GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2017 Biennium

Bill #	HB0357		**Title:**	Require state agencies to coordinate with county local governments
Primary Sponsor:	White, Kerry		**Status:**	As Introduced

☐ Significant Local Gov Impact ☑ Needs to be included in HB 2 ☑ Technical Concerns

☐ Included in the Executive Budget ☐ Significant Long-Term Impacts ☐ Dedicated Revenue Form Attached

Expenditures:				
General Fund	$320,459	$306,644	$311,350	$316,112
State Special Revenue	$115,537	$112,152	$113,728	$115,342
Federal Special Revenue	$2,400	$2,400	$2,436	$2,473
Trust Funds	$0	$0	$0	$0
Revenue:				
General Fund	$0	$0	$0	$0
State Special Revenue	$12,048	$11,563	$11,630	$11,713
Federal Special Revenue	$0	$0	$0	$0
Trust Funds	($12,048)	($11,843)	($12,027)	($12,212)
Net Impact-General Fund Balance:	($320,459)	($306,644)	($311,350)	($316,112)

Description of fiscal impact: HB 357 requires state agencies to coordinate with counties prior to submitting final recommendations to the federal agency. Coordination will require an increase in personal services and operating funds in order to manage coordination with the counties.

FISCAL ANALYSIS

General Assumptions:

Department of Natural Resources and Conservation (DNRC)

1. In order to coordinate with counties as required under HB 357, DNRC would require 3.75 additional FTE:
   a. Trust Land Management Division (TLMD) – 1.00 FTE conservation specialist with salary and benefits of $75,805 per year;
   b. Water Resources Division (WRD) – 1.00 FTE conservation specialist with salary and benefits of $75,805 per year;
   c. Forestry Division – 1.00 FTE program specialist with salary and benefits of $74,303 per year;
   d. Conservation and Resource Development Division (CARDD) – 0.50 FTE program specialist with salary and benefits of $42,473 per year; and
   e. Director's Office/Legal Unit – 0.25 FTE attorney with salary and benefits of $26,881 per year.

2. Operating expenditures for these FTE would include the standard operating expenses in FY 2016 which includes office packages, computers, communication services, and supplies and materials plus additional annual operating costs for travel expenses, information technology services, and supplies ($37,240 in FY 2016). Costs would continue annually for travel expenses, information technology services, and supplies ($22,940 in FY 2017, $23,269 in FY 2018, and $23,602 in FY 2019).
3. An inflation factor of 1.5% for FY 2018 and FY 2019 has been added.
4. See the specific division assumptions below for more assumptions and details pertaining to the FTE and cost calculations for each division.

Trust Land Management Division (TLMD)

