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FISCAL IMPACT REPORT

SPONSOR McSorley ORIGINAL DATE 9/30/16
LAST UPDATED _____ HB _____
SHORT TITLE Industrial Hemp Research SB 11
ANALYST Downs

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
	Unknown		Recurring	New Mexico Industrial Hemp research and Development Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Department of Agriculture (NMDA)
Regulation and Licensing Department (RLD)
Department of Public Safety (DPS)

This analysis utilizes responses from the agencies listed above who responded to an identical bill in 2015.

SUMMARY

Synopsis of Bill

Senate Bill 11 provides authorization for the New Mexico Department of Agriculture (NMDA) to provide for the growing of industrial hemp for research and development purposes including agricultural, agronomic, ecological, processing, sales and marketing research conducted by NMDA or an institution of higher learning. The bill allows, upon passage of federal legislation to legalize hemp, for growing of industrial hemp by a person issued a license to grow industrial hemp for commercial production as well as research and development purposes.

The bill directs NMDA to adopt rules to carry out the provisions of the bill including requirements for licensure, training of law enforcement personnel, inspection, recordkeeping, and fees, which are not to exceed program costs and compliance processes. The bill creates the New Mexico Industrial Hemp Research and Development Fund. It also revises the definition of marijuana under the Controlled Substances Act to exclude industrial hemp as defined by the bill.

FISCAL IMPLICATIONS

This bill creates a new fund, the New Mexico Industrial Hemp Research and Development Fund, to be established by New Mexico State University (NMSU) to consist of fees collected by NMDA for administration of the industrial hemp research and development program, donations, grants, and income earned from investment of the fund and money otherwise accruing to the fund. NMDA would administer the fund, and money in the fund is subject to appropriation by the Legislature to NMDA to conduct related programs.

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

NMDA noted it cannot predict the level of revenue expected from the fees at this time.

SIGNIFICANT ISSUES

RLD noted that according to the Controlled Substances Act, marijuana is a Schedule I controlled substance. This bill proposes to exempt marijuana that is used in “research and development of industrial hemp by qualified entities pursuant to rules adopted by the New Mexico department of agriculture.” The bill defines industrial hemp as “the plant *Cannabis sativa* L. and any part of the plant, whether growing or not, containing a delta-9-tetrahydrocannabinol concentration of no more than three-tenths percent on a dry weight basis.” RLD noted this proposed definition will lower the concentration of delta-9-tetrahydrocannabinol allowed.

NMDA analysis noted that under the current U.S. drug policy, all cannabis varieties, including hemp, are considered Schedule I controlled substances under the Controlled Substances Act (CSA, 21 U.S.C. §§801 et seq.; Title 21 CFR Part 1308.11). Federal law is silent in regards to THC levels. Industrial hemp as defined by the proposed act is by definition controlled and regulated by the U.S. Drug Enforcement Agency.

NMDA added this bill allows growing of industrial hemp in New Mexico for research and development in compliance with the 2014 Farm Bill Section 7606. It also extends the ability to grow industrial hemp to other entities for research and development purposes at the time federal law is changed to allow other entities to grow industrial hemp.

ADMINISTRATIVE ISSUES

NMDA noted that due to the variability of THC levels within cannabis cultivars, it is expected that agency staff, researchers, and producers will be, on occasion, handling plant material classified as marijuana and therefore subject to prosecution under the controlled substance act. Based on intent, provisions will need to be included in the act to protect those involved in legal hemp production from prosecution based on handling plant material with elevated THC levels.

NMDA also noted that laboratory facilities would need to construct separate secure areas for the storage and handling of industrial hemp seeds and plant samples for analysis.

OTHER SUBSTANTIVE ISSUES

NMDA notes that until legalized federally, a concern remains for the involvement of state staff in the handling, procession of, testing, or transportation of cannabis-based material, as a border state in which agency staff may be subject to searches at federally controlled check points. NMDA is concerned about the liability and legality associated with state employees transporting through federal check points in the state and will need to consider this issue in the rule making process.

JD/jll