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FISCAL IMPACT REPORT

SPONSOR Little ORIGINAL DATE 01/30/17
LAST UPDATED _____ HB 166

SHORT TITLE Exempt Hemp from Controlled Substances SB _____

ANALYST Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

Duplicates, to some extent, HB 154

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the District Attorney (AODA)

Attorney General's Office (AGO)

New Mexico Department of Agriculture (NMDA)

SUMMARY

Synopsis of Bill

House Bill 166 adds new language to the definition of marijuana in the Controlled Substances Act ("CSA") to explicitly exclude the plant *Cannabis sativa* L. and any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol ("THC") concentration of not more than 0.3percent on a dry weight basis, the seeds thereof and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds.

FISCAL IMPLICATIONS

In light of the limited nature of HB 166—simply excluding what may be commonly referred to as industrial hemp from the Controlled Substances Act—no reporting agency notes any fiscal impact to the State, although arguably there could be some reduction in prosecutions for cultivation, possession or trafficking in this substance.

SIGNIFICANT ISSUES

AODA provides this explanatory information:

In the only reported New Mexico appellate case which discusses “hemp,” the Supreme Court held that marijuana is another name for cannabis which is the dried flowering tops of the Indian or American hemp, *cannabis sativa*. See, *State v. Romero*, 74 N.M. 642 (1964). Accord, *State v. Tapia*, 77 N.M. 168 (1966). A fact sheet from the National Highway Traffic Safety Administration, states that delta-9-THC is believed to be responsible for most of the characteristic psychoactive effects of cannabis, so potency is dependent upon THC concentration. In 2001 the U.S. Drug Enforcement Administration issued a rule that parts of the cannabis plant with a low THC and which are not to be introduced into the human body would not be treated as a Schedule 1 controlled substance. Canada and members of the European Union have long used 0.3percent as the threshold level of THC to be classified as hemp.

Industrial hemp is generally recognized as cannabis with a delta-9-THC of no more 0.3percent by weight. There have been repeated efforts in Congress to amend the definition of marijuana in the federal controlled substances act and exclude cannabis sativa plants and plant parts with a delta-9-THC level of no more than 0.3percent on a dry weight basis. The most recent bills were titled the Industrial Hemp Farming Act. See, S134 and HR 525. So far those bills have not been passed but 2014 the U.S. Farm bill that was passed included a provision to allow states to grow industrial hemp for research and development. The federal statute defines “industrial hemp” as “the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-9-tetrahydrocannabinol of not more 0.3 per cent on a dry weight basis.” See, 7 U.S.C. Sect. 5940(b)(2). Traditional uses of hemp were for rope, clothing, livestock feed and more recently compounds have been included in body care products.

CONFLICT, DUPLICATION, RELATIONSHIP

AODA points out that HB 144 would also amend the definition of marijuana in the CSA to specifically exclude any parts of the cannabis plants with a delta-9-THC of 0.3 percent or less, by weight; unlike this bill it does not also include “seeds thereof, and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds.” SB 6 is the same as HB 144. HB 89 is an omnibus bill regarding marijuana and would offer virtually the same exclusions from the definition of marijuana as HB 166, although drafted differently.

MD/al