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FISCAL IMPACT REPORT

SPONSOR Trujillo, CA ORIGINAL DATE 1/27/17 123/aHBIC/aHTRC/
 LAST UPDATED 3/08/17 HB aSPAC

SHORT TITLE Animal Food Feed for Sterilization Program SB _____

ANALYST Daly

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
	\$830.0	\$830.0	Recurring	Animal Care and Facility Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI	NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 219

SOURCES OF INFORMATION

LFC Files

Responses Received From

Board of Veterinary Medicine (BVM)
 New Mexico Department of Agriculture (NMDA)
 Department of Health (DOH)
 Human Services Department (HSD)
 Regulation & Licensing Department (RLD)

SUMMARY

Synopsis of SPAC Amendments

The Senate Public Affairs Committee amendments to HB 123, as amended, 1) replace the term “commercial feed” with “pet food” in the title and throughout the bill; 2) reiterate an earlier committee amendment to expand the Animal Sheltering Board’s use of the new \$100 fee collected on each brand or product name of dog or cat food distributed in New Mexico to include the reasonable costs of administering all of the board’s activities under the Animal Sheltering Act, and set a cap of 7.5 percent of the total amount of those fees for that use; 3) require the board’s annual report to the legislature and the governor include the total number of sterilizations of dogs and cats and the average cost per surgery paid from the subaccount for such procedures; and 4) require the criteria for the assistance program ensure that no more than 60 percent of the services funded go to programs in class A counties (Bernalillo, Santa Fe, Dona Ana, San Juan and Sandoval).

Synopsis of HTRC Amendment

The House Taxation and Revenue Committee amendment to House Bill 123, as amended, reduces the level at which the Animal Sheltering Board may provide assistance for the pet sterilization program from 250 percent to 200 percent of the current poverty guidelines published by the United States department of health and human services. The amendment also addresses the exceptions from payment of the \$100 fee imposed by the bill: it strikes the exception for customer formula feed, and rewrites the two remaining exceptions to exempt 1) prescription pet food prescribed by a veterinarian; and 2) pet food manufactured by a person whose tax-year gross revenue from distribution commercial feed is no more than \$500 thousand.

Synopsis of HBIC Amendment

The House Business and Industry Committee amendments to House Bill 123 expand the Animal Sheltering Board’s use of the new \$100 fee collected on each brand or product name of dog or cat food distributed in New Mexico to include the reasonable costs of administering all of the board’s activities under the Animal Sheltering Act, and sets a cap of 7.5 percent of the total amount of those fees for that use. The amendments also set a delayed repeal date of July 1, 2027 on the collection of that fee.

The Committee Report appears to contain a drafting error in item 3: the closing quotation mark appears after the first appearance of the word “Act” (in Animal Sheltering Act), rather than following the word “Act” at the end of the amendment (when it references this 2017 Act). A literal reading renders the 7.5 percent cap language meaningless.

Synopsis of Original Bill

House Bill 123 creates a new spay and neuter program fee in the Commercial Feed Act of \$100 to be charged and collected by NMDA on each brand name of commercial feed that is distributed in New Mexico for consumption by a dog or cat. Customer-formula feed, prescription diet feed ordered or manufactured by a veterinarian, and commercial feed manufactured by a person whose tax-year gross revenue from distribution of that feed is no more than \$500 thousand.

Monies collected upon imposition of this fee is credited to the spay and neuter subaccount of the animal care and facility fund, to be used to carry out the Animal Sheltering Board's (ASB) dog and cat sterilization program and to cover ASB's reasonable costs in administering that program. HB 123 limits assistance provided by ASB to for the sterilization program to those individuals and groups who service recipients whose household incomes do not exceed 250 percent of the current federal poverty level guidelines.

The effective date of this bill is July 1, 2017.

FISCAL IMPLICATIONS

NMDA reports that in 2015 approximately 8,300 pet food and pet treat labels (out of 18,700 total commercial feed labels) were registered with its office, as required by the Commercial Feed Act Based on that number, it predicts \$830 thousand in annual revenues for the animal care and facility fund, as shown above in the Revenue Table.

