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FISCAL IMPACT REPORT

LAST UPDATED _____

SPONSOR Hamblen **ORIGINAL DATE** 2/19/2025

BILL

SHORT TITLE Equine Shelter Rescue & Welfare Trust **NUMBER** Senate Bill 358

Fund

ANALYST Ortega

APPROPRIATION*

(dollars in thousands)

FY25	FY26	Recurring or Nonrecurring	Fund Affected
	\$20,000.0	Nonrecurring	General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

REVENUE*

(dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
			(\$428.0)	(\$856.0)	(\$898.0)	Recurring	Equine Welfare Trust Fund
			\$419.0	\$839.0	\$880.0	Recurring	Equine Shelter Rescue Fund
			\$9.0	\$17.0	\$18.0	Recurring	NM Livestock Board

Parentheses () indicate revenue decreases.
 *Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
NMLB	No fiscal impact	Up to \$541.3	Up to \$548.3	Up to \$1,089.5	Recurring	General Fund
NMLB	No fiscal impact	\$30.0	No fiscal impact	30.0	Nonrecurring	General Fund
Total	No fiscal impact	Up to \$571.3	Up to \$548.3	Up to \$1,119.5		General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Relates to House Bill 284
 Conflicts with Senate Bill 202

Sources of Information

LFC Files

Agency Analysis Received From

New Mexico Attorney General (NMAG)
State Investment Council (SIC)
New Mexico Board of Veterinary Medicine (NMBVM)
New Mexico Livestock Board (NMBL)

Agency Analysis was Solicited but Not Received From

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Senate Bill 358

Senate Bill 358 (SB358) creates the equine welfare trust fund as a nonreverting investment fund in the state treasury and appropriates \$20 million from the general fund to the equine welfare trust fund to aid equine rescues and homeless equines in New Mexico. The bill also amends Section 77-2-32 to add more specificity to the purposes of the equine shelter rescue fund, including specifying that the fund can be used to provide feed and pasture to maintain equines or to administer adoption programs and services. The bill adds language specifying that the New Mexico Livestock Board (NMLB) is responsible for administering the fund, sets out eligibility criteria for service contractors applying to the fund, and requires NMLB to create an advisory board to review and recommend applications for contracts. Additionally, SB358 requires NMLB to report on the equine shelter rescue fund annually to the Legislative Finance Committee (LFC), detailing fund distributions, contract performance, and unmet funding needs.

Beginning in fiscal year 2026, annual distributions from the trust fund will provide funding for the existing equine shelter rescue fund, starting at 2 percent of the trust fund's year-end market value and increasing to 4 percent in subsequent years. A portion of the distribution is allocated to the NMLB for administrative costs. This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

The appropriation of \$20 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.

The State Investment Council (SIC) notes the bill's proposed spending policy of 2% in the first year and 4% thereafter is considered conservative but necessary given the absence of a dedicated revenue source beyond investment returns. SIC also notes that the newly established Equine Welfare Trust Fund may assume a 7% annual return, given its structure of consistent annual distributions based on a rolling average market value and the absence of provisions to supplement general fund budgets in the event of a fiscal deficit. This structure allows the fund's balance and distributions to grow over time. Under these assumptions, SIC projects an initial distribution of approximately \$428,000 in FY27, with \$9,000 allocated to the New Mexico Livestock Board (NMLB) for administrative costs and the remaining \$419,000 transferred to the Equine Shelter Rescue Fund.

NMLB) notes several fiscal implications associated with administering the Equine Shelter Rescue Fund. The agency estimates costs for an eight-member advisory committee, including travel and per diem, at \$10 thousand. Additionally, NMLB believes the bill may necessitate up to four new FTE to manage fund administration, contract compliance, veterinary oversight, and public records requests, with total recurring costs of approximately \$456.2 thousand. NMLB also anticipates the need for a professional/technical contract for range management at an annual cost of \$75,000 and the procurement of a data management system for contract tracking, with a one-time cost of \$30,000 and a recurring annual maintenance cost of \$7,000.

SIGNIFICANT ISSUES

SB358 raises potential concerns regarding the Anti-Donation Clause of the New Mexico Constitution (Article IX, Section 14), which prohibits the state from making donations to private entities without receiving something of value in return.

