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FISCAL IMPACT REPORT



SPONSOR: Begaye DATE TYPED: 2/2/02 HB 350

SHORT TITLE: Industrial Hemp Licensing Act SB _____

ANALYST: Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY02	FY03	FY02	FY03		
	\$150.0		\$125.0	Recurring	General Fund

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY02	FY03			
	\$9.2	\$8.2	Recurring	Other State Funds

SOURCES OF INFORMATION

Corrections Department (CD)
 Department of Public Safety (DPS)
 Department of Agriculture (DOA)

SUMMARY

Synopsis of Bill

HB 350 appropriates \$150.0 from the General Fund to DPS, Regulation and Licensing Department (RLD) and New Mexico State University for the purpose of implementing the Industrial Hemp Act.

HB 350 provides authority for legalization of the growing or possession of industrial hemp. HB 350 authorizes the RLD to monitor, license, and regulate the growing and processing of industrial hemp including the adoption of rules necessary for licensing, administration, and enforcement of the Industrial Hemp Act. HB 350 authorizes DPS to conduct background checks, inspect growing and processing facilities, and train law enforcement regarding hemp identification.

The bill requires the DOA to maintain an authorized list of certified seed sources, certify hemp seed obtained by other sources, and establish a hemp seed bank to provide growers upon request. A producer wishing to plant industrial hemp must undergo a national background check and provide a legal description of the land where the hemp is to be planted.

HB 350 also creates a new fourth degree felony for the crime of fraudulently obtaining a license pursuant to the Industrial Hemp Licensing Act.

HB 350 also amends the definition of “marijuana” in the Controlled Substances Act to exclude the “hemp” plant.

HB 350 has an emergency clause.

Significant Issues

HB 350 is an effort to distinguish the commercial crop of industrial hemp, which has many legitimate uses, from the illegal marijuana crop.

Cannabis sativa is classified as a Schedule I controlled substance, regardless of its narcotic content, under federal law. One Federal Appeals court found this true even if the plants are grown solely for the purposes of industrial products. Regulatory authority is vested in the Office of the United States Attorney General, carried out by the Drug Enforcement Agency (DEA). Even if a state approved legislation for industrial hemp production, it would still be illegal under federal regulation without DEA permitting. The DOA notes that HB 350 is in direct conflict with federal law.

FISCAL IMPLICATIONS

HB 350 appropriates \$150.0 from the general fund for the following:

- \$50.0 to the Board of Regents of New Mexico State University to establish and maintain databases, a seed bank and a seed certification program pursuant to the Industrial Hemp Licensing Act
- \$50.0 to the RLD to license the growing of industrial hemp
- \$50.0 to DPS to educate law enforcement officers regarding the identification of industrial hemp and to implement a law enforcement program regarding the growth, sale and processing of industrial hemp pursuant to the Industrial Hemp Licensing Act.

Any unexpended or unencumbered balance remaining at the end of FY2003 shall revert to the General Fund.

The DOA claims they would need \$125.0 of non-recurring expenses to build a climate controlled seed warehouse including a required security system. The DOA does not currently have a facility that would be conducive to the requirements of a seed bank as outlined in the bill. The \$50.0 that is allocated to the DOA would likely cover the cost incurred with the database management issues in the bill.

The certification of hemp seed sources obtained from other sources would entail laboratory capabilities that the DOA does not currently maintain and could run into hundreds of thousands of dollars to duplicate capabilities that exist both commercially and in other state agencies. The current DOA budget is not sufficient to handle the additional responsibilities contained in HB 350.

Revenue generation is estimated at \$9.2 for FY03 and \$8.0 for subsequent years. This includes licensing and application fees for an estimated 20 growers. Also included is revenue generated from fee income from the sale of seed.

CD notes that there may be a financial impact to the CD if there are a significant number of new convictions for the new felony offense of fraudulently obtaining a license or the bill somehow results in an increase in the production of illegal marijuana and, in turn, new convictions. The cost increases to the CD could come in the form of increased prison population or increased probation caseloads.

ADMINISTRATIVE IMPLICATIONS

HB 350 will result in a minor to substantial increase in the administrative burden upon the CD prison personnel as well as Probation and Parole personnel due to the new fourth degree felony. CD says that they may be unable to absorb this additional administrative burden.

DPS notes that HB 350 will require DPS to train and establish some type of expertise in the growing of hemp in order to conduct informed investigations.

DW/njw