F I S C A L I M P A C T R E P O R T

SPONSOR Wirth **ORIGINAL DATE** 01/22/13 **LAST UPDATED** **HB**

SHORT TITLE Label Genetically Modified Food **SB** 18

ANALYST Weber

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		$200.0			Recurring	General

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
New Mexico Department of Agriculture (NMDA)
New Mexico Environment Department (NMED)

SUMMARY

Synopsis of Bill

Senate Bill 18 (SB18) is an Act amending and enacting sections of the New Mexico Food Act and the Commercial Feed Law to require the labeling of food and commercial feed that contains genetically modified material.

SB 18 defines, for both Acts, genetically modified material "as a substance that has been produced, enhanced, or otherwise modified through the use of recombinant deoxyribonucleic acid technology, genetic engineering, or bioengineering." Genetically modified food/feed product means "a food that is composed of more than one percent of genetically modified material, as determined in accordance with the standards of measurement and quantification procedures." SB 18 would charge both the environmental improvement board and New Mexico state university board of regents to establish standards for measuring and quantifying the amount of genetically modified material in food and commercial feed. The boards would also be empowered to conduct any investigation considered necessary to verify the accuracy of labeling of food pursuant to the New Mexico Food Act and Commercial Feed Law. In addition, the Bill would require the New Mexico Environment Department (NMED) to investigate and ensure compliance with all manufactured food and commercial feed sold in New Mexico, regardless of where the food was manufactured.

FISCAL IMPLICATIONS

NMDA indicates the following anticipated cost requirements.

- Costs to the program would be increased because NMDA purchases commercial feed samples for analysis from retail outlets. Bulk samples may be probed and, therefore, do not require purchase, while small packages (less than 10 pounds) and items such as cans and pouches require purchase so as to not harm the retail outlet.
- NMDA would require an additional FTE to process laboratory samples for testing of genetically modified material separately from samples regularly tested for mycotoxins and label guarantees.
- NMDA would require capital investments in equipment for sampling, handling, and analyses as well as facilities to exclusively segregate samples for genetic testing from normal operations to prevent the potential for cross contamination of commercial feeds with and without genetically modified materials. Costs of the sampling and handling equipment are estimated at $10,000. Shipping charges would also double as genetically modified organism (GMO), labeled feed would need to be separated from non-GMO labeled feed.
- An alternative to additional laboratory facilities would be to identify an outside laboratory to perform sample analysis for genetically modified materials at a cost of approximately $250 per sample. However, this would not alleviate the need for additional sampling equipment and processing.
- Due to the nature of the RT-PCR analysis, additional laboratory space away from current laboratory operations will be needed to avoid potential cross contamination of samples.
- NMDA would need to purchase and review all registered products for labeling compliance initially to look for misbranding.
- New Mexico is one state that requires registration of individual labels and review prior to distribution into the state. This review includes looking at the use of approved ingredients, guarantees, and labeling claims. Approximately only three (3) percent of the 13,945 feed/pet food/specialty pet food labels registered by NMDA are manufactured in the state. Therefore, sampling direct from manufacturing facilities and review of ingredient records would only be possible in a small number of facilities without substantial cost

NMED notes the following as fiscal implications for the agency;

- NMED would require at least 2 additional FTE's to develop and implement a genetically modified food (GMF) monitoring system for foods produced in New Mexico and any food being shipped to New Mexico from manufacturers in other states or countries. NMED may have to hire an independent laboratory to develop standards of measurement and quantification of genetically modified material in food, as proposed in the Bill.

In addition NMED speculates the bill would economically impact food manufacturers and consumers. Food manufacturers would experience increased production costs due to the need to create monitoring and record keeping systems to constantly update the ingredients used in their food production to assure use of non-GMF. This would include knowing the seed source, field location, harvest, transport and storage. There also would be a need for increased testing of incoming food ingredients to verify they have not been genetically modified. Consumers will

inevitably be impacted by higher food costs because of additional requirements placed on food processors and restaurants.

Both NMDA and NMED describe a relatively complex process to accomplish the bill's goals. The agencies note that the testing and workload would necessitate some capital expenditure as well as an estimated 3 FTE and consulting for development of technical expertise. To help ensure the objectives of the bill are carried out, consideration may be given for adding an appropriation consistent with the agencies' anticipated extra costs.

SIGNIFICANT ISSUES

NMED adds that the U.S. Food and Drug Administration currently require labeling of GMF's if the food has a significantly different nutritional property or if the food includes an allergen. Enacting this legislation in New Mexico would affect an estimated 60-70% of foods on grocery store shelves.

Mandatory labeling of GMF's has been proposed throughout the United States., but has never been enacted at the national, state, or local level. Every food manufacturer in the world who sells/distributes food in New Mexico would have to modify current labeling for food items shipped to New Mexico.

Labels on GMF's food imply a warning about health effects, whereas no significant differences between GMF's and conventional foods have been detected. If a nutritional or allergenic difference were found in a GMF's food, current FDA regulations require a label to that effect.

Consumers who want to buy non-GMF already have an option to purchase certified organic foods, which by definition cannot be produced with GMF's ingredients. Labeling of GMF's foods to fulfill the desires of some consumers would impose a cost on all consumers.

SB 18 states, "a genetically modified food product that is offered for sale in the state shall be labeled to indicate that the product contains genetically modified material". This would imply food offered for sale through restaurants that has genetically modified material in its ingredients would also need to be labeled a genetically modified food. The fiscal impact on the restaurant industry would be significant.

NMDA includes the following additional potential unintended consequences:

- Under the broad definition of genetically modified material used in this Act amending both the New Mexico Food Act and Commercial Feed Law, farms and ranches in New Mexico would need to ensure purchasers of their products of any genetically modified materials planted or fed to animals that might be sold in this state.
- Due to the broad definition of genetically modified material, this may unintentionally impact traditional hybridized plant breeding programs in the state such as cotton, onions, chile, pecans, peanuts, and other minor crops.
- Commercial feed manufacturers would incur increased costs to label foods specifically sold into New Mexico from other states or countries due to the additional labeling requirements, which are not mandatory elsewhere, if utilizing genetically modified material as ingredients.

- This type of labeling law may restrict interstate commerce causing firms producing food and commercial feed products in New Mexico to have a disadvantage when marketing outside of the state.
- May cause confusion for consumers in the marketplace. Proposed labeling does not address health/safety aspects of a product, there may be a perception of product differentiation.

MW/bm