulating that distributions “shall not be sued for the purposes of eminent domain.”

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023 (90 days after the Legislature adjourns) if signed into law.

Figure 1.1: Overview of Funding Mechanism



FISCAL IMPLICATIONS

Senate Bill 9 creates two new funds and does not provide for specific one-time or recurring appropriations. LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds because earmarking reduces the ability of the Legislature to establish spending priorities.

Analysis from State Investment Council (SIC) was unable to estimate the size of annual distributions from the CLPF to the LELF. SIC further explained the size of potential distributions from both funds would be determined by market conditions, which it anticipates may be volatile and depressed in the coming decade. SIC also explained it does not have a standard asset allocation model but assumes any new fund could be "constructed in a manner similar to the land grant permanent fund."

SIGNIFICANT ISSUES

The funds created by Senate Bill 9 will create more predictable recurring revenue for the conservation-focused programs listed above (see Summary). The area of greatest concern, as explained by multiple agency analyses, remains the sustainability of the fund without the guarantee of future appropriations.

Although Senate Bill 9 does not specify any current or future appropriations, establishing a new fund could create an expectation that the program will continue in future fiscal years.

ADMINISTRATIVE IMPLICATIONS

In their analysis, EMNRD and NMED both included the statement:

> Because the automatic distributions under SB9 are to existing programs, the statutory authority and associated rules to review and approve projects for those programs already exist, so there is no additional burden on the agency in terms of needing to create additional administrative structures. The added work would be in terms of additional projects that could be processed and supported.

This sentiment is echoed in the analysis from DGF. However, DGF cited a higher number of projects being funded might create the need for additional management oversight, though without including any specific budget estimates.

NMDA mentioned the need for increased administrative support to help ensure the timely distribution of funding received from the LELF. NMDA's analysis specified that it would need between one and three full-time employees to administer the funding and manage the program properly.

The State Investment Council's analysis stated there would be no administrative implications for the agency.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The Senate Finance Committee amendments to the House Appropriations and Finance Committee Substitute for House Bill 2 (CS/HB2/HAFCS/sSFC) appropriates $50 million from the general fund to the land of enchantment legacy fund and $50 million to conservation legacy permanent fund, contingent on the enactment of Senate Bill 9 .

ALTERNATIVES

In its analysis, the Environment Department suggested alternative language that will provide flexibility in carrying out projects consistent with the goals outlined in Senate Bill 9. The department stated:

> "Section 2.B.3 notes that the annual distribution from the Land of Enchantment Legacy Fund to the NMED will be used, "...to plan, design and construct projects to improve surface water quality ~~and~~ <u>or</u> river habitat statewide." NMED believes that changing "and" to "or" would be helpful to provide flexibility for funding projects that may improve surface water quality without necessarily improving *river* habitat. For example, a project to improve water quality of an impaired lake or wetland (not a river), or a project to improve site conditions in a non-perennial channel that would help improve sediment retention and thereby improve water quality downstream."

SS/al/ne