New Mexico Attorney General (NMAG) highlights that funding private horse rescues could be deemed an unconstitutional donation, under New Mexico's Anti-Donation Clause. The determining factor will likely be whether the state receives a measurable benefit from the funding, such as improved equine welfare standards or reduced abandonment rates. Additionally, the bill requires eligible applicants to be recognized under the Internal Revenue Code, which is subject to federal amendments that could impact eligibility criteria over time.

SIC notes that the equine welfare trust fund's distribution methodology deviates from standard practices for other SIC-managed funds. Rather than using a three- or five-year rolling average to stabilize distributions, the fund bases its annual payout on the most recent fiscal year-end valuation, making it more vulnerable to market fluctuations. Additionally, SIC raises concerns about the bill's proposed July 1, 2026, distribution date, as final fiscal-year-end market values are not available until approximately July 21. To ensure feasibility and align SB358 with other state-managed endowments, SIC recommends basing distributions on calendar-year-end valuations, allowing for more accurate financial planning and legislative budgeting.

NMLB raises concerns about its role in administering the fund, particularly regarding its constitutional and regulatory authority. According to NMLB, the bill suggests that horse shelters function as an extension of NMLB's regulatory duties, despite being independently owned and operated 501(c)(3) organizations with no direct oversight from the board. NMLB argues that the bill creates the appearance of a formal relationship between the shelters and the board, potentially conflicting with the Anti-Donation Clause of the New Mexico Constitution, which prohibits the state from providing direct aid to private entities without receiving commensurate services in return. According to NMLB, in the past, the Equine Shelter Rescue Fund has been supported through public donations and one-time legislative appropriations.

Additionally, NMLB notes that privately owned rescues could be subject to public records requests under the Inspection of Public Records Act (IPRA), leading to potential compliance challenges. Even with a dedicated IPRA coordinator, NMLB would lack direct authority over these shelters to ensure compliance with legal record requests, creating liability concerns.

NMLB also notes:

NMLB does license and regulate privately owned businesses, which usually only involves an annual inspection of the premises to ensure the licensing requirements are

met. If there is a problem that arises during the year, NMLB may enforce laws if needed. This bill would significantly increase NMLB’s regulatory involvement at those facilities. As stated above, it would require new FTE positions.

Page 2 lines 9 and 10 mentions “pasture”. To provide enough pasture for a large number of equines, a range conservation evaluation would be needed to evaluate that situation. The NMLB does not have the expertise in that area. If required, the NMLB will need to contract with a range management specialist which will require more funding.

SIC notes:

The State Investment Officer, with the approval of the State Investment Council would manage the fund in accordance with the Uniform Prudent Investor Act and would seek to ethically optimize risk-adjusted returns and grow the fund over time. The Council does not currently have a “boilerplate” asset allocation for any fund, including the proposed fund, but it is a fair assumption that the new fund could/would be constructed in a manner similar to other permanent/trust funds managed by the SIC.

ADMINISTRATIVE IMPLICATIONS

SIC anticipates increased administrative workload due to the bill, requiring additional time and resources from investment, accounting, and administrative staff.

NMLB states it lacks the staff capacity to meet the bill’s contract tracking and financial reporting requirements and would need a new finance-focused FTE to manage compliance with DFA.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

NMAG notes SB358 relates to House Bill 284 (HB284), which amends the definition of an equine rescue or retirement facility under Section 77-2-30 NMSA 1978. While the bills do not conflict, HB284 may slightly alter the facilities eligible for funding under SB358.

SIC states SB358 conflicts with Senate Bill 202 (SB202), which seeks to standardize trust and program fund functions, including investment policies under the Uniform Prudent Investor Act and more consistent distribution mechanisms based on a rolling average market value. According to SIC, SB358’s proposed distribution structure deviates from this approach, creating inconsistencies with SB202’s broader effort to align trust fund management across state funds.

OTHER SUBSTANTIVE ISSUES

NMAG notes that Sections 1(E) and 1(F) of SB358 reference an applicant or organization being “in good standing” with NMAG. However, NMAG does not issue a “good standing” designation under the Charitable Solicitations Act and instead classifies organizations as “compliant.” According to the department, Legislators may consider amending the bill to align with NMAG existing terminology to avoid any inconsistencies in implementation.

AO/hj