5. TLMD manages approximately five million surface acres and six million subsurface acres on behalf of the numerous trust beneficiaries. Land management activities on these acres are in four programs: agriculture and grazing, real estate, minerals and forest management. The land management activities are diverse and statewide, including minerals management for oil, gas, and coal; real estate activities, including commercial development, rights-of-way, utility leases, land sales, exchanges, and acquisitions; agriculture and grazing leases, and recreational use; and forest management, including timber harvest, and forest improvement activities. The division has four bureaus, six area offices and numerous unit offices that are responsible for land management activities statewide.
6. It is assumed TLMD would be coordinating with up to 25 counties annually to complete state trust land projects.
7. TLMD engages in:
   a. approximately five projects annually with the United State Forest Service (USFS) under the Master Cost-Share Agreement;
   b. approximately two projects annually with the Bureau of Land Management (BLM) to gain permanent access to state trust lands to conduct timber sales. Additionally, TLMD engages in ten other projects annually to grant or gain temporary access to federal agencies across state trust lands.
   c. other cooperative policies, actions, and plans with federal agencies within counties (Forest Management Program). These include the Montana DNRC Forested State Trust Land Habitat Conservation Plan, the Northern Continental Divide Ecosystem Subcommittee (Grizzly Bear cooperative management in northwestern Montana), the Swan Valley Grizzly Bear Conservation Agreement, and Bald Eagle Management Plan.
8. Additionally, TLMD has been, and will continue to work with federal agencies on sage grouse management issues in many counties throughout Montana.
9. The 1.00 FTE referenced in Assumption 1(a) would be needed to perform the additional communication and coordination duties needed in the division and to work with the Real Estate Management Bureau right-of-way specialists on coordinating with the counties on access packages.
10. Expenditures for the new FTE (see General Assumption 2) would be paid from the division's primary funding source, the state special revenue account – trust administration account (fund 02938). The account is funded by a portion of the revenues generated by land management activities from the trust beneficiaries' distributable revenue stream.
11. An increase in the trust administration account represents a reduction in the distributable revenue stream for the trust beneficiaries. The costs for fiscal note purposes were allocated based on surface acres by trust. The trust beneficiaries are common schools, the university system (Montana State University, Montana Tech, the state normal school [Eastern and Western] and University of Montana), other trusts (School for the Deaf and Blind, State Reform School – Pine Hills) and the public buildings trust.
12. Reductions to the common schools distributable revenue are allocated 95% to the guarantee account and 5% to the common schools permanent fund.
13. The permanent fund generates interest for the trust beneficiaries. Interest for the common schools trust is distributed 95% to the common school guarantee account annually with 5% reinvested in the permanent fund. Interest on the common schools permanent fund is forecast at a rate of 3.70% for FY 2016, 3.50%

for FY 2017, 3.30% for FY 2018, and 3.10% for FY 2019. Interest rates were provided by the Board of Investments, whose responsibility it is to manage the trust and legacy fund.

14. The common school guarantee account is the first source of funding for K-12 BASE Aid. Therefore, a reduction of revenue to the account requires a like amount of funding to come from the general fund to cover BASE Aid expenditures.
15. Reductions in the deposits to the common schools permanent fund reduce interest in the fund and distributable interest to the trust.

Water Resources Division (WRD)

16. HB 357 would apply to the interaction WRD has with the counties during the development and adoption of updating Federal Emergency Management Agency (FEMA) Special Flood Hazard Areas for the purpose of the National Flood Insurance program.
17. The program to update flood hazard areas is a continuing program and usually involves one to two counties each year. Currently, there are eight counties with ongoing projects. As part of the process for each project, FEMA provides minimal funding for the interaction, coordination and collaboration with the county officials as well as the affected public and land owners.
18. In order to comply with the intent of the HB 357, the 1.00 FTE referenced in Assumption 1(b) is necessary to provide the appropriate level of collaboration and coordination with the counties.
19. Personal services and operating expenditures for the new FTE (see General Assumptions 1 and 2) would be paid from the general fund.
20. DNRC would not responsible to reimburse other local governmental units for travel expenses to attend coordination meetings. DNRC would incur travel costs related to coordination meetings with counties (see Assumption 2).

Forestry Division

21. If HB 357 passes without the additional 1.00 FTE referenced in Assumption 1(c) and associated funding, the Forestry Division will have to cease federal engagement efforts associated with the ongoing Forests in Focus Initiative.
22. Personal services and operating expenditures for the new FTE (see General Assumptions 1 and 2) would be paid from the general fund.

Conservation and Resource Development Division (CARDD)

23. CARDD processes 400 contracts per year for water and wastewater loans, renewable resource grants or loans, reclamation grants, planning grants, and conservation district projects.
24. Assuming that counties met on half of those projects, coordination activities with the counties would include meeting, notices of meetings, and travel to meet with various parties. The 0.50 FTE referenced in Assumption 1(d) would be needed to implement the coordination.
25. Personal services and operating expenditures for the new FTE (see General Assumptions 1 and 2) would be paid from the general fund.

Director's Office/Legal Unit:

26. The 0.25 attorney FTE referenced in Assumption 1(e) would be necessary to defend against potential lawsuits under this bill, brought against DNRC by affected counties.
27. Personal services and operating expenditures for the new FTE (see General Assumptions 1 and 2) would be paid from the general fund.

