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FISCAL IMPACT REPORT

SPONSOR <u>Lujan/Sanchez/Borrego</u>	LAST UPDATED _____
	ORIGINAL DATE <u>1/27/24</u>
SHORT TITLE <u>Animal Welfare Funding Act</u>	BILL NUMBER <u>House Bill 191</u>
	ANALYST <u>Hilla</u>

APPROPRIATION* (dollars in thousands)

FY24	FY25	Recurring or Nonrecurring	Fund Affected
	\$10,000.0	Nonrecurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From

Livestock Board (NMLB)
 Regulation and Licensing Department (RLD)
 State Investment Council (SIC)
 Attorney General (NMAG)

Agency Analysis was Solicited but Not Received From

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of House Bill 191

House Bill 191 (HB119) appropriates \$10 million from the general fund to the newly created animal welfare trust fund to carry out the purposes of a new section of statute to be called the Animal Welfare Funding Act. HB191 also creates the animal welfare grant fund and provides duties to the Department of Finance and Administration (DFA).

The animal welfare grant fund allows qualified entities to apply for animal welfare grants for projects relating to dogs, cats, or equines for the construction or renovation of animal shelters, purchase vehicles or equipment to be used for animal intake, and provide emergency shelter for animals, and to provide supplies to low-income persons to aid humane animal care.

DFA will set rules around the application process to receive the grant and distribute it

accordingly. The new animal welfare trust fund is to be invested by the State Investment Officer (SIC) as the land grant permanent funds (LGPF) are invested pursuant to Chapter 6, Article 8 NMSA 1978. Money in the trust fund may only be expended to make regular distributions to the grant fund. Distributions are set at \$100 thousand each fiscal year beginning in FY26 and then increases to 4.7 percent of a rolling five-year average market value of the fund once that amount exceeds \$100 thousand.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, or May 15, 2024, if enacted.

FISCAL IMPLICATIONS

The appropriation of \$10 million contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund. Although House Bill 191 does not specify future appropriations, establishing a new grant program could create an expectation the program will continue in future fiscal years; therefore, this cost could become recurring.

Following an agency analysis from the State Investment Council, the table below shows the potential investment returns from the animal welfare trust fund and subsequent potential distributions to the grant fund:

<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">- Assumed Annual Return:</td> <td style="text-align: center; padding: 2px;">6.00%</td> </tr> <tr> <td colspan="2" style="padding: 2px;"><i>(note, actual return target would be driven by the asset allocation)</i></td> </tr> </table>	- Assumed Annual Return:	6.00%	<i>(note, actual return target would be driven by the asset allocation)</i>		<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">Distrib. Minimum</td> <td style="text-align: right; padding: 2px;">\$ 0.1</td> </tr> <tr> <td style="padding: 2px;">Distrib. %:</td> <td style="text-align: right; padding: 2px;">4.7%</td> </tr> <tr> <td style="padding: 2px;">Min. Balance for Distribution:</td> <td style="text-align: right; padding: 2px;">\$0</td> </tr> </table>	Distrib. Minimum	\$ 0.1	Distrib. %:	4.7%	Min. Balance for Distribution:	\$0
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Animal Welfare Trust Fund (\$millions)						
Calendar Year	Beginning Balance	Contributions	Distrib	Gains & Losses	Ending Balance	YOY Fund Growth
2024	\$0.0	\$10.0	\$0.0	\$0.3	\$10.3	
2025	\$10.3	\$0.0	-\$0.1	\$0.6	\$10.8	5.0%
2026	\$10.8	\$0.0	-\$0.2	\$0.6	\$11.3	4.1%
2027	\$11.3	\$0.0	-\$0.3	\$0.7	\$11.6	3.2%
2028	\$11.6	\$0.0	-\$0.4	\$0.7	\$11.9	2.3%
2029	\$11.9	\$0.0	-\$0.5	\$0.7	\$12.1	1.5%
2030	\$12.1	\$0.0	-\$0.5	\$0.7	\$12.2	1.4%
2031	\$12.2	\$0.0	-\$0.6	\$0.7	\$12.4	1.3%
2032	\$12.4	\$0.0	-\$0.6	\$0.7	\$12.6	1.3%
2033	\$12.6	\$0.0	-\$0.6	\$0.7	\$12.7	1.3%
2034	\$12.7	\$0.0	-\$0.6	\$0.7	\$12.9	1.3%
2035	\$12.9	\$0.0	-\$0.6	\$0.8	\$13.0	1.3%
2036	\$13.0	\$0.0	-\$0.6	\$0.8	\$13.2	1.3%
2037	\$13.2	\$0.0	-\$0.6	\$0.8	\$13.4	1.3%
2038	\$13.4	\$0.0	-\$0.6	\$0.8	\$13.6	1.3%
2039	\$13.6	\$0.0	-\$0.6	\$0.8	\$13.7	1.3%
2040	\$13.7	\$0.0	-\$0.6	\$0.8	\$13.9	1.3%

