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## FISCAL IMPACT REPORT

**SPONSOR** Small **ORIGINAL DATE** 01/30/19  
**LAST UPDATED** 03/08/19 **HB** 218/aSCONC

**SHORT TITLE** Equine Facility Purchase of Certain Horses **SB** \_\_\_\_\_

**ANALYST** Daly

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Minimal	Minimal	Minimal	Recurring	NMLB Operating Funds

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

NM Livestock Board (NMLB)  
 Administrative Office of the Courts (AOC)  
 Board of Veterinary Medicine (BVM)  
 Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of SCONC amendments

The Senate Conservation Committee amendments to House Bill 218 strike all references to military reservation or enclave and military authority, so that livestock, including equines, found running at large on military reservation or enclaves apparently are no longer subject to the provisions of the Livestock Code being amended by this bill.

NMLB reports its primary purpose is livestock ownership identification, and in so doing, it is called on to work with many outside agencies including the military to identify and locate the owner of animals that have strayed. Maintaining relationships with military authorities, it advises, benefits New Mexico's livestock industry.

Further, given these amendments, the title of the bill may not fully describe the subject of and changes being made in the bill.

#### Synopsis of Original Bill

House Bill 218 defines the term “equine” as “a horse, pony, mule, donkey or hinny”, and includes equines in the definition of livestock in the Livestock Code. It also amends the estray provisions of Article 13 of that Code to maintain the current notice and disposition process for estrays that are *not* equine, and creates a new process for equine strays: a registered equine rescue or retirement facility shall be given the right of first refusal to purchase the estrayed equine, and if the rescue facility is unable or unwilling to purchase the equine for an ownership transfer fee to be set by the NMLB which cannot exceed actual costs for the equine’s care during impoundment, that board must auction it through a closed bid process (as established by board rule). If the equine is not sold through that process, the board shall have it humanely euthanized. HB 218 similarly bifurcates the disposition processes upon seizures of livestock running at large and cruelly treated livestock, providing the same disposition process when the livestock is an equine.

This bill also directs NMLB adopt rules for issuing temporary capacity waivers to equine facilities to allow for transfer of equines in the custody of the board. It substitutes the defined term “equine” for “horse” in other existing statutes, including the Income Tax Act’s horse shelter rescue fund check off provision to contribute tax refunds to that fund, Criminal Code provisions governing cruelty to animals, and numerous other provisions in the Livestock Code.

### **FISCAL IMPLICATIONS**

NMLB notes in its analysis of this bill that it will no longer be able to sell equines to the highest bidder at auction, which may reduce its operating funds.

### **SIGNIFICANT ISSUES**

By including equines within the definition of livestock in the Livestock Code, this bill may not address the issue regarding wild (undomesticated) horses found or captured on private land that has arisen in light of the New Mexico Court of Appeals’ decision in *Wild Horse Observers Association, Inc. v. New Mexico Livestock Board* (No. 34,097, filed August 4, 2015), wherein the court held that wild horses were not “livestock” under the Livestock Code, and NMLB had no jurisdiction over them as they were not stray.

BVM advises that it is the licensing, regulatory agency for veterinary medicine professionals in the delivery of veterinary medical services and animal sheltering providers delivering sheltering services to companion animals and it has no jurisdiction over livestock or wild horses.

### **ADMINISTRATIVE IMPLICATIONS**

Although there is no direction in the bill in the event more than one rescue or retirement facility wish to purchase an equine, this may be an area to be addressed by NMLB under its rulemaking authority. See Section 77-2-7(M) NMSA 1978.