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FISCAL IMPACT REPORT

SPONSOR: Stell DATE TYPED: 02/23/01 HB 539/HAGC
 SHORT TITLE: New-Mexico Agricultural Products SB _____
 ANALYST: Carrillo

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		See Narrative			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

General Services Department
Office of the Attorney General

No Response

Apple Commission
New Mexico Livestock Board
New Mexico Organic Commodities Commission
Corrections Department
State Department of Education
Commission on Higher Education
Municipal League
Association of Counties

SUMMARY

Synopsis of the HAGC Amendment

The HAGC amendment to House Bill 539 inserts “for new Mexico schools”. This amendment will exempt purchases of agricultural products grown in New Mexico from the Procurement Code if they are purchased for New Mexico schools.

The original FIR remains unchanged.

Synopsis of Original Bill

House Bill 539 proposes to exempt purchases of agricultural products grown in New Mexico from the Procurement Code.

Significant Issues

According to GSD staff, the bill will allow more flexibility for governmental entities to purchase home-grown agricultural products. For example: schools could purchase locally grown produce without soliciting bids. Several states exempt home-grown agricultural products from competitive bids. This may benefit rural areas more than cities.

The AG's staff notes:

The bill would substantially burden interstate commerce in that state agencies wishing to buy agricultural produce from out of state growers would have to follow the provisions of the Procurement Code. The Procurement Code is a more cumbersome means of procurement in that it requires a specific bidding procedure to be followed. In-state growers, would not have to competitively bid their products against out-of-state growers. It is unclear what bid process would be needed when two or more in-state growers are competing against one another. State regulations that impact interstate commerce have generally been upheld under the Interstate Commerce clause of the Federal constitution only where the state is seeking to protect public safety or health and welfare. Courts will analyze whether the burden on interstate commerce is no greater than the legitimate benefit the state derives from the regulation. Increased commerce has never been considered a legitimate benefit.

The proposed provisions of the bill may adversely impact interstate commerce in violation of Article I, Section 8, Clause 3 of the U.S. Constitution.

RELATIONSHIP

HB 66, Amend Electronic Authentication of Documents
HB 88, Amend Procurement Code
HB 89, Resident Contractor Defined
HB 230, Performance Contracting
HB 232, Uniform Electronic Transactions
HB 608, Amend Electronic Authentication of Documents
HB 648, Procurement Appeals Board
SB 69, Contract Management & Accountability
SB 166, Performance Contracting Act
SB 269, Procurement Appeals Board
SB 301, Amend Procurement Code
SB 394, Promote NM Apples

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