



Water & Natural Resources Committee Presentation

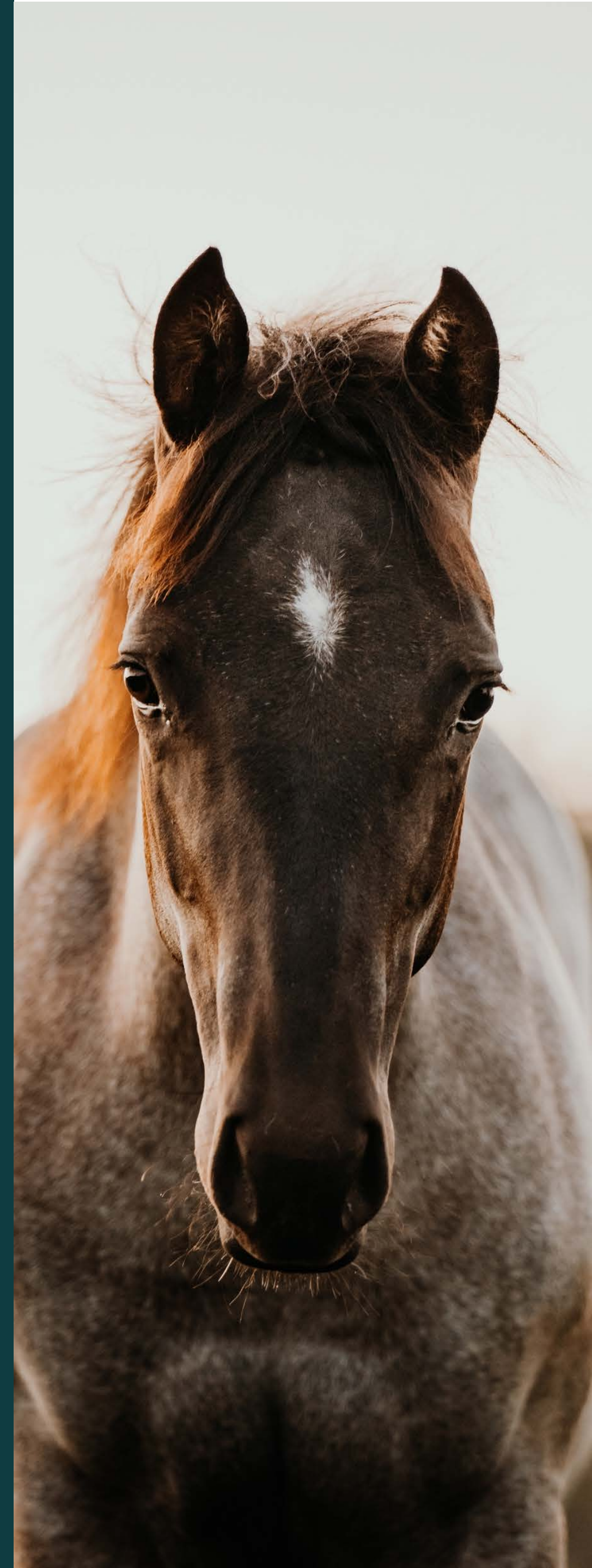
Equine and Animal Welfare Trust Funds

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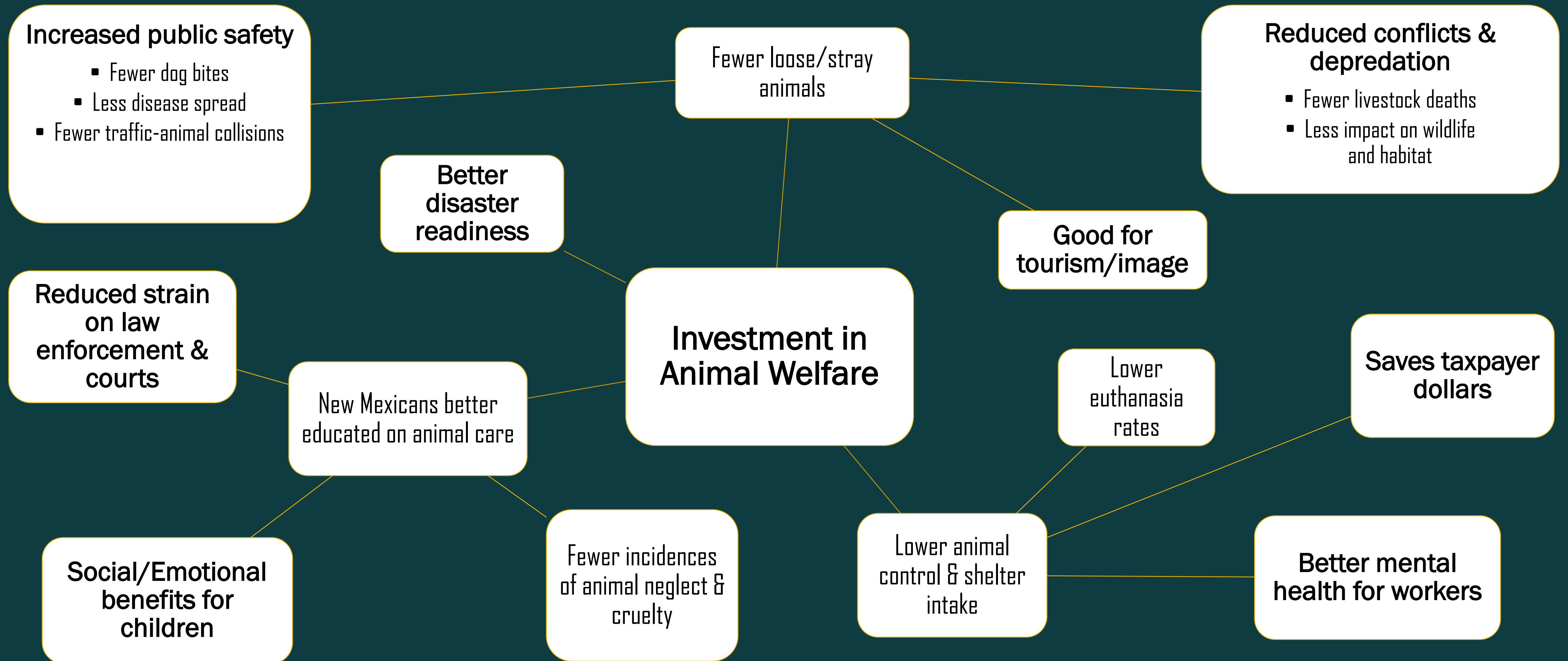
**ANIMAL
PROTECTION
VOTERS**



New Mexico Lacks Resources to Adequately Address Critical Animal Welfare Issues

- **No single central state entity** that oversees and funds the general welfare and population management of animals like **dogs, cats, and horses**.
- **40+ dog & cat shelters** are operated by or contracted by city and county governments – serve local areas accepting animals stray, surrendered, or seized
- **12 nonprofit equine shelters** are registered with the state – serve regional areas and take estray animals from Livestock Board and law enforcement
- Many facilities are chronically **at or over capacity** → euthanasia, horse slaughter
- Some risk **noncompliance with minimum standards**.
- Local government and nonprofit programs to stem intake are **underfunded**.
- Several areas of New Mexico **lack any animal care or control infrastructure**.

Animal welfare issues are inextricably intertwined with human needs and wellbeing.



Responsible Investing for New Mexico's Future— for Animals *and* People

Proposal 1:
Animal Welfare Trust Fund
for New Mexico's dogs and cats



Proposal 2:
Equine Welfare Trust Fund
for New Mexico's horses & other equines



Animal Welfare Trust Fund

for New Mexico's dogs and cats

Two Components to Be Created:

1. Animal Welfare Trust Fund

- Managed by the **State Investment Council**
- Earnings from investments transfer to an expenditure fund, the Animal Welfare Grant Fund
- Seed appropriation of **\$30 Million**

2. Animal Welfare Grant Fund

- Managed by the **Department of Finance and Administration**
- Funds would be disbursed to eligible entities as grants for certain projects

Eligible entities would include:

- State, county, or municipal governments
- Tribal governments
- Non-profit organizations

Grant funding could be used for:

- Construction, renovation, building and maintaining animal shelters
- Purchasing vehicles, equipment, and supplies for projects to
 - Reduce shelter intake and euthanasia
 - Mitigate threats to public and livestock
 - Investigate, respond to, and care for animals in cruelty and hoarding cases
- Provide assistance—food, shelter, vet care—for animals belonging to indigent persons
- Animal welfare education and public outreach programs



Equine Welfare Trust Fund

for New Mexico's horses and other equines



One Component to Be Created:

