

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

B. The department may:

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

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

SECTION 3. FEES AND ASSESSMENTS.--

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

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

(2) producers and handlers may be subject to late fees not to exceed five hundred dollars (\$500).

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

(1) assessments on total gross sales of over one million dollars (\$1,000,000) shall be assessed at a rate not to exceed nine thousand five hundred dollars (\$9,500) plus ninety-five thousandths percent of any amount over one million dollars (\$1,000,000) of total gross sales of organically produced agricultural products based on the previous year's sales; and

(2) after July 1, 2015, the amounts provided for in Paragraph (1) of this subsection may be increased to no more than one percent of the total gross sales of the organically produced agricultural products based on the previous year's sales.

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

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

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

out the provisions of that act.

SECTION 5. APPLICABILITY TO OTHER LAWS.--

A. Any transactions involving agricultural products that bear labels stating that the agricultural products are organically produced are subject to Sections 57-15-1 through 57-15-10 NMSA 1978.

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

SECTION 6. TEMPORARY PROVISIONS--TRANSFERS.--

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

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

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

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

E. The rules of the organic commodity commission

are deemed to be the rules of the board of regents of New Mexico state university for the New Mexico department of agriculture until amended or repealed by the board of regents of New Mexico state university.

SECTION 7. REPEAL.--Sections 76-22-1 through 76-22-28 NMSA 1978 (being Laws 1990, Chapter 122, Sections 1 through 9 and 11 through 14, Laws 2001, Chapter 157, Section 5, Laws 1990, Chapter 122, Sections 16 and 17, Laws 1993, Chapter 330, Section 12 and Laws 1990, Chapter 122, Sections 19 through 28, as amended) are repealed.

SECTION 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2011. _____