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SENATE BILL 735

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

DON KIDD

AN ACT

RELATING TO AGRICULTURE; ENACTING THE COTTON BOLL WEEVIL CONTROL ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE. -- This act may be cited as the "Cotton Boll Weevil Control Act".

Section 2. NEW MEXICO DEPARTMENT OF AGRICULTURE. -- The Cotton Boll Weevil Control Act is to be administered by the New Mexico department of agriculture, under the direction of the board of regents of New Mexico state university.

Section 3. DEFINITIONS. -- As used in the Cotton Boll Weevil Control Act:

A. "board" means the board of regents of New Mexico state university;

B. "cotton boll weevil" means any life stage of the

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1 cotton insect *Anthonomus grandis* Boheman;

2 C. "cotton boll weevil control committee" means the
3 persons, not less than three nor more than seven, elected by a
4 majority of the cotton producers in a designated cotton boll
5 weevil control district;

6 D. "cotton boll weevil control district" means a
7 designated area duly established under the Cotton Boll Weevil
8 Control Act wherein a program to suppress or eradicate the
9 cotton boll weevil is administered;

10 E. "cotton producer" means any person growing five
11 or more acres of cotton plants. For the purposes of the Cotton
12 Boll Weevil Control Act, only one person from any farm, sole
13 proprietorship, corporation, partnership or any other legal
14 business arrangement shall be eligible to vote to establish or
15 dissolve a cotton boll weevil control district;

16 F. "department" means the New Mexico department of
17 agriculture; and

18 G. "director" means the director of the New Mexico
19 department of agriculture.

20 Section 4. DUTIES AND POWERS. --The director shall
21 determine any critically infested or threatened agricultural
22 areas within New Mexico, hold public hearings within the
23 proposed cotton boll weevil control district determined to be
24 critically infested or at risk and provide technical support and
25 advice in the formulation of plans for the control or

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1 eradication of such infestation. The cotton boll weevil control
2 district, the cotton boll weevil control committee, the
3 department and the director, officers and employees are not
4 liable for errors in judgment, mistakes or other acts or
5 omissions made under the Cotton Boll Weevil Control Act.

6 Section 5. COTTON BOLL WEEVIL CONTROL COMMITTEE--DUTIES
7 AND POWERS.--

8 A. The local cotton boll weevil control committee
9 shall prescribe control measures for any cotton planted within a
10 control district. When prescribing control measures, the
11 committee shall make every effort to adhere to integrated pest
12 management practices and the management goals of individual
13 cotton producers consistent with the goal of complete
14 eradication of the cotton boll weevil. The committee shall
15 refer a noncomplying cotton producer to the district attorney in
16 the county of the cotton producer's residence. It shall be the
17 duty of the district attorney to sue and obtain judgment and
18 thereafter to enforce compliance with the control measures
19 prescribed by the local cotton boll weevil control committee.

20 B. The cotton boll weevil control committee may
21 adopt regulations to set the method for determining the yield
22 per acre of cotton lands under the control of the cotton
23 producer for purposes of calculating the assessment amount due.

24 Section 6. ESTABLISHMENT OF COTTON BOLL WEEVIL CONTROL
25 DISTRICT.--Any five or more persons producing cotton for which

1 it is proposed to establish a cotton boll weevil control
2 district may file a petition with the department asking that a
3 cotton boll weevil control district be established. The
4 petition shall set forth:

5 A. a concise statement of the reasons for the
6 establishment of a cotton boll weevil control district;

7 B. a request that a referendum be held among the
8 cotton producers on the question of the establishment of a
9 cotton boll weevil control district;

10 C. the name and address of the individual who is
11 authorized to represent the petitioners;

12 D. the maximum per unit assessment on the cotton
13 acreage or production for which the cotton boll weevil control
14 district is established; and

15 E. the method of levy and collection of an
16 assessment upon cotton producers for the support of the cotton
17 boll weevil control district.

18 Section 7. PETITION FILING FEE. --The director shall
19 prepare and deliver to the petitioners an original budget
20 estimate of the cost of the proposed hearings and referendum.
21 The petitioners, within thirty days after receipt of the cost
22 estimate, shall remit to the director the amount of the cost
23 estimate.

24 Section 8. HEARINGS. -- Within sixty days after the petition
25 has been filed with the director and upon payment of the cost

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1 estimate, the director shall cause notices to be given of the
2 proposed hearings in areas of the state where the cotton boll
3 weevil is of economic importance. The notices of hearing shall
4 be published at least fourteen days prior to the date of hearing
5 in a newspaper of general circulation in the proposed cotton
6 boll weevil control district.

