

<b>LFC Requester:</b>	<b>Noah Montano</b>
-----------------------	---------------------

**AGENCY BILL ANALYSIS - 2026 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**  
[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)  
*(Analysis must be uploaded as a PDF)*

**SECTION I: GENERAL INFORMATION**

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

**Date** 1/23/26 *Check all that apply:*  
**Prepared:** \_\_\_\_\_  
**Bill** SB 38 Original  Correction \_\_\_\_\_  
**Number:** \_\_\_\_\_ Amend \_\_\_\_\_ Substitute \_\_\_\_\_  
 ment \_\_\_\_\_ ute \_\_\_\_\_

**Spons** Peter Wirth, Cristina **Agency**  
**or:** Parajon **Name and**  
**Code**  
**Number:** NMDA - 199  
**Person Writing**  
**Analysis:** Jeff Witte  
**Short** Fees on Registered **Pho** **Em** Jheitz@nmda.nm  
**Title:** Pet Food **ne:** 575-294-3817 **il:** su.edu

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
\$1,369	\$1,369	\$1,369	Recurring	Spay and neuter subaccount
\$54	\$54	\$54	Recurring	Spay and neuter program fee

(Parenthesis ( ) indicate revenue decreases)

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

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected

<b>Total</b>						
--------------	--	--	--	--	--	--

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates: HB 51 Spay and Neuter Fee Delayed Repeal  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis:

Repeal of the July 1, 2026, delayed repeal date established in the New Mexico Commercial Feed Act, Spay and Neuter Program Fee.

**FISCAL IMPLICATIONS**

In 2025, there were 15,677 pet food products registered with the New Mexico department of agriculture (NMDA). Approximately 9% of the registered pet food products are exempt from the spay and neuter program fee. The estimated annual revenue is approximately \$1,426,700.

Ninety-six percent (96%) of the spay and neuter program fee revenue is deposited into the statewide spay and neuter subaccount. The subaccount is estimated to receive approximately \$1,369,632 annually.

The remaining four percent (4%) of fee revenue is retained by NMDA to administer the Commercial Feed Act. Of the amount retained by NMDA, New Mexico state university (NMSU) receives five percent (5%) for institutional support. After the NMSU allocation, NMDA is estimated to receive approximately \$54,214 annually.

**SIGNIFICANT ISSUES**

SB 38 eliminates the July 1, 2026, delayed repeal of 76-19A-10.1 NMSA Spay and Neuter Program Fees, effectively making these fees permanent. It mandates that NMDA will collect the spay and neuter program fee, in addition to the registration and inspection fee on each brand of pet food registered with the NMDA. Ninety six percent (96%) of the spay and neuter program fee shall be deposited with the state treasurer and credited to the statewide spay and neuter subaccount of the animal care and facility fund, the remaining four percent (4%) shall be distributed to NMDA to administer the Commercial Feed Act. This act went into effect on July 1, 2020.

Currently, all New Mexico manufacturers are exempt from the spay and neuter program fee. Manufacturers must submit an attestation annually or at the time of registration (new manufacturers) to qualify for an exemption.

**PERFORMANCE IMPLICATIONS**

N/A

**ADMINISTRATIVE IMPLICATIONS**

N/A

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB 51 Spay and Neuter Fee Delayed Repeal is a duplicate bill to SB 38.

**TECHNICAL ISSUES**

N/A

**OTHER SUBSTANTIVE ISSUES**

Section 76-19A-10.1 NMSA is currently the subject of pending litigation regarding the constitutionality of the fee. The Pet Food Institute filed a complaint seeking declaratory judgment and injunctive relief. The parties are

awaiting a hearing on cross motions for summary judgment.

**ALTERNATIVES**

N/A

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Section 76-19A-10.1 of the Commercial Feed Act will be repealed on July 1, 2026.

**AMENDMENTS**

N/A