

1 SENATE BILL 367

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Jacob R. Candelaria

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10 AN ACT

11 RELATING TO ANIMALS; IMPOSING AN ADDITIONAL FEE ON PET FOOD FOR  
12 DOGS AND CATS TO FUND THE DOG AND CAT SPAY AND NEUTER  
13 ASSISTANCE PROGRAM AND THE ANIMAL SHELTERING ACT; ESTABLISHING  
14 A HOUSEHOLD INCOME LEVEL FOR ASSISTANCE; REQUIRING REPORTING.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 61-14-7.1 NMSA 1978 (being Laws 2017,  
18 Chapter 44, Section 3) is amended to read:

19 "61-14-7.1. ANIMAL SHELTERING COMMITTEE--DUTIES.--The  
20 sheltering committee shall:

21 A. develop a voluntary statewide dog and cat spay  
22 and neuter program in conjunction with animal shelters and  
23 euthanasia agencies;

24 B. develop criteria for individuals, [~~nonprofit~~  
25 ~~organizations~~] groups, animal shelters and euthanasia agencies

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1 to receive assistance for dog and cat [~~sterilization~~] spaying  
2 and neutering from the animal care and facility fund; provided  
3 that assistance to individuals and groups shall only be given  
4 to individuals who have, or to groups that shall only provide  
5 assistance to service recipients who have, a household income  
6 that does not exceed two hundred percent of the current federal  
7 poverty level guidelines published by the United States  
8 department of health and human services; and

9 C. recommend to the board the disbursements of  
10 money from the animal care and facility fund to qualifying  
11 individuals, [~~nonprofit organizations~~] groups, animal shelters  
12 and euthanasia agencies."

13 SECTION 2. Section 77-1B-4 NMSA 1978 (being Laws 2007,  
14 Chapter 60, Section 4, as amended) is amended to read:

15 "77-1B-4. ANIMAL CARE AND FACILITY FUND CREATED--  
16 ADMINISTRATION.--

17 A. The "animal care and facility fund" is created  
18 in the state treasury. All fees collected pursuant to the  
19 Animal Sheltering Act shall be deposited in the fund.

20 B. The animal care and facility fund shall consist  
21 of money collected by the board pursuant to the Animal  
22 Sheltering Act; income from investment of the fund; and money  
23 appropriated to the fund or accruing to it through fees or  
24 administrative penalties, cooperative research agreements,  
25 income, gifts, grants, donations, bequests, sales of

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1 promotional items, handbooks or educational materials or any  
2 other source. Money in the fund shall not be transferred to  
3 another fund or encumbered or expended except for expenditures  
4 authorized pursuant to the Animal Sheltering Act.

5 C. Money in the fund is appropriated by the  
6 legislature to the board to be used to help animal shelters and  
7 communities defray the cost of implementing the board's  
8 initiatives conducted pursuant to the Animal Sheltering Act.  
9 The fund shall be administered by the board to carry out the  
10 purposes of the Animal Sheltering Act.

11 D. The "statewide spay and neuter subaccount" is  
12 established in the animal care and facility fund. Money in the  
13 subaccount shall only be used to carry out the board's dog and  
14 cat ~~[sterilization]~~ spay and neuter assistance program and for  
15 the reasonable costs of administering the Animal Sheltering  
16 Act, which reasonable costs shall not exceed five percent of  
17 the total fees distributed to the subaccount pursuant to the  
18 provisions of Section 5 of this 2019 act. Money collected  
19 pursuant to Section 7-2-30.9 NMSA 1978, ~~[and]~~ Section  
20 66-3-424.3 NMSA 1978 and Section 5 of this 2019 act shall be  
21 deposited in the subaccount.

22 E. A disbursement from the fund shall be made only  
23 upon a warrant drawn by the secretary of finance and  
24 administration pursuant to a voucher signed by the executive  
25 director of the board or the director's designee with the

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1 approval of the majority of the board with consideration of the  
2 recommendation of a majority of the animal sheltering  
3 committee.

4 F. Unexpended and unencumbered balances in the fund  
5 at the end of a fiscal year shall not revert to the general  
6 fund."

