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| LFC Requester: | Rick Martinez Jr. |
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**AGENCY BILL ANALYSIS
2014 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

And

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

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 January 27, 2014

Bill No: HB120-305 Jan 27

Sponsor: Rep. Elizabeth "Liz" Thomson

Reviewing Attorney General's Office

Short Add horses to animal cruelty

Person Writing Mary Helen Baber

Title: laws

Phone: 827-6064 **Email** mbaber@nmag.gov

SECTION II: FISCAL IMPACT **FOR LFC OFFICIAL PURPOSES******
AGO STAFF SHOULD LEAVE SHADED AREAS BLANK

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|------------------------------|------------------|
| FY14 | FY15 | | |
| | | | |
| | | | |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|---------------------------------|------------------|
| FY14 | FY15 | FY16 | | |
| | | | | |
| | | | | |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY14 | FY15 | FY16 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|-------------|-------------|-------------|------------------------------|--------------------------------------|--------------------------|
| Total | | | | | | |

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Opinion Letter. This is a staff analysis in response to the agency's, committee's or legislator's request.

BILL SUMMARY

Summary Synopsis: This bill amends animal cruelty laws, NMSA sections 30-18-1, to apply to horses. There are 7 exceptions to animal cruelty, including (1) hunting, (2) veterinary medicine, (3) rodent or pest control, (4) treatment of livestock used on farms or ranches, (5) Mexican and American rodeos, (6) for research facilities and (7) other activities not prohibited by law.

This bill could provide **for** horse slaughter by including an exception to exception (4). “. . . equines not classified as food animals by the United States department of agriculture. . .” In other words, horses **may** be slaughtered for human consumption if federal agencies classify horses as “food animals”. However, under current federal regulations, the de-funding of horse meat inspections, horse slaughter for human consumption is illegal.

Maliciously killing a “non-food” horse would be a misdemeanor crime in New Mexico.

FISCAL IMPLICATIONS WITH ENACTING THIS BILL

Funding will be necessary to implement and maintain a state system to comply with federal regulations.

SIGNIFICANT LEGAL ISSUES

Horse slaughter is a complex historical, political and emotional issue.

The Humane Society, Front Range Equine Rescue, actor/director/environmental activist Robert Redford and former New Mexico Governor Bill Richardson, among many others, oppose horse slaughter. Eighty percent (80%) of United States citizens oppose horse slaughter, according to ASPCA Report Confirms Majority of Americans Strongly Oppose Horse Slaughter for Human Consumption, Feb.1, 2012.

The Yakama Tribe, the Navajo Tribe (before reversing position in late 2013), United Horsemen and various agri-businesses have supported equine meat processing for export and/or human consumption in the United States. See also remarks to NM State Legislature Water and Natural Resources Committee by M. Culbertson, Executive Director, NM Livestock Board, June 30, 2011.

Numerous federal and state environmental, health and safety agencies, laws and regulations are implicated, including the US Department of Agriculture, New Mexico Environment Department,

New Mexico Water Quality Act, NM Food Act, New Mexico Unfair Practices Act and others.

In the U.S., horse slaughter has been legal or illegal depending on the vicissitudes of federal laws and regulations. In 2007 horse slaughter became illegal because of a federal act that de-funded horse meat inspection programs. In November 2011, a small group of federal congressmen added horse meat inspections funding to another funding bill. That addition permitted horse slaughter operations to begin or resume. As of January 2014, the federal horse meat inspection program was once again de-funded. As a result, horse slaughter for human consumption is no longer legal under federal regulations.

In 2013, New Mexico Attorney General Gary King filed suit for a temporary restraining order against Valley Meat to prevent the company from slaughtering horses. The suit identified numerous health and safety issues pertaining to adulterated meat and environmental hazards. The New Mexico District Court, D-101-CV-2013-03197, (Santa Fe District Judge Mathew Wilson) issued a preliminary injunction in favor of the State of New Mexico on Jan 17, 2014.

The essential issue is whether New Mexico should (1) prohibit horse slaughter, (2) permit horse slaughter, or (3) follow changing federal laws, regulations and funding (or de-funding.)

PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL

Criminal penalties seem weak and ineffective, especially in the absence of clear state policy pertaining to horse slaughter. Under current criminal laws, animal cruelty is a misdemeanor. The offense becomes a fourth (4th) degree felony only after three (3) prior misdemeanor convictions.

ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL

A regulatory system and funding will be necessary to comply with federal regulations.

If horse slaughter is prohibited, humane solutions such as sanctuary, adoption, controlled breeding and euthanasia for seriously injured, diseased or dying equine must be implemented and funded.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS INTRODUCED THIS SESSION

HB 119 Check animals rejected for human consumption at Mexican border.

HB 121 Prohibit slaughter of horses, misdemeanor, fund \$100,000 to state agencies.

TECHNICAL ISSUES OR DRAFTING ERROR

OTHER SUBSTANTIVE LEGAL ISSUES

1. Horse slaughter as a proposed solution for over-population and unwanted or abandoned horses is an issue. Pro slaughter officials estimate the number of horses rendered unwanted and in need of disposal throughout the United States will soon exceed half a million. Remarks by Culbertson, June 2011. Opponents to horse slaughter point out that slaughter is not a humane solution, and further, that to allow horse slaughter is to condone the horse meat industry. They argue that if slaughter is allowed, horses will be raised, like cattle and swine, for the primary purpose of meat

production for human consumption.

In Canada, horse slaughter is legal. The Alberta Equine Welfare Group commissioned a report in 2008 which points out that horse slaughter is not a solution to over population but is actually a meat production business in which horses are bred, like cattle, for the sole purpose of meat production. The result is that more horses are slaughtered. The Alberta Horse Welfare Report, February 2008, p.32. www.afac.ab.ca/producers/pdfs/08horsereport.pdf

2. It is not clear that the amendment in this bill prevents or intends to prevent horses from being transported to Mexico or Canada for slaughter. Both pro slaughter groups and opponents of horse slaughter maintain that the transport of live horses to other countries results in inhumane treatment of horses such as exhausting travel over a number of days, overcrowding during transport, lack of water and feed, unsafe conditions, lack of medical treatment for injuries and filthy, overcrowded feedlots where the horses are kept while awaiting processing (slaughter).

3. Without federal inspections, there is no guarantee that that horse meat will be fit for human consumption. Horses are commonly prescribed over 150 drugs that may remain in the meat and may not be healthy for humans. (See court order, p. 6). As articulated by the Attorney General, New Mexico has the legal and moral obligations to prevent adulterated meat from being distributed to anybody, not just residents of New Mexico.

ALTERNATIVES TO ENACTING THIS BILL

See HB 121, Prohibition of Horse Slaughter

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS NEEDED TO IMPROVE THIS BILL

See above. Consider adding provisions that prohibit or strictly regulate transport of horses for slaughter in other countries.