1. Equine Welfare Trust Fund

- Managed by the **State Investment Council**
- Earnings from investments transfer to an expenditure fund, the Equine Shelter Rescue Fund
- Seed appropriation of **\$20 Million**

2. Equine Shelter Rescue Fund ← *ALREADY EXISTS*

- Managed by the **New Mexico Livestock Board**
- Funds are disbursed in accordance with Section 77-2-32 NMSA 1978
- Historically has received funding through several one-time legislative appropriations and annual funds from tax check-off donations

❖ NOTE: Needs to be amended to accept distributions from the new Trust Fund

Eligible entities :

- Equine rescue or retirement facilities, as defined in statute, registered and regulated by the State

Grant funding is disbursed:

- "to carry out the intent of aiding equine rescues and homeless equines in the state" (77-2-32(A))
- "taking into consideration the number of equines being cared for in each facility and the need of each facility" (77-2-32(B))
- E.g. feed, veterinary expenses, sheltering State-surrendered and owner-surrendered animals

Legal and Constitutional

These proposed Trust Funds and corresponding Expenditure/Grant Funds:

- Do **NOT** present a conflict of interest for the agency distributing funds
- Do **NOT** affect or burden a distributing agency's responsibility to comply with IPRA (Inspection of Public Records Act) any more than today
- Do **NOT** violate the Anti-Donation Clause of the NM Constitution



About the Anti-Donation Clause (Article IX, Section 14)

The ADC prohibits the State or any county, school district or municipality from making a donation in aid of any person, association, or corporation.



KEY EXCEPTION: the care and maintenance of **sick or indigent persons**

See N.M. Att’y Gen. Op. 83-04 (July 29, 1983) (“A donation for the care and maintenance of either the sick or the indigent is not prohibited.”)



DOES NOT APPLY: when a governmental entity contracts to receive something of value in exchange for the transfer of money—an **exchange of adequate consideration is by definition not a donation**

See City of Raton v. Ark. River Power Authority, 600 F. Supp. 2d at 1147, 1161 (D.N.M. 2008) (“The Court does not believe that the Anti-Donation Clause is implicated when there is true consideration— money exchanged for a real product.”); State ex rel. Office of State Engineer v. Lewis, 2007-NMCA-008, ¶ 51, 141 N.M. 1 (appropriation to purchase and retire water rights no violation of the Anti-Donation Clause, because state received water rights in return for payment).



New Mexico State Ethics Commission Advisory Opinions

- **Advisory Opinion No. 2023-03** – A District Court using appropriated funds and other public monies to provide alcohol-and-drug-treatment services and supplies—including life skills training, alternative therapeutic training, exercise classes, fitness memberships, personal hygiene supplies, cleaning supplies, gardening supplies, and gift cards—to individuals participating in treatment court does not violate the Anti-Donation Clause.
- **Advisory Opinion No. 2022-07** – City of Albuquerque Council-directed sponsorship of a private non-profit organization would not violate the Anti-Donation Clause if, in a grant agreement, the non-profit gave a commitment or some other thing of value in exchange.
- **Advisory Opinion No. 2022-04** – A State Forestry Division grant in exchange for a contracting party to remediate noxious weeds on private property adjacent to forest land in which the state has an interest would not violate the Anti-Donation Clause.

Examples of State of New Mexico Programs Distributing State Funds to Non-Profit Organizations or Other Private Entities/Individuals

- NMDA Agriculture Workforce Development Program grants
- NMDA Healthy Soil Program Grants
- NMDA Noxious Weed Management Grants
- EMNRD Community Wildfire Defense Grants
- EMNRD Youth Conservation Corps Project Grants
- Early Childhood Education and Care Department Capacity Resources for Enhancing Care, Excellence, and Resilience (CRECER) Grants
- Department of Game & Fish E-PLUS
- NMED New Mexico River Stewardship Program
- Economic Development Department Outdoor Recreation Division Outdoor Equity Fund





Conclusion: The Time is Now to Establish Funding that Will Grow with Our Needs

Investing a small portion of New Mexico's current surplus, we can provide funding to build infrastructure, programs, and capacity to protect:

- People
- Animals
- Communities
- Environment

Current funding and infrastructure needs are urgent and will only grow worse in coming years. Establishing these two Trust Funds is a responsible way to ensure necessary funding.