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## FISCAL IMPACT REPORT

**SPONSOR** Nuñez **ORIGINAL DATE** 02/16/11  
**LAST UPDATED** 02/21/11 **HB** 430/aHAGC  
**SHORT TITLE** Northern NM Chile Farmer Needs Study **SB** \_\_\_\_\_  
**ANALYST** Kleats

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	\$150.0	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates SB 466

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General's Office (AGO)

New Mexico Department of Agriculture (NMDA)

### SUMMARY

#### Synopsis of HAGC Amendment

The House Agriculture and Water Resources Committee Amendment to House Bill 430 strikes the description of the organization to be contracted on page 1, lines 20 through 24 and replaces it with "for a."

As a result of these changes, HB 430 would still provide for a study, but no restrictions would be placed upon who shall conduct the study. The HAGC Amendment effectively nullifies any concerns raised below in the Technical Issues section.

#### Synopsis of Original Bill

House Bill 430 appropriates \$150,000 from the general fund to the local government division of the Department of Finance and Administration for the purpose of contracting a nonprofit community development organization to study the long-term needs and agricultural research initiatives of northern New Mexico chile farmers.

The contracted organization would inform the legislature, Department of Agriculture, New

Mexico State University and other interested third parties of those research needs with the aim to find equitable solutions for a healthy coexistence of traditional and nontraditional chile initiatives and industries.

### **FISCAL IMPLICATIONS**

The appropriation of \$150,000 contained in this bill is a non-recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY2012 shall revert to the general fund.

### **TECHNICAL ISSUES**

HB 430 provides a narrow description of the organization to be contracted for this study which could limit the applications reviewed by the Local Government Division of the Department of Finance and Administration during the proposal process. The description is broad enough, however, to allow at least four different farmers' organizations and possibly others to compete for the contract: Chimayo Chile Farmers Incorporated, Native Hispanic Institute, Pojoaque Farmers Market, and Santa Fe Farmers Market. In addition, a narrower description might compromise the quality of the study.

The Attorney General's Office (AGO) analysis states language in an appropriations bill cannot evade the requirements of the Procurement Code. In addition, practices required in those types of laws that have broad application, such as the Procurement Code, are favored over individual laws crafted for certain circumstances/industries and especially over those laws that may create advantages in violation of equal protection issues. The AGO refers the reader to N.M. Const. Art. IV, § 16; N.M. Const. Art. IV, §§ 24, 26; and Board of Trustees v. Montano, 82 N.M. 340, 343, 481 P.2d 702 (1971).

The AGO makes no assertion that the description within HB 430 evades the requirements of the Procurement Code.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB 430 duplicates Senate Bill 466.

### **OTHER SUBSTANTIVE ISSUES**

The Department of Agriculture states in its analysis that 84 acres of chile were grown in Rio Arriba and Santa Fe Counties according to the 2007 agricultural census. 80 of those acres were sold fresh at market, and 4 acres went to processing. The agricultural census also indicated that 77 farms produced chile in Rio Arriba and Santa Fe Counties. These are relatively small farms averaging little more than one acre of chile production each.