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HOUSE BILL 87

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

Paul C. Bandy

FOR THE GOVERNMENT RESTRUCTURING TASK FORCE

AN ACT

RELATING TO GOVERNMENT ORGANIZATION; ENACTING THE ORGANIC PRODUCTION ACT; PROVIDING POWERS AND DUTIES FOR THE BOARD OF REGENTS OF NEW MEXICO STATE UNIVERSITY AND THE NEW MEXICO DEPARTMENT OF AGRICULTURE FOR ORGANIC AGRICULTURAL PRODUCT PROGRAMS; TRANSFERRING FUNCTIONS, APPROPRIATIONS, MONEY, RECORDS, PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES OF THE ORGANIC COMMODITY COMMISSION TO THE NEW MEXICO DEPARTMENT OF AGRICULTURE.

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

SECTION 1. SHORT TITLE.--This act may be cited as the "Organic Production Act".

SECTION 2. NEW MEXICO DEPARTMENT OF AGRICULTURE--  
POWERS.--

A. The Organic Production Act shall be administered

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1 and enforced by the New Mexico department of agriculture, under  
2 the direction of the board of regents of New Mexico state  
3 university. The New Mexico department of agriculture is  
4 authorized to regulate the production, handling and  
5 certification of organic agricultural products pursuant to  
6 rules adopted by the board of regents of New Mexico state  
7 university. In promulgating the rules, the board shall  
8 consider the requirements of the federal Organic Foods  
9 Production Act of 1990 and the national organic program rules.

10 B. The department may:

11 (1) charge fees and assessments to fund its  
12 organic certification program; and

13 (2) implement education and marketing programs  
14 to assist organic producers and handlers and those considering  
15 certification as organic producers or handlers.

16 **SECTION 3. FEES AND ASSESSMENTS.--**

17 A. Pursuant to rules adopted by the board of  
18 regents of New Mexico state university, the New Mexico  
19 department of agriculture may impose and collect fees for  
20 certification and registration as follows:

21 (1) producers and handlers shall pay a fee not  
22 to exceed three hundred fifty dollars (\$350) for a new  
23 application and a fee not to exceed three hundred dollars  
24 (\$300) for annual renewal applications; and

25 (2) producers and handlers may be subject to

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1 late fees not to exceed five hundred dollars (\$500).

2 B. Pursuant to rules adopted by the board of  
3 regents of New Mexico state university, the New Mexico  
4 department of agriculture may impose and collect assessments  
5 for the basic certification process of certified organic  
6 producers and handlers at an annual rate not to exceed one  
7 percent of the total gross sales of the organically produced  
8 agricultural products based on the previous year's sales.

9 C. The New Mexico department of agriculture shall  
10 provide a payment schedule for all assessments due to the  
11 department.

12 D. The board of regents of New Mexico state  
13 university may authorize an organic production inspector to  
14 charge reasonable fees not to exceed the actual costs of  
15 performing additional inspections due to noncompliance or at  
16 the request of a producer or handler.

17 SECTION 4. DISPOSITION OF FUNDS.--All money received by  
18 the New Mexico department of agriculture pursuant to the  
19 provisions of the Organic Production Act, including  
20 assessments, fees, appropriations, gifts, grants and donations,  
21 shall be expended only for the purpose of carrying out the  
22 provisions of that act.

23 SECTION 5. APPLICABILITY TO OTHER LAWS.--

24 A. Any transactions involving agricultural products  
25 that bear labels stating that the agricultural products are

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1 organically produced are subject to Sections 57-15-1 through  
2 57-15-10 NMSA 1978.

3 B. Any transactions involving agricultural products  
4 that are food and that bear labels stating that the  
5 agricultural products are organically produced are subject to  
6 the New Mexico Food Act.

7 SECTION 6. TEMPORARY PROVISIONS--TRANSFERS.--

8 A. On July 1, 2011, all functions, appropriations,  
9 money, records, furniture, equipment and other property of the  
10 organic commodity commission are transferred to the New Mexico  
11 department of agriculture.

12 B. On July 1, 2011, all contractual obligations of  
13 the organic commodity commission are binding on the New Mexico  
14 department of agriculture.

15 C. On July 1, 2011, all money in the organic market  
16 development fund shall be transferred to the New Mexico  
17 department of agriculture.

18 D. On July 1, 2011, all references in the law or  
19 rule to the organic commodity commission are deemed to be  
20 references to the New Mexico department of agriculture.

21 E. The rules of the organic commodity commission  
22 are deemed to be the rules of the board of regents of New  
23 Mexico state university for the New Mexico department of  
24 agriculture until amended or repealed by the board of regents  
25 of New Mexico state university.

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