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FISCAL IMPACT REPORT

SPONSOR Nunez **DATE TYPED** 02/25/05 **HB** 93

SHORT TITLE Amend Pesticide Control Act **SB** _____

ANALYST Williams

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			\$365.0	Recurring	Other State Funds

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act for New Mexico State University, New Mexico Department of Agriculture

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
	\$365.0		Recurring	Other State Funds

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files
 New Mexico Department of Agriculture
No Response Received From Commission on Higher Education

SUMMARY

Synopsis of Bill

House Bill 93 authorizes fee increases charged by the New Mexico Department of Agriculture pursuant to the Pesticide Control Act. Specific fee caps are increased significantly. The proposed legislation would extend the current practice of charging double to those applicators and consultants who have allowed their registrations and licenses to expire. The fees would be retained by the agency.

Significant Issues

NMDA notes fee caps have not been raised since 1985, and New Mexico pesticide product registration fees are the third lowest in the nation. Current annual fees in New Mexico are \$35 per product, compared to Arizona at \$100, Colorado at \$95 and Texas at \$210. Fee increases would be established through the formal rule-making process of the New Mexico Administrative Code.

NMDA also notes:

- Recent increases in inspection/investigation case load
- Complexity of investigations
- Cost/complexity of laboratory analyses
- Pesticide safety/security issues
- General public concerns about food safety

PERFORMANCE IMPLICATIONS

The proposed fee increase is consistent with the framework of the NMDA Strategic Plan 2004-2008. In the priority area of Regulatory Compliance, the department has a strategic goal of maintaining “regulatory compliance through cooperative relationships with industries, agencies, and the public to ensure consumer protection and a uniform market place.”

NMDA discusses the potential for increases in program efficiency via:

- Greater outreach, including distance learning, training and website development
- Prompter attention to complaints and investigations
- Addressing homeland security issues
- Additional bilingual safety education and outreach

FISCAL IMPLICATIONS

NMDA estimates the fee increases will generate an additional \$365 thousand of recurring revenue in FY06. The legislation permits the department to retain the fee revenue. Any unexpended or unencumbered balance remaining at the end of a fiscal year would not revert to the general fund.

The incremental gain in revenues will be achieved via the interaction of two mechanisms. First, NMDA notes the base is narrowing. Specifically, as noted by the department:

“Due to federal re-registration reviews of older pesticides (those initially registered before November 1, 1984) and requirements under the Food Quality Protection Act, the Environmental Protection Agency will discontinue federal registration of several major classes of pesticides (projections of up to 2000 individual product registrations). This action at the federal level will negatively impact pesticide registration fee income at the state level, with no corresponding decrease in workload of monitoring pesticide use.”

Second, a fee increase on the remaining base (as authorized in this legislation) is projected to result in a net incremental revenue gain.

NMDA also notes federal revenues to support this program are decreasing.

Continuing Appropriations

This bill provides for continuing appropriations. The LFC is concerned about continuing appropriation language. Earmarking reduces the ability of the legislature to establish spending priorities.

ADMINISTRATIVE IMPLICATIONS

The Division of Agriculture and Environmental Services contains the Bureau of Pesticide Management, which administers pesticide-use laws through product registration, applicator licensing and inspection.

POSSIBLE QUESTIONS

1. Would NMDA phase-in the fee increases? Are there concerns about the magnitude of the increases?
2. Who would ultimately bear the burden of the fee increases?
3. Can the department provide the specific details of the uses of incremental fee revenue retained by the department? Are these uses consistent with the legislative intent of the Pesticide Control Act?
4. What is the current level of FTE in the Pesticide Management Bureau? Would there be an increase in FTE within the Pesticide Management Bureau?
5. Would there be other increases in FTE beyond the Pesticide Management Bureau, but within the operations of NMDA?
6. How is the department coordinating homeland security issues with other stakeholders?
7. Are other sources of funds from state or federal government agencies available to address the homeland security components of the proposal?

AW/lg