Department of Fish Wildlife and Parks (FWP):

28. As applied to FWP, the phrase “land use plan, policy or action” in Section 1 of HB 357 may include National Forest plans, BLM and USFS travel plans, National Wildlife Refuge and National Park plans, recovery actions under the Endangered Species Act, timber sales, energy and pipeline siting, special use permits, fish barriers, land exchanges, ski area developments, habitat improvement projects, grazing allotment reviews, transmission lines, culverts and cell towers.

29. On average, each of FWP's seven regions coordinate, collaborate or cooperate with federal agencies on an average of 50 land use plans, policies or actions annually. Therefore 7 regions X 50 projects per year = 300 projects.
30. On average, Helena staff will coordinate, collaborate, or cooperate with federal agencies on an average of 30 land use plans, policies or actions annually.
31. Under HB 357, FWP estimates it will coordinate, collaborate, or cooperate with federal agencies on 330 land use plans, policies or actions annually.
32. On average, under HB 357, FWP will be required to have coordinating relationships with 1.5 counties per project. Therefore, 330 projects/year X 1.5 counties per project = 495 coordinating relationships with counties per year.
33. On average, it will take 6 hours of time to establish a coordinating relationship with a county, present and discuss with the county FWP's coordination, collaboration and cooperation with the federal agency, answer county questions, solicit and consider county input, document the input in writing and ensure that the objectives expressed by the county are necessary and integral components of federal plans, policies or actions. Therefore, 495 coordinating relationships per year X 6 hours of time per coordinating relationship = 2, 970 hours of time to comply with the requirements of HB 357.
34. FWP will require 1.43 new FTE to comply with HB 357.
35. The starting annual salary and benefits for 1.43 FTE biologists is $86,329.
36. Operations costs for 1.43 FTE will be $17,160.

Department of Environmental Quality (DEQ):

37. HB 357 does not apply when a state agency is merely providing comments to a federal agency if the state agency is not also planning to take consistent action.
38. When a federal agency is proposing a land use plan, policy, or action and DEQ is planning to take consistent action, HB 357 requires DEQ to solicit county commissioner input, document it, and consider it.
39. This bill requires DEQ to incorporate the county commissioners' recommendations into DEQ's recommendations.
40. HB 357 also requires DEQ to aid in incorporating the county's recommendations. It is assumed that this would be accomplished by answering questions, reviewing draft language, or getting the federal agency in touch with the county.
41. Coordinating with county agencies on comments on federal land use plans through a formal procedure would require additional DEQ staff time to be expended. However, it is assumed this time could be absorbed within existing staff workloads.

Department of Livestock (DOL):

42. As applied to DOL, the phrase "land use plan, policy or action" in Section 1 of HB 357 may include National Forest plans, BLM and USFS travel plans, National Wildlife Refuge and National Park plans, recovery actions under the Endangered Species Act, and bison management plans.
43. It is assumed that the majority of DOL's time will be brucellosis/bison related to coordinate, collaborate, or cooperate with federal and county agencies an average of 10 land use plans, policies or actions (projects) annually.
44. Under the provisions of HB 357, DOL estimates it would need to coordinate, collaborate, or cooperate with one county for each of the 10 projects annually.
45. It is estimated that 6 hours of contract veterinarian time for each of the 10 projects would be required to establish a coordinating relationship with a county, present and discuss with the county DOL's coordination, collaboration and cooperation with the federal agency, answer county questions, solicit and consider county input, document the input in writing and ensure that the objectives expressed by the county are necessary and integral components of federal plans, policies or actions. Therefore, 10 coordinating relationships per year X 6 hours of time per coordinating relationship = 60 hours of time to comply with the requirements of HB 357.

46.It is assumed the contract rate for veterinarian services is $40 per hour. The DOL cost would be $2,400.

