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SENATE BILL 165

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Stuart Ingle

AN ACT

RELATING TO AGRICULTURE; AMENDING SECTIONS OF THE ORGANIC
COMMODITY ACT TO COMPLY WITH FEDERAL REGULATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 76-22-5 NMSA 1978 (being Laws 1990,
Chapter 122, Section 5) is amended to read:

"76-22-5. ORGANIC MARKET DEVELOPMENT FUND CREATED. -- There
is created in the state treasury the "organic market
development fund". No money appropriated to this fund or
accruing to it through cooperative research agreements, gifts,
grants, ~~[or]~~ bequests, including bequests from a private,
public, nonprofit or any other source, advertising, fees from
conferences or workshops, civil penalties, sales of promotional
items or educational materials, speaker fees, agricultural
input approval fees, handbooks, grant administrative costs or

underscored material = new
[bracketed material] = delete

1 any other sources, shall be transferred to another fund or
2 encumbered or disbursed in any manner except for activities
3 conducted pursuant to the Organic Commodity Act. The fund
4 shall not revert at the end of any fiscal year. All interest
5 earned on the fund shall remain in the fund. Disbursements
6 from the fund shall be made only upon warrant drawn by the
7 secretary of finance and administration pursuant to vouchers
8 signed by the chairman of the commission or his designee for
9 the purpose of paying the cost of the commission's activities
10 conducted pursuant to the Organic Commodity Act. "

11 Section 2. Section 76-22-6 NMSA 1978 (being Laws 1990,
12 Chapter 122, Section 6, as amended) is amended to read:

13 "76-22-6. ORGANIC COMMODITY COMMISSION CREATED. --

14 A. There is created the "organic commodity
15 commission" to achieve the purposes set forth in Section
16 76-22-2 NMSA 1978.

17 B. The commission shall be composed of five members
18 appointed by the governor with the advice and consent of the
19 senate.

20 C. The commission shall elect one of its members to
21 serve as chairman, one to serve as vice chairman, one to serve
22 as secretary and one to serve as ombudsman. A majority of the
23 members of the commission constitutes a quorum for the
24 transaction of business.

25 D. All commission members shall be residents of New

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1 Mexico, and, if a commissioner is certified by the commission,
2 that commissioner shall also be certified by another certifying
3 agent.

4 E. The commission shall be appointed by the
5 governor [~~from a list of producers and handlers certified under~~
6 ~~the provisions of the Organic Commodity Act and the standards~~
7 ~~promulgated in the certification handbook~~]. The commission
8 members shall serve staggered terms [~~beginning on March 1,~~
9 ~~1992, with two terms ending on December 31, 1995, two ending on~~
10 ~~December 31, 1996 and one ending on December 31, 1997.~~
11 ~~Thereafter, appointments shall be for staggered terms of four~~
12 ~~years] of four years with a minimum term of two years.~~

13 F. Members of the commission shall be compensated
14 as provided in the Per Diem and Mileage Act, but shall receive
15 no other compensation, perquisite or allowance. "

16 Section 3. Section 76-22-14.1 NMSA 1978 (being Laws 2001,
17 Chapter 157, Section 5) is amended to read:

18 "76-22-14.1. CERTIFYING AGENTS--REPORTS TO COMMISSION.--A
19 certifying agent, other than the commission, that certifies any
20 food article in New Mexico as being organically produced shall:

21 A. simultaneous with its issuance, report to the
22 commission any information regarding denials of certification,
23 notifications of noncompliance, notifications of noncompliance
24 correction, notifications of proposed suspension or revocation
25 and notifications of suspension or revocation sent to any

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1 person in New Mexico; ~~and~~

2 B. on January 2 of each year, submit to the
3 commission a list, including the name, address and telephone
4 number of each operation granted certification in New Mexico
5 during the preceding year; and

6 C. pay an annual fee to the commission that shall
7 reasonably reflect the cost of enforcing the Organic Commodity
8 Act with respect to that certifying agent. "

9 Section 4. Section 76-22-16 NMSA 1978 (being Laws 1990,
10 Chapter 122, Section 16, as amended) is amended to read:

11 "76-22-16. LEVY OF ASSESSMENT--ORGANICALLY PRODUCED FOOD
12 ARTICLES--SALES.--

13 A. The commission may impose and collect
14 assessments as follows:

15 ~~[A.]~~ (1) producers and handlers shall be
16 assessed at an annual rate ~~[of]~~ not to exceed one-half ~~[of one]~~
17 percent of the total gross sales of the organically produced
18 food articles;

19 ~~[B.--retailers shall]~~ (2) certified handling
20 operations may be assessed at an annual rate of ~~[one-quarter of~~
21 ~~one]~~ one-fourth percent of the total ~~[gross sales of~~
22 ~~organically produced food articles]~~ price of the services; and

23 ~~[C.]~~ (3) purveyors of materials as set forth
24 in the federal materials list shall be registered with the
25 commission and assessed at an annual rate ~~[of]~~ not to exceed

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1 one-half [~~of one~~] percent of the total gross sales of the class
2 of materials appearing on that list. [~~and~~

3 ~~D-~~ B. The commission, following notice and
4 comment, may adjust the assessment rate up or down by no more
5 than one hundred percent. "

6 Section 5. Section 76-22-22 NMSA 1978 (being Laws 1990,
7 Chapter 122, Section 22) is amended to read:

8 "76-22-22. STATE ORGANIC CHEMIST--DUTIES.--The commission
9 [~~shall~~] may designate a "state organic chemist". The state
10 organic chemist shall hold a doctoral degree in chemistry or a
11 related field and shall be [~~knowledgeable~~] knowledgeable and
12 experienced in the techniques used for testing soil and plant
13 and animal tissue for pesticide and fertilizer residues. The
14 chemist may be an employee of a private laboratory or an
15 employee of an agency of the state. The chemist shall perform
16 duties as prescribed by the commission. "