



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2021 Biennium

Bill # SB0206

Title: Revise the labeling and marketing of certain ag products

Primary Sponsor: Olszewski, Albert

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

FISCAL SUMMARY

	<u>FY 2020 Difference</u>	<u>FY 2021 Difference</u>	<u>FY 2022 Difference</u>	<u>FY 2023 Difference</u>
Expenditures:				
General Fund	\$240,559	\$166,955	\$167,317	\$167,684
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>(\$240,559)</u>	<u>(\$166,955)</u>	<u>(\$167,317)</u>	<u>(\$167,684)</u>

Description of fiscal impact: SB 206 revises the labeling, marketing and advertising of livestock and poultry products in Montana, requires the Department of Labor and Industry to administer requirements including placard standards, imposes fines, and prohibits the marketing, advertising or labeling of cell cultured edible products as livestock or poultry. The Department of Labor and Industry will incur costs to promulgate rules, provide for inspection services, and impose penalties.

FISCAL ANALYSIS

Assumptions:

Department of Labor and Industry (DLI)


- DLI is charged with promulgating rules to administer SB 206. The rules must include methods to determine the differences between imported and domestic livestock and poultry products, methods for delineating differences between livestock and poultry products born and raised in the United States and processed in the United States, placarding methods for livestock and poultry products, and any other requirements necessary to implement SB 206.
- There will be a 15-page rule notice and five-page adoption notice with a one-time estimated expense from the Secretary of State of \$1,200.
- DLI will hold a two-hour public hearing for comment on the rule proposal with a hearing officer and court reporter present to record comments. The estimated one-time cost is \$444.

4. It is unknown how many establishments will be affected by SB 206, but 600 grocery stores are estimated to have a type of scale the can commercially weigh commodities. The one-time costs to notify these interested parties of the rule change are estimated at \$600.
5. DLI will require 80 hours of additional legal service hours to assist in drafting the rules, responding to public comment and preparing the adoption notice. The estimated one-time cost is \$7,760.
6. DLI will hire 2.00 FTE to perform annual inspections at each location, perform reporting and data entry, document compliance issues, follow up by issuing penalties, and be available to appear or testify at hearings or in district court (SB 206 language page 2 New Section 3(2)).
7. The estimated cost for two FTE, pay band five Government Property Investigator/Inspectors is \$142,829 annually including salary, taxes and benefits.
8. Operating costs are estimated at \$11,212 annually. Annual travel costs are estimated at \$12,914.
9. There will be one-time costs for initial office and computer set up for two employees estimated at \$5,600.
10. A database will be necessary to store information, track inspections, provide inspectors the ability to log information from locations outside the office, house compliance and penalty records, produce reports, and provide statistics and data.
11. DLI has a database (Accela) that the new program can be built in. The purchase of new licenses for inspectors and additional maintenance costs will be required. The one-time cost to purchase Accela licenses is \$16,000.
12. The one-time estimated cost for analysis, design, development, testing, scripting, training, project management, and building a website for the program is \$42,000.
13. SB 206 allows for the collection of fines. DLI is unable to estimate revenue from fine collection.
14. A 1.5% inflationary factor is included in years three and four for operating expenses.

	<u>FY 2020</u> <u>Difference</u>	<u>FY 2021</u> <u>Difference</u>	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>
<u>Fiscal Impact:</u>				
FTE	2.00	2.00	2.00	2.00
<u>Expenditures:</u>				
Personal Services	\$142,829	\$142,829	\$142,829	\$142,829
Operating Expenses	\$97,730	\$24,126	\$24,488	\$24,855
TOTAL Expenditures	<u>\$240,559</u>	<u>\$166,955</u>	<u>\$167,317</u>	<u>\$167,684</u>
<u>Funding of Expenditures:</u>				
General Fund (01)	\$240,559	\$166,955	\$167,317	\$167,684
TOTAL Funding of Exp.	<u>\$240,559</u>	<u>\$166,955</u>	<u>\$167,317</u>	<u>\$167,684</u>
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
TOTAL Revenues	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$240,559)	(\$166,955)	(\$167,317)	(\$167,684)

Technical Notes:

1. Portions of SB 206 may be pre-empted by 7 USC 1638, et. seq., the federal country of origin labeling (“COOL”) laws, as a matter of federalism.
2. The provisions of Section 2 (4) provide for a mental state of “knowingly or purposefully” for removal of a placard, in contrast to the mental state of “knowingly” removing a placard in Section 3 (2).
3. It is unclear whether the provisions of Section 3 (1), regarding penalties are intended to be fines levied by DLI in an administrative or civil proceeding. The provisions of Section 3 (1) refer to a mental state of knowingly or purposely offering for sale but does not provide for a criminal violation.
4. SB 206 does not provide DLI with any specific statutory investigatory or enforcement authority with respect to Sections 1 through 4. The codification in Title 30, chapter 12, part 7, MCA, does not incorporate any of the definitions and powers provided by Title 30, chapter 12, parts 1 through 5, MCA.
5. To the extent that SB 206 provides more favorable treatment for domestic livestock and poultry products than imported livestock and poultry products, SB 206 may violate certain international trade agreements to which the United States is a party.



Sponsor's Initials

OLSEN-NSKE MD 2/12/19

Date



Budget Director's Initials

2/12/19

Date