

LFC Requester:	Travis Dulany
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**AGENCY BILL ANALYSIS  
2016 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)

*and*

[DFA@STATE.NM.US](mailto:DFA@STATE.NM.US)

*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Check all that apply: Date 01/13/2016  
Original     Amendment    \_\_\_\_\_ Bill No: SB3  
Correction     Substitute    \_\_\_\_\_

Sponsor: Cisco McSorley & Moe Maestas    Agency Code: 305  
Short    RESEARCH ON    Person Writing    James J. Torres  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to:  
HB 75  
SJR 5  
SJR6

**SECTION III: NARRATIVE**

**BILL SUMMARY**

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Letter. This is a staff analysis in response to an agency’s, committee’s, or legislator’s request.

**Synopsis:**

SB 3 relates to the research and commercial use of industrial hemp. This bill provides that the New Mexico department of agriculture shall issue licenses to institutions of higher education, persons or businesses to grow industrial hemp seed or fiber for commercial or research and development purposes, including agricultural, agronomic, ecological, processing, sales and marketing research. SB 3 would also require New Mexico State University to create the “New Mexico industrial hemp research and development fund”. Both the Secretary of Finance and Administration and the department of agriculture would be involved in fund disbursement. Finally, the bill carves out an exception from NMSA Section 30-31-2(N) of the Controlled Substances Act for industrial hemp.

**FISCAL IMPLICATIONS**

None

**SIGNIFICANT ISSUES**

7 U.S. Code Section 5940, enacted in 2014, uses the same definition of industrial hemp as proposed by SB 3. However, the federal statute may be interpreted as permitting only state departments of agriculture and institutions of higher education to grow industrial hemp. In contrast, SB 3 would authorize the department of agriculture to issue licenses to “[a]n institution of higher education, person or business.” Therefore, a federal preemption issue may exist.

Subsection E of the bill allows licensure for “commercial or research and development purposes.” However, Subsection C only contemplates licensure for research and development purposes. Clarification may be required to resolve this conflict. Further, it is unclear whether the word “commercial”, as used in Subsection E, is limited to research. If not, SB 3 may conflict with 7 U.S. Code Section 5940, which only allows the growth of industrial hemp for research purposes.

**PERFORMANCE IMPLICATIONS**

**ADMINISTRATIVE IMPLICATIONS**

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Passage of any of the following would obviate the need for passing SB 3:

HB 75

SJR 5

SJR6

**TECHNICAL ISSUES**

**OTHER SUBSTANTIVE ISSUES**

**ALTERNATIVES**

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status Quo

**AMENDMENTS**