7 Section 9. DETERMINATION BY DIRECTOR. --After the public
8 hearing, the director shall determine, based upon the facts
9 presented and other relevant data available, if there is a need
10 for the creation of a cotton boll weevil control district and if
11 the need is sufficient to justify the holding of a referendum
12 thereon. Subsequent petitions relating to the same locale may
13 not be filed or action taken thereon within one year from the
14 date the director has recorded a determination denying the need
15 for the creation of a cotton boll weevil control district.

16 Section 10. REFERENDUM - COTTON BOLL WEEVIL CONTROL
17 DISTRICTS--LOCAL COTTON BOLL WEEVIL CONTROL COMMITTEES. --After
18 public hearing, if the director decides there is justification
19 for creating a cotton boll weevil control district, the
20 department shall hold a referendum. When cotton producers who
21 represent sixty-six percent of the cotton acreage within the
22 area threatened with or infested by the cotton boll weevil vote
23 in favor of the establishment of a cotton boll weevil control
24 district, such a cotton boll weevil control district shall be
25 created. The cotton producers within a cotton boll weevil

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1 control district shall promptly establish, and shall elect not
2 less than three nor more than seven members to a local cotton
3 boll weevil control committee. The committee members shall not
4 receive per diem or compensation for their services. Cotton
5 boll weevil control districts and local cotton boll weevil
6 control committees shall cease to exist six months after the
7 successful eradication of the agricultural cotton boll weevil,
8 as determined by the director, or at the end of five years from
9 the date of their creation, whichever is sooner. A petition to
10 continue the cotton boll weevil control district may be made to
11 the director six months prior to the scheduled date for
12 termination of the cotton boll weevil control district. After a
13 public hearing on the petition, the director may extend the
14 termination date of any cotton boll weevil control district for
15 a period not to exceed three years without a referendum.

16 Section 11. LOCAL COTTON BOLL WEEVIL CONTROL COMMITTEES--
17 ADDITIONAL DUTIES AND POWERS. --

18 A. In the performance of this function, local cotton
19 boll weevil control committees may:

20 (1) conduct programs to suppress or eradicate
21 designated cotton boll weevils within their local cotton boll
22 weevil control district;

23 (2) cooperate in the administration of the
24 Cotton Boll Weevil Control Act through the use of state or
25 federal personnel and facilities or both;

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- 1 (3) enter into contracts or cooperative
2 agreements with other agencies, including federal agencies;
3 (4) publish information and conduct seminars on
4 the distribution and control of the cotton boll weevil; and
5 (5) levy and collect a special assessment,
6 based on cotton acreage or cotton yield per acre within the
7 cotton boll weevil control district.

8 B. Local cotton boll weevil control committees shall
9 provide a complete accounting of the funds collected through the
10 special assessment to all participating cotton producers in the
11 cotton boll weevil control district.

12 Section 12. AGRICULTURAL LAND ASSESSMENT--ENFORCED
13 COLLECTION.--Payment of the special assessment levied by a local
14 cotton boll weevil control committee against a cotton producer
15 shall be due and payable upon the cotton producer's receipt of
16 an assessment statement from the local cotton boll weevil
17 control committee. The committee's statement shall indicate:

18 A. the total number of acres treated within the
19 cotton boll weevil control district during the control program;

20 B. the total acres treated, if any, that are under
21 the control of the land user assessed;

22 C. the total amount of funds expended, or estimated
23 to be spent, in the cotton boll weevil control district for the
24 control program;

25 D. the total acres and yield per acre of lands under

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1 the control of the land user assessed; and

2 E. the amount assessed against the land user.

3 Section 13. PETITION FOR ABOLISHMENT OF A COTTON BOLL
4 WEEVIL CONTROL DISTRICT. --Any five or more persons producing
5 cotton within a cotton boll weevil control district may file a
6 petition with the department asking that a cotton boll weevil
7 control district be abolished. The petition shall set forth:

8 A. the name and description of the cotton boll
9 weevil control district to be abolished;

10 B. a concise statement of the reasons for the
11 abolishment of the cotton boll weevil control district;

12 C. a request that a referendum be held among the
13 producers of the crop on the question of the abolishment of the
14 cotton boll weevil control district; and

15 D. the name and address of the individual who is
16 authorized to represent the petitioners.

17 Section 14. PETITION FILING FEE. --The director shall
18 prepare and deliver to the petitioners an original budget
19 estimate of the cost of the proposed hearings and referendum.
20 The petitioners, within thirty days after receipt of the cost
21 estimate, shall remit to the director the amount of the cost
22 estimate.

