

# FISCAL NOTE

**Bill #:** SB0363

**Title:** Pilot program testing imported raw Ag. products for drugs and chemicals residues

**Primary**

**Sponsor:** Jon Tester

**Status:** As Introduced

\_\_\_\_\_  
Sponsor Signature

\_\_\_\_\_  
Date

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Chuck Swysgood, Budget Director

\_\_\_\_\_  
Date

## Fiscal Summary

	<b><u>FY2002</u></b> <b><u>Difference</u></b>	<b><u>FY2003</u></b> <b><u>Difference</u></b>
<b>Expenditures:</b>		
General Fund	92,147	88,282
State Special Revenue	40,000	40,000
<b>Revenue:</b>		
General Fund	0	0
State Special Revenue	40,000	40,000
<b>Net Impact on General Fund Balance:</b>	<b>(\$92,147)</b>	<b>(\$88,282)</b>

<b><u>Yes</u></b>	<b><u>No</u></b>		<b><u>Yes</u></b>	<b><u>No</u></b>	
	X	Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts
	X	Dedicated Revenue Form Attached		X	Family Impact Form Attached

## Fiscal Analysis

### ASSUMPTIONS:

#### **Department of Public Health and Human Services**

1. A pilot program would involve testing of grain products coming from Canada for markets in Montana. It is estimated that 30 to 40 samples would be tested over a two-year period.
2. DPHHS (Food and Consumer Safety Section) would be responsible for the provisions of this bill related to testing of grains, fruits and vegetables. To the extent that a product contains a pesticide for which no tolerance has been set in 40 CFR 180, the tolerance level for purposes of this pilot would be zero and would render a load of grain adulterated under a rigorous interpretation of the act.

3. The Department of Livestock would be responsible for enforcing the provisions related to importation of live animals.
4. As described in this bill, a testing program would require 1.00 FTE (Grade 15 Sanitarian) to: design and implement the pilot testing program; monitor results of testing done in cooperation with the Department of Agriculture lab; report the results of the testing to the entities specified in the bill; initiate enforcement action against those found to be in violation of the act; and maintain data and information regarding the program.
5. It is assumed that testing would be done primarily at border crossings, where the final destination of trucks of grain would have to be determined. Travel costs are estimated at \$5,000 per year. An additional \$2,000 per year in operation for rent, communications and supplies is required.
6. The pilot program will commence in July, 2001, in order to accommodate the seasonal nature of shipment of agricultural products.
7. General fund will be used for this program.

**Department of Livestock**

8. Certifications for disallowed products and drugs would be the responsibility of the exporting country.
9. The passage of SB 363 would result in fewer livestock shipments from other counties because they would not meet the certification criteria of the bill.
10. DOL assumes that other countries likely would not be able to meet the criteria of §81-2-703, MCA, as proposed in the bill because the five year criteria would likely not be able to be met.
11. There would be no fiscal impact to the department.

**Department of Agriculture**

12. The Department of Public Health and Human Services will contract with the Department of Agriculture's lab to conduct the sample testing of raw agricultural products.
13. The Department of Agriculture assumes that for the pilot only the department would contract for a professional chemist to perform the sample testing in the existing lab as the additional workload is not absorbable within current personnel. In addition, the lab would purchase the necessary supplies and materials. These costs are included in the sample costs detailed in assumption 14.
14. The lab conducts sample testing for pesticide residue using a multi-residue method for groups of pesticides that average \$250 per sample. Following the FDA screening protocol, the lab assumes SB 363 requires pesticide residue analysis of four base pesticides groupings (which provides analysis for 60 to 80 pesticides). Assume an average cost of \$1,000 per sample based on current fee schedule.
15. Federal regulation (40 CFR 180) identifies 27 groups of crops listed as raw agricultural commodities for the purposes of residue testing. Several groups contain products potentially imported from foreign countries into the state of Montana. The groups include a wide range of products from produce to grain. At this time, the Department of Agriculture has no way to determine the number or amount of raw agricultural commodities imported from foreign countries into Montana.
16. The Department of Agriculture assumes the pilot program will limit samples to four times each year and limit requests to 10 samples each time.

**FISCAL IMPACT:**

**Department of Public Health and Human Services**

	FY2002	FY2003
	<u>Difference</u>	<u>Difference</u>
FTE	1.00	1.00

**Expenditures:**

Personal Services	\$41,147	\$41,292
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Operating Expenses	47,000	47,000
Equipment	<u>4,000</u>	<u>0</u>
TOTAL	\$92,147	\$88,282

Funding:

General Fund (01)	\$92,147	\$88,282
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Net Impact to Fund Balance (Revenue minus Expenditure):

General Fund (01)	(\$92,147)	(\$88,282)
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**Department of Agriculture**

Expenditures:

Operating Expenses	\$40,000	\$40,000
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Funding:

State Special Revenue (02)	\$40,000	\$40,000
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Revenue:

State Special Revenue (02)	\$40,000	\$40,000
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Net Impact to Fund Balance (Revenue minus Expenditure):

State Special Revenue (02)	0	0
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TECHNICAL NOTES:

**Department of Public Health and Human Services**

1. The US FDA has a federal mandate to conduct matters of interstate commerce in food. The State of Montana's authority to restrict international trade is overshadowed by FDA authority and regulations.
2. This act cannot confer the authority on DPHHS to inspect grains or other products bound for markets outside of Montana. DPHHS can only inspect those staying instate.
3. The enforcement section of this bill is unclear. The existing enforcement sections of the Food Drug and Cosmetic Act give the DPHHS embargo and seizure authority for adulterated foods. If no clearer intermediate steps are described in this bill, the DPHHS will have to use its embargo authority.

**Department of Agriculture**

4. The bill does not identify the source of the funding for the state special revenue fund created for this purpose, but it is assumed that the state special revenue will be lab fees paid by the DPHHS.
5. Based on the definitions in state law Under the Montana Food, Drug, and Cosmetic Act as defined in 50-31-103, MCA, "food" means articles used for food or drink for humans or other animals. The definition of "raw agricultural commodity" includes food and is too broad to accurately determine full fiscal impact of the intent of the legislation.