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FISCAL IMPACT REPORT

ORIGINAL DATE 03/02/21

SPONSOR SIRC LAST UPDATED _____ HB _____

SHORT TITLE Wild Horse Management SB 385/SIRCS

ANALYST Hanika-Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Indeterminate, see fiscal impact.			Recurring	NMLB fees fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From (Original Bill)

New Mexico Livestock Board (NMLB)

Board of Veterinary Medicine (BVM)

SUMMARY

Synopsis of Bill

The Senate Indian, Rural and Cultural Affairs Committee substitute for Senate Bill 385 proposes to amend Section 30-18-1 NMSA 1978 for animal cruelty offenses and Section 30-18-1.2 NMSA 1978 for disposition of seized animals, by including wild horse under the term “animal” and by excluding from the term “livestock” wild horses and equines subject to federal government jurisdiction.

The substitute amends the Livestock Code as it relates to definitions for “animals” or “livestock” to separately define and provide for wild horses in the Livestock Code and equines subject to jurisdiction of the federal government pursuant to the Wild Free-Roaming Horses and Burro Act.

The substitute also adds a new Section 77-18-5 NMSA 1978 that allows a state government entity with jurisdiction over land a wild horse is found, or a person that owns, leases, or administers land a wild horse is found, to ask the NMLB to capture the wild horse if a physical threat, requires veterinary care, or the range land has exceeded its carrying capacity. This section allows a wild horse to be permanently removed if it’s unhealthy or injured, or if the public entity with jurisdiction over any part of the range conducts a wild horse herd study, to determine if the range has exceeded its carrying capacity, and develops a wild horse herd management plan with disposition options.

This new section would also allow owners of private property contiguous with public property that is part of a wild horse range to enter into an agreement with the public entity undertaking the study to have the private property considered in the determination of the range's carrying capacity.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

The bill does not carry an appropriation related to the new procedures for managing wild horse populations. As NMLB explained, it is an agency primarily funded by the livestock industry, and that funding is not adequate to cover costs of impounding, feeding and disposing of wild horses. To meet the directives of the bill, NMLB believes another division would need to be created.

The LFC cash balance report dated December 2020 noted \$5.5 million in the NMLB's fees fund and \$22.8 thousand in its horse shelter rescue fund from contributions of personal tax refunds.

This bill directs the state entity with jurisdiction to conduct a herd study, implement a herd management plan, and develop proposals for removal and disposition options. The bill requires these studies to be performed by an individual with demonstrated wild horse expertise. If called upon to conduct these studies, NMLB reported it would need to contract with an entity. The amount of funding for this purpose is unknown, but NMLB expects the cost is be about \$50 an hour.

NMLB licenses horse rescues, sanctuaries and retirement facilities in the state. This may include grant funding to places that care for captured wild horses that cannot be returned to their ranges.

SIGNIFICANT ISSUES

The bill clarifies law enforcement by explicitly protecting wild horses under the state animal cruelty statute and by ensuring wild horses are not covered by provisions for livestock disposition which can include being categorized as estrays, and subsequently sold, slaughtered or euthanized.

The NMLB is the regulatory authority governing the abuse and neglect of livestock, which is currently defined in the Livestock Code as domestic animals used or raised on a farm or ranch including horses, asses, mules and exotic animals in captivity, and does not include dogs and cats.

The bill requires that the agreement requested by the land owner to have their property considered in the range capacity study, be recorded as an easement; have a term of no less than five years and be irrevocable during the term of the agreement; include a legal description of what part of the property is subject to the restriction; and prohibit the owner of the private property from taking any action to impede access by wild horses to that part of the property subject to the easement.

The NMLB explained the bill discusses returning a wild horse that is captured to a "wild horse range" when reasonable. With the exception of federal lands in New Mexico designated for the Wild Free-Roaming Horses and Burros Act, there are limited wild horse areas in New Mexico according to a study in 2019 by the New Mexico State University. The study also concluded there are no viable expanses of public lands in New Mexico to sustain the relocation of wild horses.

As an option of returning a wild horse that is captured, to a range or preserve, the bill directs that

the horse may be sent to a rescue or retirement facility. The NMLB further noted that the horse retirement and rescue facilities are at full or near to capacity in the state. Any large scale removal or gathering would result in pushing the licensed rescues in this state over their capacity limits.

PERFORMANCE IMPLICATIONS

The definition of livestock in statute currently covers equines, whether free roaming, feral or wild. By removing the definition of wild horse from the definition of livestock, NMLB believes it could add to the confusion for future judicial decisions. In the past, when NMLB has responded to equines on private lands, a restraining order has been put in place by judicial entities, and extensive litigation has followed. Furthermore, NMLB explained it is not a land management agency. Much of the substitute deals with range capacity and land management, this mandate is not consistent with the historical mission of the NMLB which is to protect livestock from disease and theft.

ADMINISTRATIVE IMPLICATIONS

Getting clarify around this issue may help reduce legal fees and other costs from years of lawsuits the NMLB has been involved in with advocates when picking up horses from private property.

ALTERNATIVES

NMLB says funding is needed to conduct further study and analysis, especially for the two areas of the state that deal with this issue, Placitas and Alto, to meet the directives of the bill.

OTHER SUBSTANTIVE ISSUES

The study proposed by NMLB could ask for participation from land management agencies such as the State Land Office and Energy, Minerals and Natural Resources Department, in addition to NMSU. The federal Wild Free-Roaming Horses and Burros Act similarly provides for the management, protection and control of wild horses and burros on public lands by directing the Bureau of Land Management of the Department of the Interior, and the Forest Service of the Department of Agriculture, to manage such animals on public lands under their jurisdiction.

The BVM supports the bill as a means to protect animals, domesticated or wild, from cruelty.

AHO/sb/rl