Distribution to Animal Welfare Grant Fund		
Fiscal Year	Distrib Date	Amount (\$MM)
FY24	Jul-23	\$0.000
FY25	Jul-24	\$0.000
FY26	Jul-25	\$0.100
FY27	Jul-26	\$0.198
FY28	Jul-27	\$0.304
FY29	Jul-28	\$0.414
FY30	Jul-29	\$0.525
FY31	Jul-30	\$0.542
FY32	Jul-31	\$0.555
FY33	Jul-32	\$0.566
FY34	Jul-33	\$0.575
FY35	Jul-34	\$0.582
FY36	Jul-35	\$0.590
FY37	Jul-36	\$0.598
FY38	Jul-37	\$0.605
FY39	Jul-38	\$0.613
FY40	Jul-39	\$0.621

In reference to the table, SIC says:

Return expectations for funds the Council manages range from 5.1 percent (Tax Stabilization Reserve) to 7 percent (the long-term return target for the land grant permanent fund. For the purpose of this sample analysis, staff assume a 6 percent average annual return for the new Trust Fund created in this bill; however, actual return expectations would ultimately depend on the fund’s asset allocation. Under these

assumptions, the AWTF would likely distribute \$100 thousand to the grant fund in FY26, and depending on the returns earned on the AWTF's investments (and any additional appropriations in subsequent years) the distribution may be expected to increase. Any increase in the trust fund's market value (and subsequent distributions), however, would be wholly dependent upon actual returns in the future market environment and cannot be predicted with certainty.

SIGNIFICANT ISSUES

The bill allows for grants to be awarded to unhoused persons and other supplies to a person or household whose income does not exceed 200 percent of the federal poverty level to aid in humane animal care. The attorney general's office (NMAG) says:

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. HB191 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.

SIC says that, as a manager for the new trust fund, it is important for the Council to properly understand the long-term goals and risk and return of the fund's "client" to appropriately allocate the funds. SIC says they support public policy that encourages maximizing the long-term benefits that endowments can and do provide to the state and its various needs. The Council says the endowment model acts not only to stabilize budgets for planning purposes, but also as a revenue engine to benefit current and future generations.

PERFORMANCE IMPLICATIONS

The State Investment Officer, on approval of the State Investment Council, would manage the new trust fund in accordance with the Uniform Prudent Investor Act and would seek to "ethically optimize risk-adjusted returns and grow the fund over time."

NMAG says that agencies, like DFA, who administer grant award programs that are appropriated from general fund revenues would benefit from rules that govern the establishment and administration of a grant program. NMAG says amending the bill 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

SIC says the bill will require additional time from their staff, but additional resources can be addressed through their ordinary budgeting process.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

New Mexico Livestock Board says the bill may conflict with Section 77-2-30 NMSA 1978, Horse rescue or retirement facility; registration; board powers and duties; fees. Section 77-2-30 NMSA 1978 regards the rescue and lifelong care for horses that are unwanted, neglected or abused, or captured wild horses that cannot be returned to their range.

TECHNICAL ISSUES

In regard to the fund life, SIC says:

Section 5-B of the bill outlines the Trust Fund's distribution policy, which is set at \$100 thousand each year until 4.7 percent of the rolling 5-year average of the Trust Fund's market value exceeds that amount, then the formulaic percentage value will be used for the distribution. Since this is a new fund, for the first five years of the fund's life it is unclear how to properly calculate a five-year average. For example, in FY26, the calculation could be based on 4.7 percent of an average of \$2 million (\$10 million for one year and \$0 for four years); or, the calculation could be based simply on 4.7 percent of \$10 million since the fund was nonexistent for the prior four years. For the purposes of our bill analysis, we assume the former interpretation, wherein the five-year average is assumed be \$2 million, which would align with the bill's inclusion of a \$100 thousand 'floor' for the distribution. However, if this is not the intent, we would suggest adding clarifying language to the bill.

EH/ne