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September 16, 1999

Hon. Bill Lockyer
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Connie Lemus
Initiative Coordinator

Dear Attorney General Lockyer:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative entitled "The Right to Know Genetically Engineered Food Labeling" (File No. SA1999 RF 0034). This measure provides that foods produced with genetically engineered "influences" be labeled at the retail level with the words "Produced with Genetically Engineered Ingredients" printed in type equal to and immediately preceding the product ingredient labeling.

The measure defines "genetically engineered influences" as crops and livestock containing genetic material transferred from one species to another or other DNA modifications not commonly possible under natural conditions. Historical breeding techniques such as hybridization through mass selection, controlled crossing, line breeding, and back crossing are not considered to be genetic engineering.

We note that the measure's language—which states that it is the "wish" of the people of the State of California that the measure be implemented—is ambiguous as to whether it carries the force of law. For the purposes of this fiscal analysis, however, we are assuming that the measure would be implemented if passed by the electorate.

BACKGROUND

Genetic engineering is the technique of removing, modifying, or adding genes to a DNA molecule. The term also applies to research in genetics regarding the alteration or modification of the genetic material carried by a living organism to produce some desired change in its characteristics. Genetic engineering is used in the development of new plant varieties that are used as sources of foods.

The federal Food and Drug Administration (FDA) has authority under the Federal Food, Drug, and Cosmetic Act to ensure the safety and wholesomeness of most foods (except meat and poultry), including foods developed through biotechnology. In California, the Department of Health Services (DHS) regulates food safety, except for meats, poultry, and dairy, which are overseen by the California Department of Food and Agriculture (CDFA).

In a 1992 policy statement, the FDA stated that the regulation and labeling of food products containing genetically engineered components is subject to the same safety standards as any other food product. Federal and state law require that the label disclose information that is material to representations made about the product and the consequences that may arise from the use of the product.

SUMMARY OF THE INITIATIVE

The measure would declare the “wish” of Californians that foods produced with genetically engineered “influences” be labeled at the retail level with the words “Produced with Genetically Engineered Ingredients” printed in type equal to and immediately preceding the product ingredient labeling.

FISCAL EFFECTS

Costs. This measure would increase the state government’s costs of monitoring regulated food products. The DHS and the CDFA inspect processing plants for various health and safety measures, including that of accuracy in labeling. This measure would expand the scope of those inspections. The increased workload reflects the need for inspectors to review production records in order to ascertain whether or not a product contains any genetically engineered components. (The departments indicate that to enforce the measure, it would require seed producers, growers, and processors to provide records of the genetic nature of each ingredient in the food product.) We estimate the cost to state government to be several million dollars annually.

Revenues. Under this measure, businesses engaged in the production, distribution, and sale of food will incur costs for record keeping and retail labeling associated with genetic foods and meats. The amount of these costs will vary depending on a variety of factors, including the expenses associated with collecting and verifying the information to appear on the labels, redesigning the existing labels, and the incremental costs of manufacturing the new labels and affixing them to the affected foods and meats. Additional expenses may be incurred by businesses to redesign food and meat facilities and display areas for the items involved.

To the extent these costs are incurred by retail and other food businesses, they will reduce their taxable business profits and thus state income tax revenues. Likewise, to the extent that these various costs are borne by consumers through higher product prices, this may reduce sales volumes and business profits, and thus income tax revenues. The magnitude of these labeling-related costs to businesses is unknown. Consequently, the effect on state tax revenues is unknown, but probably minor in the context of overall state revenues.

Summary of Fiscal Effects. This measure would result in state costs of several million dollars annually, and potential state revenue reductions that are probably minor in the context of overall state revenues.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

B. Timothy Gage
Director of Finance