7 SECTION 3. Section 77-1B-5 NMSA 1978 (being Laws 2007,  
8 Chapter 60, Section 5, as amended) is amended to read:

9 "77-1B-5. BOARD POWERS AND DUTIES.--The board shall:

10 A. adopt infrastructure and operating standards and  
11 may enforce those standards with consideration of the  
12 recommendations by the animal sheltering committee;

13 B. provide for inspections of animal shelters and  
14 euthanasia agencies;

15 C. provide for oversight, including oversight of  
16 licensing requirements, regulations and discipline, of  
17 veterinarians employed by local government animal shelters;

18 D. adopt methods and procedures acceptable for  
19 conducting emergency field euthanasia;

20 E. adopt, promulgate and revise rules necessary to  
21 carry out the provisions of the Animal Sheltering Act;

22 F. have authority to issue licenses and  
23 certificates pursuant to the Animal Sheltering Act;

24 G. establish the types of licenses and certificates  
25 that may be issued pursuant to the Animal Sheltering Act and

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1 establish criteria for issuing the licenses and certificates;

2 H. prescribe standards and approve curricula for  
3 educational programs that will be used to train and prepare  
4 persons for licensure or certification pursuant to the Animal  
5 Sheltering Act;

6 I. implement continuing education requirements for  
7 licensees and certificate holders pursuant to the Animal  
8 Sheltering Act;

9 J. conduct administrative hearings upon charges  
10 relating to violations of provisions of the Animal Sheltering  
11 Act or rules adopted pursuant to that act in accordance with  
12 the Uniform Licensing Act;

13 K. provide for all examinations and for issuance  
14 and renewal of licenses and certificates;

15 L. establish fees not to exceed one hundred fifty  
16 dollars (\$150) for licenses and certificates pursuant to the  
17 Animal Sheltering Act;

18 M. establish committees as the board deems  
19 necessary to effect the provisions of the Animal Sheltering  
20 Act;

21 N. apply for injunctive relief to enforce the  
22 provisions of the Animal Sheltering Act;

23 O. conduct national criminal background checks on  
24 applicants seeking licensure or certification under the Animal  
25 Sheltering Act;

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1 P. keep a record of all proceedings;  
2 Q. make an annual report to the legislature,  
3 including information on the total number of dogs and cats  
4 spayed and neutered and the average costs per surgery paid for  
5 from the statewide spay and neuter subaccount of the animal  
6 care and facility fund. The New Mexico department of  
7 agriculture shall provide for inclusion in the annual report  
8 the number of pet foods registered pursuant to Section  
9 76-19A-10 NMSA 1978 for the current and previous year listed by  
10 registrant;

11 R. provide for the inspection of animal shelters  
12 and euthanasia agencies;

13 S. develop mechanisms to address complaints of  
14 misconduct at animal shelters and euthanasia agencies and  
15 noncompliance with the provisions of the Animal Sheltering Act  
16 or rules adopted pursuant to that act;

17 T. develop mechanisms to address complaints of  
18 licensee and certificate holder misconduct and noncompliance;

19 U. adopt standards for maintaining records  
20 concerning health care and disposition of animals; and

21 V. refer to the published [~~national~~] association of  
22 shelter veterinarians standards in determining its regulations  
23 for animal shelters and euthanasia agencies."

24 SECTION 4. Section 76-19A-1 NMSA 1978 (being Laws 2013,  
25 Chapter 23, Section 1) is amended to read:

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1 "76-19A-1. SHORT TITLE.--~~[This act]~~ Chapter 76, Article  
2 19A NMSA 1978 may be cited as the "New Mexico Commercial Feed  
3 Act"."

4 SECTION 5. A new section of the New Mexico Commercial  
5 Feed Act is enacted to read:

6 "[NEW MATERIAL] SPAY AND NEUTER PROGRAM FEE.--

7 A. Except as provided in Subsection B of this  
8 section, in addition to the commercial feed registration fee  
9 required pursuant to Section 76-19A-10 NMSA 1978, the  
10 department shall collect an annual fee on each pet food  
11 registered with the department as follows:

12 (1) beginning January 1, 2020, fifty dollars  
13 (\$50.00);

14 (2) beginning January 1, 2021, seventy-five  
15 dollars (\$75.00); and

16 (3) on and after January 1, 2022, one hundred  
17 dollars (\$100).

18 B. The provisions of Subsection A of this section  
19 do not apply in cases of:

20 (1) prescription diet pet food prescribed by a  
21 veterinarian; or

22 (2) pet food manufactured by a person who  
23 demonstrates to the board, in a manner prescribed by the board,  
24 that the person's tax-year annual gross revenue from the  
25 distribution of pet food is no more than three million dollars

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1 (\$3,000,000).

2 C. The fee collected pursuant to Subsection A of  
3 this section shall be distributed as follows:

4 (1) ninety-six percent of the fee shall be  
5 deposited with the state treasurer and credited to the  
6 statewide spay and neuter subaccount of the animal care and  
7 facility fund; and

8 (2) four percent of the fee shall be  
9 distributed to the department to administer the New Mexico  
10 Commercial Feed Act."

11 SECTION 6. DELAYED REPEAL.--Section 5 of this act is  
12 repealed effective July 1, 2025.

13 SECTION 7. EFFECTIVE DATE.--The effective date of the  
14 provisions of this act is July 1, 2019.

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