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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/02/10

SPONSOR Smith LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Organic Commission to Agriculture Department SB 221

ANALYST Escudero

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY10	FY11		
NFI	NFI	NFI	General Fund
NFI	NFI	NFI	Organic Market Development Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

NM Organic Commodity Commission (NMOCC)

New Mexico Department of Agriculture (NMDA)

### SUMMARY

#### Synopsis of Bill

Senate Bill 221 transfers the functions, records, personnel, appropriations, money, equipment, supplies and other property of the of the New Mexico Organic Commodity Commission (NMOCC) to the New Mexico Department of Agriculture (NMDA).

### FISCAL IMPLICATIONS

NM Organic Commodity Commission indicates as follows:

This bill contains essentially no fiscal implications for NMOCC, unless a physical relocation is required, in which case it is estimated between \$50K and \$100K in additional appropriations would be required to relocate within the Albuquerque metro area, current location of NMOCC.

Additional appropriations would be required should relocation to NMDA in Las Cruces, or elsewhere, be required.

NMOCC believes NMDA does not have any resources available to either support or perform the functions of NMOCC, so all existing and requested NMOCC resources would still be required. Indeed, NMDA may find the additional oversight and support responsibilities relating to acquiring NMOCC functions may require additional resources beyond what are currently available to NMDA.

NM Department Agriculture indicates as follows:

This bill contains essentially no fiscal implications for NMOCC, unless it is envisioned that the move would eliminate the need for a full time director (currently an appointee of the governor). If that is envisioned, there would be salary and benefits savings in the range of \$60 to \$70K. There might also be additional salary savings of \$40 to \$50K if NMDA would take over the accounting responsibilities for the commission and eliminate one full time employee. In addition, the proposed legislation eliminates the 5 member governor appointed commission, which provides oversight over NMOCC. Elimination of the commissioners would save approximately \$4K to \$5K per year in per diem, etc.

If an actual physical relocation is required, there could be some additional costs to state government. Additional appropriations would be required should relocation to NMDA in Las Cruces, or elsewhere, be required. There would also be an immediate cost to NMDA to transfer all existing vendors currently conducting business with the NMOCC to the banner system from share.

## **SIGNIFICANT ISSUES**

NM Organic Commodity Commission indicated as follows:

The action entailed in SB221 is not a new proposal regarding the NMOCC. Past discussions have centered on either absorption into or administrative attachment to the New Mexico Department of Agriculture (NMDA). NMOCC currently partners with NMDA in some educational areas to promote the growth of NM organic agriculture. The consensus of the two entities over the years has been that NMDA's responsibilities relating to the regulation and permitting of pesticides, herbicides, and other conventional agricultural chemicals presents a clear conflict of interest to the regulation of organic agriculture in New Mexico. This is because NMOCC's regulatory function is to implement the standards of the USDA National Organic Program in New Mexico. These standards generally preclude the use of any non-organic inputs such as pesticides, herbicides, and other conventional agricultural chemicals in agricultural products or processes. In addition, since NMDA is administratively under the New Mexico State University (NMSU), and NMSU receives grants and performs research for various chemical companies, the specter of undo influence and conflict of interest again colors whether NMOCC should be formally connected with NMDA.

Due to the regulatory functions performed by the NMOCC, and the strict annual accreditation standards imposed on it by the USDA National Organic Program, it is deemed essential for NMOCC to remain a fully autonomous, independent body in order to perform its statutorily mandated functions without undue or hidden influence in policy or budgetary matters that could impair the healthy growth of the organic sector in the State. Upon the creation of the USDA National Organic Program regulations, the

composition of the Commission membership was changed to exclude NMOCC certified organic producers and/or processors membership on the Commission, specifically to eliminate any apparent perceived conflict of interest or undue influence relating to the performance of NMOCC's regulatory responsibilities. It is the Commission's opinion that in order to perform its functions with the highest levels of professionalism and integrity, and to meet its accreditation standards, it must remain a completely autonomous agency.

The conclusion of both NMOCC and NMDA has been that NMOCC should remain autonomous, specifically to eliminate any apparent perception of either conflict of interest or undue influence relating to the performance of NMOCC's regulatory responsibilities.

### **ADMINISTRATIVE IMPLICATIONS**

NM Organic Commodity Commission indicates as follows:

The proposed legislation eliminates the 5 member Governor appointed Commission, which provides oversight over NMOCC. Elimination of the Commissioners would save approximately \$4K to 5K per year in per diem, etc. but oversight and support by NMDA may increase NMDA's costs by more than the savings created by eliminating the Commissioners.

### **PERFORMANCE IMPLICATIONS**

NM Department of Agriculture indicates as follows:

Given the nature of the resources and infrastructure currently available to NMDA, presumably bringing the NMOCC under its umbrella would have some clear advantages to the NMOCC; i.e. access to resources such as internal technical assistance, greater familiarity with United States department of agriculture's various programs and initiatives and closer relationships with experienced and knowledgeable staff professionals. Also, NMOCC staff would have more time focusing its efforts on program deliverables rather than running a state agency and all that it entails.

### **TECHNICAL ISSUES**

NM Organic Commodity Commission indicates as follows:

No other state agency has the technical expertise, staff qualifications, and accreditation to perform the regulatory functions performed by NMOCC, those functions being very specifically controlled by the National Organic Program. Should this legislation pass and the NOP revokes NMOCC's accreditation to perform organic certification due to NOP's perception of conflicts of interest, almost 200 New Mexico organic producers and processors would suffer very significant damage to their businesses, and thousands and thousands of New Mexicans would lose the guarantee of organic integrity and quality that NMOCC's certifications supply.

**OTHER SUBSTANTIVE ISSUES**

NM Organic Commodity Commission indicates as follows:

All existing classified staff are members of the communications workers of America union (CWA), and are covered by a collective bargaining agreement. It is anticipated that the proposed legislation will be opposed by the union, and should it pass, the collective bargaining agreement would need to be renegotiated.

**AMENDMENTS**

NM Organic Commodity Commission indicates as follows:

The proposed legislative changes fail to ensure that the functions of NMOCC will be separated within NMDA sufficiently from NMDA's conventional agricultural practices, i.e., non-organic agricultural practices, to meet the transparency requirements of the USDA National Organic Program. Language should be inserted in the proposed legislation to ensure the continued independence of organic inspections, certifications and promotions.

PME/svb