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FISCAL IMPACT REPORT

ORIGINAL DATE 2/3/09

SPONSOR Begaye LAST UPDATED _____ HB 403

SHORT TITLE Industrial Hemp Farming Act SB _____

ANALYST Haug

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	\$150.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates SB 377

SOURCES OF INFORMATION

LFC Files

Responses Received From

Higher Education Department (HED)

Department of Agriculture (NMDA)

Department of Public Safety (DPS)

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 403, the Industrial Hemp Farming Act, establishes guidelines and oversight of the growing, licensing, selling and processing of industrial hemp in the State of New Mexico. The act requires the NMDA to determine rules to encourage growth and sales of industrial hemp.

The act requires the DPS to cooperate with the New Mexico Department of Agriculture to implement and enforce the provisions of the Industrial Hemp Farming Act. It also mandates DPS conduct background checks on applicants requesting licenses, inspect growing fields and processing facilities, train law enforcement officers to identify industrial hemp, inform the New Mexico Department of Agriculture of any criminal offense regarding growing or processing industrial hemp.

House Bill 403 appropriates \$150.0 from the general fund:

\$100.0 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 Farming Act;

\$50.0 to the Department of Public Safety to train law enforcement officers to indentify industrial hemp and to implement a law enforcement program regarding the growth, sale and processing of industrial hemp.

FISCAL IMPLICATIONS

The appropriation of \$150.0 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of 2010 shall revert to the general fund.

The NMDA states:

NMDA does not have sufficient staff to implement the provisions of the act. NMDA would require \$500,000 for four staff specially trained, skilled, and knowledgeable in the following areas: licensing and auditing, seed bank, marketing/education specialist, and law enforcement as related to illegal substances or an attorney, perhaps both. Staff and related costs would require \$500,000.

Funding to construct a secure edifice for seed banking built to meet federal guidelines would be required and this funding is not included in the appropriation to NMSU. HB 403 also appropriates funds to DPS to implement law enforcement procedures for the act. NMDA would receive licensing fees from growers, but those fees would be insufficient to cover the depth, breadth, and responsibilities at all levels compelled by the act

The DPS states:

There would be a fiscal impact on DPS after the initial appropriation with this bill. DPS would have to cover the cost of background investigations, fuel, and overtime, etc. to conduct the inspection of the growing fields and processing facilities and continued law enforcement training. It is difficult to estimate the cost of this considering we do not yet know how many fields there would be, how many facilities there will be, and how frequently the inspections would occur. This would create a fiscal impact on the agency and resources that should be considered in light of the current reductions the state is looking at. 1 FTE would be needed to conduct required backgrounds, the lack of information on the volume of applications requires the use of only an estimated number.

SIGNIFICANT ISSUES

NMDA states that *Cannabis sativa* is classified as a Schedule I controlled substance, regardless of its narcotic content under federal law 21 USC 802 (16). Regulatory authority for controlled substances is vested in the office of the United States attorney general and carried out by the United States drug enforcement agency. Federal law prohibits the production of hemp anywhere in the United States.

NMDA states further:

HB 403 would compel NMDA to:

1. monitor initial phases of research and development necessary to ensure a viable and legal industrial hemp industry;
2. ensure participation and inclusion of individual farmers, agricultural cooperatives and businesses in the rulemaking process;
3. establish a grower licensing process and collect licensing fees; fees collected would be appropriated to NMDA to carry out provisions of the act;
4. ensure availability of seed and maintain an authorized list of seed sources for industrial hemp; certify industrial hemp seed obtained from other sources; maintain a list of growers and processors to whom seed has been provided; maintain a list of growers and processors;
5. enter into joint powers agreements with an Indian nation, tribe or pueblo to share information, provide technical assistance and to generally cooperate.

HB 403 would compel DPS to:

1. conduct background checks on applicants requesting licenses upon request by NMDA;
2. inspect growing fields and processing facilities upon verifiable evidence that a designated industrial hemp field is unlicensed and in violation of the act;
3. train law enforcement officers to identify industrial hemp;
4. inform NMDA of criminal offenses related to growing or processing of industrial hemp;
5. enter into joint powers agreements with an Indian nation, tribe or pueblo to share information, provide technical assistance and to generally cooperate.

NMDA and DPS shall fully cooperate with one another to implement and enforce the provisions of the act.

The HED notes that, in January 2008, a Report to the Agriculture and Water Resources Committee of the House of Representatives of the State of New Mexico was prepared by the Department of Agricultural Economics and Agricultural Business College of Agriculture and Home Economics at NMSU in response to House Memorial 49 of the 48th Legislature, First Session 2007 requesting the NMSU Board Of Regents study the viability of a legal hemp industry. According to this report, the hemp industry in the United States is currently severely hampered by an association (especially by the U.S. Drug Enforcement Administration) of hemp with its botanical sibling, marijuana.

DUPLICATION

House Bill 403 duplicates Senate Bill 377.

GH/mc