47. These contract services would be funded with federal funds USDA/APHIS – cattle health cooperative agreement.

	FY 2016 Difference	FY 2017 Difference	FY 2018 Difference	FY 2019 Difference
Fiscal Impact:				
FTE	5.18	5.18	5.18	5.18
Expenditures:				
Personal Services	$381,596	$381,596	$387,320	$393,130
Operating Expenses	$56,800	$39,600	$40,194	$40,797
TOTAL Expenditures	$438,396	$421,196	$427,514	$433,927
Funding of Expenditures:				
General Fund	$320,459	$306,644	$311,350	$316,112
Trust Admin Account SSR (02)	$88,705	$87,092	$88,398	$89,724
State Special Revenue (02)	$103,489	$100,589	$102,098	$103,629
Federal Special Revenue	$2,400	$2,400	$2,436	$2,473
Common Schl Guarantee Acct SSR (02)	($76,657)	($75,529)	($76,768)	($78,011)
CS Trust - Permanent Fund (09)	$0	$0	$0	$0
University Trusts Distributable	$0	$0	$0	$0
Other Trusts Distributable	$0	$0	$0	$0
Public Buildings Distributable	$0	$0	$0	$0
TOTAL Funding of Exp.	$438,396	$421,196	$427,514	$433,927
Revenues:				
General Fund	$0	$0	$0	$0
Trust Admin Account SSR (02)	$88,705	$87,092	$88,398	$89,724
State Special Revenue (02)	$0	$0	$0	$0
Common Schl Guarantee Acct SSR (02)	($76,657)	($75,529)	($76,768)	($78,011)
CS Trust - Permanent Fund (09)	($4,035)	($3,975)	($4,041)	($4,106)
University Trusts Distributable	($2,985)	($2,931)	($2,974)	($3,019)
Other Trusts Distributable	($1,810)	($1,777)	($1,804)	($1,831)
Public Buildings Distributable	($3,218)	($3,160)	($3,208)	($3,256)
TOTAL Revenues	$0	($280)	($397)	($499)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund	($320,459)	($306,644)	($311,350)	($316,112)
Trust Admin Account SSR (02)	$0	$0	$0	$0
State Special Revenue (02)	($103,489)	($100,589)	($102,098)	($103,629)
Common Schl Guarantee Acct SSR (02)	$0	$0	$0	$0
CS Trust - Permanent Fund (09)	$72,622	$71,554	$72,727	$73,905
University Trusts Distributable	($2,985)	($2,931)	($2,974)	($3,019)
Other Trusts Distributable	($1,810)	($1,777)	($1,804)	($1,831)
Public Buildings Distributable	($3,218)	($3,160)	($3,208)	($3,256)

Technical Notes:

1. For projects that require MEPA, state agencies are currently directed to contact and obtain comments from local governments (75-1-201, MCA). For projects and planning processes, TLMD programs currently solicit comments from counties through the current scoping process.
2. Section 1 requires local government coordination for a federal land use plan, policy, or action, if a state agency is coordinating, collaborating, or cooperating with the federal agency. It is unclear what is intended to be included as a federal action. "Action" is a broad term that could encompass virtually everything a federal agency does. It is also unclear what constitutes "collaborating" or "cooperating" between a federal and state agency. Both are broad terms that could encompass any type of communication. Absent clarifying language, the scope of the bill cannot be determined.
3. The scope of the intended coordination is unclear. Section 1 seems to be limited to a federal "land use plan, policy, or action." However, the bill title refers to "a proposed action," without specifying whether it applies to a federal action, state action, or both.
4. The identified flood hazard areas must be used by counties and cities to establish land use areas where flood hazard mitigation development standards apply. This is done by means of a development permitting process for the identified flood hazard area if the community wants to participate in the National Flood Insurance Program. Anyone in the community becomes eligible to purchase flood insurance if the community participates in the NFIP program.

Sponsor's Initials *Date* *Budget Director's Initials* *Date*