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FISCAL IMPACT REPORT

ORIGINAL DATE 1/30/2020
 SPONSOR Candelaria/Ferrary LAST UPDATED 2/03/2020 HB _____
 SHORT TITLE Pet Food Fee for Neutering & Sheltering SB 57/aSPAC
 ANALYST Daly/Hanika-Ortiz

REVENUE (dollars in thousands)

| Estimated Revenue | | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|---------|---------|-----------|---------------------------------|-------------------------------------|
| FY20 | FY21 | FY22 | FY 23 | | |
| | \$31.6 | \$47.4 | \$63.2 | Recurring | BVM |
| | \$25.0 | \$39.5 | \$50.0 | Recurring | NMDA |
| | \$657.9 | \$986.8 | \$1,315.7 | Recurring | Animal Care and Facility Fund |

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| FY20 | FY21 | FY22 | FY23 | 4 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|------|-----------------|-----------------|-----------------|----------------------|------------------------------|---------------------|
| | \$32.7 | \$65.4 | \$65.4 | \$163.5 | Recurring | BVM |
| | \$30.0 | \$25.0 | \$20.0 | \$75.0 | Recurring | <u>NMDA</u> |
| | (Indeterminate) | (Indeterminate) | (Indeterminate) | (Indeterminate) | Recurring | Local Government |

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Board of Veterinary Medicine (BVM)
 New Mexico Department of Agriculture (NMDA)
 New Mexico Attorney General (NMAG)

SUMMARY

Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendment to Senate Bill 57 further clarifies that the groups which provide assistance to low income recipients must be nonprofit organizations.

Synopsis of Original Bill

Senate Bill 57 creates a new spay and neuter program fee in the Commercial Feed Act to be collected by NMDA on each brand name of commercial feed distributed in New Mexico for pet consumption. The fee is \$50 starting January 1, 2021; \$75 starting January 1, 2022; and \$100 on and after January 1, 2023 and is collected at the same time as the two dollar registration fee under existing law. Prescription pet food prescribed by a veterinarian and pet food manufactured by a person whose tax-year gross revenue from distribution of that feed is no more than \$3 million are exempted from this fee. Fees collected will be credited to the spay and neuter subaccount of the existing animal care and facility fund, except for 4 percent that is distributed to NMDA.

After the distribution to NMDA, monies may also be used by the BVM to implement its dog and cat spay and neuter assistance program and to cover the reasonable costs of administering the Animal Sheltering Act, subject to a 5 percent cap. SB5 limits assistance provided for the spay and neuter program to those individuals whose income, and to groups who provide assistance to recipients whose incomes, do not exceed 200 percent of current federal poverty level guidelines.

Additionally, the BVM's annual report to the legislature must include information on the number of dogs and cats spayed and neutered and the average cost paid per surgery from the spay and neuter subaccount of the animal care and facility fund. In addition, NMDA will be required to include in its annual report the number of pet foods registered under the Commercial Feed Act.

Finally, the effective date of the bill is July 1, 2020, and it contains a delayed repeal date, repealing the fee effective July 1, 2026.

FISCAL IMPLICATIONS

Revenues. NMDA reports that in 2019 it had approximately 13,300 pet food and pet treat labels registered with that office. Based on that number and the graduated fee schedule provided for in SB57, it estimates revenues of approximately \$657,850.00 in FY21, approximately \$986,775.00 in FY22 and approximately \$1,315,700.00 in FY23 through this fee on pet foods. SB 57 provides 4 percent for administrative costs for NMDA to administer the New Mexico Commercial Feed Act. New Mexico State University (NMSU) takes 5 percent for institutional support on all fees and general fund revenue at NMDA; thus NMDA will receive approximately \$24,998.00 in FY21 to administer the collection of the fees. That number is reflected in the revenue table. Additionally, based on language in the bill authorizing BVM to use up to 5 percent of these monies (after the deduction for NMDA) to cover its reasonable cost to administering the Animal Sheltering Act, LFC staff has projected revenues to both BVM and the Animal Care and Facility Fund for FY 21 based on NMDA's revenue estimates. Using those estimates, LFC staff projected revenues to both agencies and the fund for FY22 and FY23 (after deduction of the administrative fees) to show the effect of the fee once it is fully implemented (in FY 23).

Operating Budget Impact. NMDA reports it will need to develop a training program to educate industry on the new fee requirements and fee structure, as well as performing other tasks to

administer this new fee, which will require additional staff time and resources. Its projected cost for these activities is reflected in the budget impact table. Although BVM estimates an annual cost of \$75 thousand to provide management and administration of the funds generated by the pet food fee, it provides no justification for that number, so LFC staff used numbers reflecting a midpoint salary of \$46.2 thousand, plus \$18.2 in benefits, for a total of \$65.4 thousand for one financial specialist in the state's classified system. This impact is reduced in FY21 by one-half, as fees are collected midway through that year, all as shown in the budget impact table.

Thus, the revenue and operating budget impact tables reflect the portion of fees received and expended to administer the new program and distribute for covered services, which should reduce care and euthanasia costs of local animal shelters as a result of more widespread spay and neuter services.

SIGNIFICANT ISSUES

BVM advises that the overpopulation of unwanted animals will not be curbed without providing low-cost spay and neuter services to the public. Without these services, animal sheltering providers will not be able to humanely take in stray, unwanted or surrendered companion animals. It also points out that increase in spay and neuter services will eventually lower euthanasia statistics.

A 2012 study (SM 36, 2011 Regular Session) on a statewide spay and neuter program found the animal shelter board (which merged with BVM in 2018) lacked funding to address animal shelter overpopulation. The study reported in 2011, animal shelters and euthanasia agencies took in 118,000 cats and dogs and 55,000 were euthanized. This cost the state \$27 million annually at the time (the total budget for shelters and euthanasia agencies). Existing law authorizes a pet care special registration license plate and an income tax refund check-off for BVM's spay and neuter program, but neither source has provided sufficient monies to adequately fund that program.

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

NMDA suggests that enforcement of the new fees could lead to commerce restriction or limitations as any company that does not comply with the fee increase will be subjected to detained product(s) in accordance with Section 76-19A-13 NMSA 1978 the Commercial Feed Act.

OTHER SUBSTANTIVE ISSUES

NMDA reports there are approximately 21 New Mexico companies with 116 products registered that may be required to pay this fee.

AMENDMENTS

NMAG comments that the language in Section 1, page 2, lines 2-8, regarding the eligibility of

individuals and groups to receive assistance is awkward and more likely to be understood if included in a separate subsection that might read:

No individual shall be eligible to receive assistance, either directly or from a group, if the individual has a household income that exceeds two hundred percent of the current federal poverty level guidelines published by the United States department of health and human services.

Additionally, it comments that the meaning of the term “group” within this context is not clear.

MD/AHO/al/sb