

Fiscal Note Request HB0409, As Introduced

(continued)

6. Each case also would require 15 hours of paralegal support at \$39.80 per hour. Thus HB 409 would involve 60 paralegal hours in FY 2004 ($\$39.80 \times 60 = \$2,388$) and 60 in FY 2005 ($\$39.80 \times 60 = \$2,388$) for total paralegal costs of \$4,776.
7. The total cost to the general fund for legal services would be \$19,620 in FY 2004 and \$19,620 in FY 2005. Agency Legal Services Bureau is a proprietary fund and would record the \$19,620 per year as revenue.

Department of Higher Education

8. This bill gives the authority to the Department of Agriculture to create a Montana wheat protection and promotion program, which includes creation of a certification process.
9. Section 2.2.i excludes the Montana university system from the requirement for certification under this bill. Section 8 of this bill exempts test plots, which are part of research being conducted by a unit of the Montana University System.

Department of Agriculture

10. The Department of Agriculture needs start up costs from the general fund to write position descriptions for the new FTE, complete the hiring process, adopt rules, initiate two Requests for Proposals (one for the intensive study and evaluation and one for the EIS), and conduct public hearings.
11. One application will be filed annually with the department beginning in FY 2005. Only two varieties of genetically engineered wheat are known to be in the final stages of development, Roundup-ready wheat and Fusarium-resistant wheat. The first application is dependent upon the U. S. Department of Agriculture (USDA) granting approval for release and the decision of the patent holder to begin marketing. The USDA approval for one variety of genetically modified wheat currently being developed is projected within 12 to 36 months; however, the variables that influence the patent holder's decision to produce the product, makes it impossible to project the date of release for marketing.
12. In FY 2005, the department will contract the intensive study and evaluation required by Section 12(4) at an estimated cost of \$192,000 (3 months x 20 working days in a month x 8 hours per day x 4 staff x \$100 per contract hour).
13. The initial application requires an EIS. The department will contract for preparation of an EIS at an estimated cost of \$500,000 in FY 2005.
14. Subsequent applications may only require an environmental assessment if the Department of Agriculture is able to use information from the original EIS that has not changed.
15. Section 11 of HB 409, requires the department establish a filing fee for applications that is commensurate with the costs of enforcing and administering the bill. In FY 2005, an application fee of \$913,810 would be charged to cover the actual costs of enforcing and administering the bill.
16. In FY 2004 and FY 2005, a full-time program manager (grade 16 at \$45,206) will be hired to request bids, monitor contracts, review applications, and coordinate public comments and hearings. A grade 14 (\$37,658) 1.00 FTE professional position will manage complaints and investigate bona fide complaints. A grade 8 (\$11,164) 0.50 FTE will be needed to conduct administrative support duties such as correspondence, file maintenance, and word processing for a total of \$94,028 in personal services in FY 2004 and FY 2005.
17. In FY 2004 operations include \$750 for preparation of program rules and procedures (10 pages of rules x \$75 per page), \$3,418 for rent, and \$438 for other operation costs such as supplies and materials, and communications costs of \$851, start up costs for an office of \$1,000, and computer cost of \$1,600, and \$2,725 for travel.
18. In FY 2005, operations costs include \$5,000 for printing and distribution of required reports, \$3,418 for rent, \$2,395 for other operation costs such as supplies and materials of \$275 and communications costs of \$551, \$2,725 for travel, and \$3,418 for rent.

Fiscal Note Request HB0409, As Introduced

(continued)

19. The Department of Agriculture’s inspection authority under Section 16 will involve receiving complaints and investigating bona fide complaints by inspecting sales and plantings of genetically engineered wheat to assure compliance with conditions of the certificate with estimated 25 travel days at \$2,725 in each year (\$599 for motor pool car, \$826 for per diem, in state lodging of \$1,300) and \$10,000 (10 samples x \$1,000 per sample analysis) for genetic analysis.
20. To publicize and coordinate hearings will cost \$100,000 (10 hearings x \$10,000). This includes the cost of advertising the public notices in newspapers, hiring a hearings examiner, transcription of the meeting, meeting room costs, and travel for employees to staff the meeting.

FISCAL IMPACT:

Department of Justice

	FY 2004 Difference	FY 2005 Difference
<u>Expenditures:</u>		
Operating Expenses Legal Services Division (Pgm 01)	\$19,620	\$19,620
Operating Expenses Agency Legal Services (Pgm 06)	<u>19,620</u>	<u>19,620</u>
TOTAL	<u>\$39,340</u>	\$39,340
<u>Funding of Expenditures:</u>		
General Fund (01)	\$19,620	\$19,620
Other (06)	<u>\$19,620</u>	<u>\$19,620</u>
TOTAL	\$39,340	\$39,340
<u>Revenues:</u>		
Other (06) Agency Legal Services (Pgm 06)	\$19,620	\$19,620

Department of Agriculture (Pgm 30)

FTE	2.50	2.50
<u>Expenditures:</u>		
Personal Services	\$94,028	\$94,028
Operating Expenses	<u>10,782</u>	<u>819,782</u>
TOTAL	\$104,810	\$913,810
<u>Funding of Expenditures:</u>		
General Fund (01)	\$104,810	\$0
State Special Revenue (02)	<u>0</u>	<u>913,810</u>
TOTAL	\$104,810	\$913,810
<u>Revenues:</u>		
State Special Revenue (02)		\$913,810
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>		
General Fund (01)	(\$124,430)	(\$19,620)
State Special Revenue (02)	\$0	\$0

Fiscal Note Request HB0409, As Introduced

(continued)

LONG-RANGE IMPACTS:

Long-range fiscal impacts will be dependent upon the development of genetically modified wheat varieties and the decisions of companies to commercially introduce them in Montana.

TECHNICAL NOTES:

Department of Justice

1. The Attorney General's enforcement authority appears to overlap with the Department of Agriculture's, as Section 19 authorizes both the Attorney General and the Department of Agriculture to bring civil actions for enforcement.
2. Section 5 creates a special revenue account that may be used by the Department of Agriculture for costs associated with enforcement but makes no reference to costs of enforcement incurred by the Attorney General.

Department of Higher Education

3. According to staff at MSU-Bozeman, the guidelines put forth in the bill for test plots are not compatible with existing federal APHIS (Animal and Plant Inspection Service) guidelines.
4. This bill may adversely impact future funding for MSU-Bozeman's research in plant genetics, which is currently a \$600,000 effort.

Department of Agriculture

5. Initial applicants may pay higher application fees than later applicants because program costs could decrease if the Department of Agriculture is able to tier back to earlier Environmental Impact Statements.
6. The bill as currently written requires HB 2 expenditure authority that may be hard to estimate. A statutory appropriation would allow the department the ability to spend the application fees, as they are collected.
7. The legislation does exempt research projects but it does not address "private varieties" protected under the federal Plant Variety Protection Act. These are varieties patented and released by public entities such as universities. The patent holder may release the variety for public use but may not receive revenue from sales.
8. Section 7 is vague in defining the types of financial responsibility required.
9. The information required on the application in Section 9 may contain confidential business information or proprietary information that once it is listed on the application could become public information if there is no specific protection defined in state law.
10. Section 14 requires, within 90 days after the public hearing described in Section 13, the director shall make a complete finding and render a final decision. Depending on the issues raised during the public meetings and the fact that final decisions must be made on technical and complex information, 90 days may not be long enough to fully assess potential impacts.