

**LFC Requester:**

**Emily Hilla**

**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**SECTION I: GENERAL INFORMATION**

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

*Check all that apply:*

**Original**      X      **Amendment**    \_\_\_\_\_  
**Correction**    \_\_\_\_\_    **Substitute**    \_\_\_\_\_

**Date Prepared:**      1/23/2024  

**Bill No:**      House Bill 191  

**Sponsor:**      Tera L. Lujan, Joseph L. Sanchez, and Cynthia Borrego  

**Short Title:**      Animal Welfare Funding Act  

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

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
	10,000,000	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(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**

House Bill (“HB”) 191 would establish an animal welfare trust fund (the “Fund”) by appropriating ten million (\$10,000,000) from the general fund every fiscal year starting in 2025. The Fund would be used to award “animal welfare grants” to a qualifying public body. The bill would allow grants to be made in hundred thousand dollars (\$100,000) increments, to support projects such as, feed for animals, improving shelters, equipment for animal control, and supporting pet owners making less than two hundred percent of the federal poverty level (200%), etc. The Fund would be administered by the Department of Finance Administration (“DFA”), and would require DFA to promulgate rules to govern the grant program.

**FISCAL IMPLICATIONS**

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

**SIGNIFICANT ISSUES**

HB 191 would permit a grant to be awarded to provide animal welfare services “to unhoused persons and other supplies to a person or household whose income does not exceed two hundred percent of the federal poverty level to aid in humane animal care.” Any direct award to a qualifying individual would likely violate the Anti-Donation Clause of the New Mexico Constitution. Constitution of New Mexico, Article IX, Section 14. This issue would remain even if HB 191 contemplates grant awards to public entities who would provide animal welfare services to qualifying individuals. The exception to the Anti-Donation Clause that allows “making provision for the care and maintenance of sick and indigent persons” may not extend to providing animal welfare services to such persons.

HB 191 also contemplates grant awards to non-profit entities. Those awards could also conflict with anti-donation limits. A non-profit private entity is treated no differently than a for-profit private entity for an anti-donation analysis. Unless a private entity is receiving government funds solely to fulfill a government function, the funding contravenes the Anti-Donation clause. To avoid potential anti-donation concerns, grant awards should only go to public entities who

can then contract with non-profit concerns to fulfill a government function supported by the award.

Grant funding is not recurring, but the financial needs of entities providing animal welfare services are largely perpetual and expanding. The grant award mechanism contemplated by HB 191 would not ensure the recurring funding animal welfare service entities need to provide consistent services.

### **PERFORMANCE IMPLICATIONS**

Numerous laws appropriate general fund revenues to state agencies for the purpose of seeding grant award programs. All state entities who administer such funds would benefit from rules that govern the establishment and administration of a grant program. Amending HB 191 to authorize DFA to promulgate rules that would be applicable to all state entities who administer grant programs would create efficiencies and avoid or minimize conflicting grant program development and administration practices.

### **ADMINISTRATIVE IMPLICATIONS**

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None.

### **TECHNICAL ISSUES**

### **OTHER SUBSTANTIVE ISSUES**

### **ALTERNATIVES**

None currently.

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

Status quo.

### **AMENDMENTS**

None currently.