23 Section 15. HEARINGS REGARDING ABOLISHMENT OF A COTTON
24 BOLL WEEVIL CONTROL DISTRICT--NOTICE OF HEARINGS. --Within thirty
25 days after the petition has been filed with the director and

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1 upon payment of the cost estimate, the director shall cause
2 notices to be given of the hearing in the affected cotton boll
3 weevil control district. The notice of hearing shall be
4 published at least fourteen days prior to the date of hearing in
5 a newspaper of general circulation in the affected cotton boll
6 weevil control district. After public hearing, if the director
7 decides there is justification for abolishing a cotton boll
8 weevil control district, the department shall hold a referendum.
9 When cotton producers who represent sixty-six percent of the
10 cotton acreage within a cotton boll weevil control district vote
11 in favor of the abolishment of the cotton boll weevil control
12 district, such a cotton boll weevil control district shall be
13 abolished. The local cotton boll weevil control committee shall
14 promptly move to cease expenditures of cotton boll weevil
15 control district funds and make an accounting of funds spent and
16 return remaining funds in accordance with Section 16 of the
17 Cotton Boll Weevil Control Act.

18 Section 16. DISPOSITION OF ASSESSMENT PROCEEDS. -- Funds
19 collected by the local cotton boll weevil control committee are
20 not state funds and are not required to be deposited in the
21 state treasury. A local cotton boll weevil control committee
22 shall deposit all money collected in a state chartered bank or
23 other insured depository. Funds collected by one local cotton
24 boll weevil control committee shall be held separate from funds
25 collected by another local cotton boll weevil control committee.

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1 Funds remaining at the termination of a cotton boll weevil
2 control district shall be distributed to cotton producers in
3 proportion to the percentage they contributed during the life of
4 the cotton boll weevil control district.

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1 FORTY- SECOND LEGI SLATURE
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5 FEBRUARY 2, 1996

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7 Mr. Presi dent:

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9 Your COMMI TTEES' COMMI TTEE, to whom has been referred

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11 SENATE BILL 735

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13 has had it under consideration and finds same to be GERMANE, PURSUANT
14 TO SENATE EXECUTIVE MESSAGE TWENTY THREE, and thence referred to the
15 CONSERVATI ON COMMI TTEE.

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17 Respectfully submi tted,

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23 SENATOR MANNY M. ARAGON, Chai rman
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Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

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Date _____

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1 FORTY- SECOND LEGI SLATURE
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5 February 8, 1996
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7 Mr. President:
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9 Your CONSERVATION COMMI TTEE, to whom has been referred
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11 SENATE BILL 735
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13 has had it under consideration and reports same with recommendation that
14 it DO PASS, and thence referred to the JUDI CIARY COMMI TTEE.
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16 Respectfully submit ted,
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21 TOM R. BENAVIDES, Chair man
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25 Adopted _____ Not Adopted _____
(Chi ef Clerk) (Chi ef Clerk)

Date _____

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The roll call vote was 5 For 2 Against

Yes: 5

No: 2

Excused: Vernon, Wray

Absent: 0

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1 FORTY-SECOND LEGISLATURE
2 SECOND SESSION, 1996
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SB 735/a

5 February 11, 1996
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7 Mr. President:
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9 Your JUDICIARY COMMITTEE, to whom has been referred
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11 SENATE BILL 735
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13 has had it under consideration and reports same with recommendation that
14 it DO PASS, amended as follows:
15

16 1. On page 3, line 1, after "infestation." strike the remainder of
17 the line and strike lines 2 through 5 in their entirety.
18

19 2. On page 3, line 14, after "weevil." strike the remainder of the
20 line and strike lines 15 through 19 in their entirety.
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24 Respectfully submitted,
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**FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996**

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Janice D. Paster, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Cisneros, Sanchez, Scott, Vernon

Absent: None

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State of New Mexico House of Representatives

FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

February 14, 1996

Mr. Speaker:

Your AGRICULTURE AND WATER RESOURCES COMMITTEE, to
whom has been referred

SENATE BILL 735, as amended

has had it under consideration and reports same with
recommendation that it DO PASS.

Respectfully submitted,

G. X. McSherry, Chairman

FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

HAGC/SB 735a

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

Excused: None

Absent: None

S0735AG1

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