

LFC Requester:

Antonio Ortega

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 3/4/2025

Check all that apply:

Bill Number: SB358

Original Correction
Amendment Substitute

Sponsor: Sen. Carrie Hamblen

Agency Name and Code Number: 305 – New Mexico Department of Justice

Person Writing

Short Title: Equine Shelter Rescue & Welfare Trust Funds

Analysis: Riley Masse, AAG

Phone: 505-537-7676

Email: legisfir@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

Original:

Senate Bill 358 (“SB358”) would create a new “equine welfare trust fund” to be administered by the livestock board and add additional requirements under the already-existing “equine shelter rescue fund.”

Section 1(A) specifies the purposes for which funding in the “equine shelter rescue fund” (already existing under current law) may be expended by the livestock board. Section 1(B) provides that the board shall administer the fund and solicit applications for contracts with eligible applicants. Section 1(C) specifies application requirements, including a description of the proposed services or project, a demonstration that the proposed services or project fit within the purposes of the fund, and the costs and timeframe. Section 1(D) amends NMSA 1978, Section 77-2-32(D) clarifies that the Board shall create rules and that unspent funds under a contract shall be refunded to the equine shelter rescue fund after a length of time presumably to be set by board rule.

Section 1(E) outlines the eligibility requirements for receipt of equine shelter rescue funds, including that the applicant be a registered equine rescue or retirement facility under Section 77-2-30 NMSA 1978, that the applicant be in good standing with the livestock board and in compliance with Section 77-2-31 NMSA 1978, that the applicant be tax-exempt pursuant to Section 501(c)(3) of the Internal Revenue Code and in good standing with the New Mexico Department of Justice, and that the applicant adhere to guidelines and not be intentionally breeding equines.

Section 1(F) provides that the livestock board shall appoint an advisory committee to make recommendations on approval of contracts and outlines the required composition of the committee. Section 1(G) requires the livestock board to submit an annual report to the Legislative Finance Committee regarding contracts under the fund beginning in October 2028.

Section 2 would establish a new “equine welfare trust fund,” and Section 2(B) provides for how distributions from the fund would be made effective July 1, 2026 and thereafter. Section 3 provides for an appropriation of \$20,000,000 to the equine welfare trust fund in fiscal year 2026 and subsequent years.

Substitute:

SB358 Committee Substitute changes Section 1(A) to provide that the fund will be appropriated to the Board of Regents of New Mexico State University for expenditure by the Department of Agriculture. Likewise, throughout the bill, the “board” (referring to the livestock board) is replaced with the “New Mexico Department of Agriculture.”

In the substitute, the purpose for the fund of “improving infrastructure and facilities” is deleted and paying the cost of administering the equine shelter rescue fund is added. The section regarding the board creating rules is removed.

In addition, the substitution removes the fiscal year 2026 distribution, and removes the appropriation included in the original.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

N/A

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB358 relates to HB284, which amends the definition of an equine rescue or retirement facility under Section 77-2-30 NMSA 1978. The bills do not conflict, but the facilities eligible for funding under SB358 may be slightly changed by the provisions of HB284.

TECHNICAL ISSUES

Sections 1(E) and 1(F) both refer to an applicant or organization “in good standing” with the New Mexico Department of Justice (“NMDOJ”). The NMDOJ does not offer a “good standing” designation for organizations subject to the Charitable Solicitations Act, NMSA 1978, Sections 57-22-1 to -11, and instead designates organizations as “compliant.” Legislators may consider amending the bill to address this discrepancy.

This issue is addressed by the substitution.

OTHER SUBSTANTIVE ISSUES

The bill requires an eligible applicant to be recognized under the Internal Revenue Code, which may be subject to amendments in federal law.

SB358 could be subject to the Anti-Donation Clause which prohibits the State from making “any donation to or in aid of any person, association or public or private corporation[.]” N.M. Const.

art. IX, § 14. A “donation, for purposes of Article IX, Section 14, [i]s ‘a gift, an allocation or appropriation of something of value, without consideration.’” *Moses v. Ruszkowski*, 2019-NMSC-003, ¶ 50 (quoting *Vill. of Deming*, 1956-NMSC-111, ¶ 36). The determinative factor is often whether the government has received something of value in exchange for the expenditure of public funds. SB358 proposes in Subsection (A) and Subsection (C) a state purpose that could be found as not indicative of an outright gift, but rather that the State is “actuated by a spirit of self-interest in the matter” and that it intends to assess whether “it will get value received” in exchange for the distribution of State funds. See *White v. Bd. of Educ. of Silver City*, 1938-NMSC-009, ¶ 31, 42 N.M. 94.

These issues are addressed by the substitution.

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A