NMDA notes the bill does not address its administrative costs associated with the new fee, but since NMDA's FY 16 ending balance was \$1.6 million in its operational program, LFC staff believes any start-up or recurring costs associated with collecting this fee likely could be absorbed by its budget.

RLD reports that, like the vast majority of New Mexico's boards and commissions, ASB is not self-sustaining through licensing revenues, but is forced to rely on federal funds (and a small annual appropriation from the General Fund) to sustain basic operations. Allowing use of a portion of the fee imposed under HB 123 to cover reasonable costs to administer this sterilization assistance program will assist ASB in operating that program.

SIGNIFICANT ISSUES

This bill should be referred to the House Appropriations and Finance Committee.

A 2012 ASB feasibility study (conducted pursuant to SM 36, 2011 Regular Session) on a statewide spay and neuter program found ASB lacked adequate funding and staff to address animal shelter overpopulation issues in New Mexico. The study reported that in 2011, animal shelters and other euthanasia agencies took in 118,000 cats and dogs, and 55,000 of them were euthanized, primarily because there were too many dogs and cats and not enough homes. This issue cost the state \$27 million annually (the total budget for shelters and euthanasia agencies). Existing law authorizes a pet care special registration license plate, as well as an income tax refund check-off, for ASB's spay and neuter program, but neither has provided sufficient monies to adequately fund that program, and RLD reports that ASB continues to lack the funding necessary to address these pet overpopulation issues.

The fee imposed in this bill, which is added onto the existing \$2 registration fee on pet foods under the commercial feed registration and inspection program run by the NMDA, was the one potential funding mechanism that stood out above the others, according to the 2012 study. It also conclude this type of fee: a) is equitable because pet owners, not the general public, would pay it; b) provides a steady and reliable revenue stream, and c) generates revenue for a spay/neuter assistance program for low-income households.

ADMINISTRATIVE IMPLICATIONS

RLD reports that staff limitations require that some of ASB's functions be performed by non-profit volunteers.

RELATIONSHIP

HB 219 merges the ASB and the Board of Veterinary Medicine, and in Section 3(K) transfers all duties and responsibilities of the ASB to the BVM.

TECHNICAL ISSUES

NMDA points out these technical issues:

- Pet food is already defined in the Commercial Feed Act (which is being amended in Section 3) as commercial feed prepared and distributed for consumption by dogs or cats. See Section 76-19A-2(P). Customer formula feed is not included in that definition and therefore does not need exemption (so subsection B(1) should be struck);
- In light of ASB's sunset date of July 1, 2020, the pet food fee imposed in this bill should be subject to a delayed repeal date of December 31, 2019, since registrations expire on the last day of each year;
- Given the definition of pet food already present in the Commercial Feed Act, the title of HB 123 should be amended to replace "COMMERCIAL FEED FOR DOGS AND CATS" with "PET FOOD";
- In Section 3(2) as currently drafted, the phrase "feed ordered or manufactured" should be replaced with "pet food prescribed by"; and
- In Section 3(B)(3) as currently drafted, the term "commercial feed" should be replaced with "pet food".

OTHER SUBSTANTIVE ISSUES

HB 123 sets the income limit to receive assistance for dog and cat sterilization program at 250 percent of the U. S. Department of Health and Human Services' current federal poverty level guidelines. The following chart reflects the income levels at 200 percent of those guidelines (which is approximately 75 percent of New Mexico's median income for a family of four):

2017 Federal Poverty Line	
Family Size	200 Percent
1	\$ 23,760.00
2	\$ 32,040.00
3	\$ 40,320.00
4	\$ 48,600.00
5	\$ 56,880.00
6	\$ 65,160.00
7	\$ 73,460.00
8	\$ 81,780.00

Source: US HHS

Additionally, the ASB sunsets on July 1, 2020. See Section 77-1B-12, NMSA 1978.

MD/sb/al