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FISCAL IMPACT REPORT

SPONSOR: Gubbels DATE TYPED: 02/18/01 HB 582
 SHORT TITLE: Industrial Hemp as Commercial Crop SB _____
 ANALYST: Rael

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
			\$ 150.0	Recurring	General Fund
			\$ 850.0	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY01	FY02			
	\$ 3.0	\$ 3.0	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

Department of Agriculture (DOA)
New Hampshire Hemp Council, Inc. v. Marshall, 203 F.3d 1 (1st Cir. 2000)
 21 USC § 802, 822-23; 63 FR 260; 28 CFR § 0.100(b)(1999)

SUMMARY

Synopsis of Bill

The Industrial Hemp as Commercial Crop bill provides state authority for legalization of the growing or possession of industrial hemp and amends portions of Section 30-31-2 NMSA 1978. Authorizes the New Mexico Department of Agriculture to develop, manage and maintain an industrial hemp seed growing facility and seed bank including distribution to licensed producers. The Regulation and Licensing Department shall be responsible for the adoption of rules and requirements for licensing interested parties. The producer wishing to plant industrial hemp must undergo a nationwide background check and provide a legal description of the land where hemp is to be planted. The crop will be subject to THC testing prior to harvest date. It is stated that industrial hemp plants containing

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more than 0.3% THC in the plant tissue will be considered illegal and in violation of the Controlled Substances Act.

Significant Issues

Cannabis sativa is classified as a Schedule I controlled substance, regardless of its narcotic content, under federal law 21 USC § 802(16). One Federal Appeals court found that this is true even if the plants are grown solely for the purpose 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 authorizing industrial hemp production, it would still be illegal under federal regulation without DEA permitting.

Amends portions of Section 30-31-2 NMSA 1978. The definition of "marijuana" is amended to "not include ... any variety of the species sativa, of the plant genus cannabis, that produces not more than three-tenths of one percent of delta 9 tetrahydrocannabinol per weighted unit of flowering tops and leaves and has a delta 9 tetrahydrocannabinol concentration of not more than one percent on a dry weight basis."

FISCAL IMPLICATIONS

FY02 implications for the department of agriculture would be \$850.0 with recurring expenses of \$150.0. Current budget allocation would prohibit absorption into current programs.

Revenue generation is estimated at \$3.0 with a licensing fee of \$150.

ADMINISTRATIVE IMPLICATIONS

Additional resources would be required for the New Mexico Department of Agriculture to develop, manage, and maintain an industrial hemp seed growing facility and seed bank, including a climate controlled seed warehouse, the acquisition of farm land and equipment for seed production, security measures, and one additional FTE. Current resources would not allow for absorption into current budget.

OTHER SUBSTANTIVE ISSUES

The DOA reports that the only research plot of hemp in the U.S. was planted in Hawaii in 1999. To gain DEA approval of the project, scientists were required to enclose the one-quarter acre plot inside a 12-foot-high fence with infrared surveillance. Funding of \$200,000 was obtained to accomplish the project. This project is under Department of Public Safety and DEA oversight.

Instead of having a seed growing facility and seed bank, the Department of Agriculture reports that it could authorize a list of approved industrial hemp varieties and certified sources. The producer would be required to provide valid licensing and proper documentation to buy industrial hemp seed from these sources. Certification would be submitted to the Department of Agriculture and the Regulation and Licensing Department prior to production implementation. Over eight countries, throughout Europe and Canada, have certified and registered seed distributors with seed guaranteed at low THC levels.

In order to accomplish this, the DOA recommends the following amendments:

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1. Page 2, line 2: After seed, strike [~~growing facility and seed bank managed and supervised~~], and insert “from a certified and registered seed source authorized.”
2. Page 2, line 10: After develop, strike [~~manage and maintain an industrial hemp seed growing facility and seed bank~~], and insert “maintain an authorized list of certified and registered seed sources.”

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