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## FISCAL IMPACT REPORT

**SPONSOR** Alcon **LAST UPDATED** \_\_\_\_\_  
**ORIGINAL DATE** 2/10/2023  
**SHORT TITLE** Animal Shelter Euthanasia & Database **BILL NUMBER** House Bill 239  
**ANALYST** Hanika-Ortiz

### APPROPRIATION\* (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		
No fiscal impact	\$3,300.0	Nonrecurring	General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

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

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
BVM	No fiscal impact	\$3.1	\$3.1	\$6.2	Recurring	Animal Care and Facility Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Responses Received From

Board of Veterinary Medicine (BVM)

#### No Response Received

Department of Finance and Administration (DFA)

## SUMMARY

### Synopsis of House Bill 239

House Bill 239 (HB239) appropriates \$3.3 million from the general fund to the Department of Finance and Administration to be distributed evenly among all counties for spay and neuter programs. Section 1 adds a new section of the Animal Shelter Act to prohibit animal shelters from euthanizing animals, except for animals with a severe or untreatable illness, or a dangerous animal that has caused serious injury. The bill also requires animal shelters to assess their operational needs and provide to the board no later than December 31, 2023, a report of what they need to become a no-kill animal shelter. This section requires BVM to oversee these efforts and promulgate rules; and allows a municipality or county to prescribe penalties for violations.

Section 2 adds to BVM duties the creation and maintenance of a website to post missing and found pets; and to assist counties in securing funding for no- and low-cost spay and neuter programs.

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.

## **FISCAL IMPLICATIONS**

The appropriation of \$3.3 million contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY24 shall revert to the general fund.

In Section 2, Subsection W, the bill requires BVM to develop and maintain a website to search for missing pets that includes the ability to post pets that have been found. BVM reports this would be a burden as an enterprise agency. In FY21 and FY22, BVM operated in a deficit and required deficiency and supplemental appropriations. The new executive director has implemented several cost saving measures and has streamlined the application process to also cut costs. The addition of a new website would cost the agency approximately \$3,100 per year, according to the Department of Information Technology's (DoIT) list of services. It is unknown the number of hours per month required to maintain and keep current such a website. In addition, most shelters have their own websites that serve the same purpose as the proposed website in Subsection W.

## **SIGNIFICANT ISSUES**

BVM commented on euthanasia protocols and other implementation issues:

This bill removes the decision making for euthanasia from the veterinarian who is treating the animal and who has the most and best knowledge at the time of treatment. The bill does have exceptions for animals with a severe or untreatable illness or a dangerous animal that has caused serious injury to a person or domestic animal. The bill does not consider a severely injured animal that may not be able to be treated in a shelter environment or by a shelter veterinarian who does not have the proper training or resources to perform such treatment. In addition, an animal may be considered dangerous and needing euthanasia without ever causing injury to a person or domestic animal. Some feral animals will never be able to be adopted and are a risk to the public.

In Subsection B of Section 1, the bill requires that every shelter assess its current operational needs, to include staffing, facilities and outreach. The shelters must then report to the board no later than December 31<sup>st</sup>, 2023, the essential needs for each shelter to successfully conform to the requirements of this bill. This section does not provide direction to the shelters, nor to the Board, of what actions must be taken for those shelters that cannot meet the requirements due to lack of resources. This bill does not contain a specific appropriation to assist those shelters who do not have the resources to conform. This could result in some shelters closing.

## **PERFORMANCE IMPLICATIONS**

The Local Government Division at DFA would administer the appropriation.

### **ADMINISTRATIVE IMPLICATIONS**

BVM says it has 2 FTE in addition to the executive director position. The agency has no Information Technology (IT) staff and are in the process of switching from three private IT contractors to the DoIT system for IT support. The requirement to develop and maintain a website as described in Subsection W of Section 2 would cause a great burden to agency staff. The overall performance of the agency would be impacted. As noted under Significant Issues, most shelters have their own websites that serve the same purpose as the proposed website in Subsection W.

### **OTHER SUBSTANTIVE ISSUES**

In Subsection X of Section 2, the bill directs the Animal Sheltering Committee to coordinate a statewide initiative to assist counties in securing funding for low- and no-cost spay and neuter programs. During the 2020 regular session, Senate Bill 57 (Chapter 69) created a spay and neuter program fee in the Commercial Feed Act to be collected by New Mexico Department of Agriculture (NMDA) on each brand name of commercial pet food distributed in New Mexico. Prescription pet food and small manufacturers of pet food were exempt. The \$100 fee is credited to the animal care and facility fund, except for 4 percent distributed to NMDA. After distribution to NMDA, monies may be used by BVM to implement a dog and cat spay and neuter assistance program and to cover costs of administering the Animal Sheltering Act, subject to a 5 percent cap.

While the agency has accrued over \$1 million in the animal care and facility fund, mainly from the \$100 fee on brand-name pet food suppliers, the distribution of those funds to spay and neuter programs has been delayed by a lawsuit challenging the fee. The Pet Food Institute, New Mexico Farm and Livestock Bureau, New Mexico Chamber of Commerce, Rio Grande Kennel Club, and others have challenged the law, on the grounds the annual fee has no relationship to governmental service. The lawsuit was pending in federal court as of November 2022.

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