

## INITIATIVE 522: COSTLY, FLAWED AND ILL-CONCEIVED

### Executive Summary

On November 5, 2013, Washington voters will decide the fate of Initiative 522, which would require special labels on certain foods made with genetically engineered (GE) ingredients and on GE seeds and seed stock sold at retail. There are a lot of misconceptions about GE products, which have safely been part of our food supply for nearly 20 years. In this report, the Washington Research Council assesses the economic impact of I-522 on Washington consumers, taxpayers, and Washington's agricultural economy.

#### Broad exemptions undermine the initiative's stated goal of providing consumer information.

While I-522 supporters say the measure simply provides consumers with necessary information, there are so many ex-

emptions to the initiative's regulations that it would not provide consumers with meaningful or complete information about the presence or absence of GE content. The exemptions include foods that come from animals (like meat, milk and eggs), even if those animals were fed on GE grains, silage or other GE foods; raw agricultural commodities that may contain but were grown without the "intentional use" of GE products (if the supplier provides a sworn statement to that effect); processed foods, such as cheese, which were made with GE enzymes or other "GE processing aids;" food sold at restaurants or sold "to go;" all alcoholic beverages; and any foods labeled as "certified organic." Processed foods in which GE materials account for 0.9 percent or less of the total weight of the foods would be temporarily exempt until 2019. However, beginning July 1, 2019, that labeling threshold would drop to zero.

Given all of the exemptions, we estimate that only about one-third of the food Washington consumers regularly purchase would be subject to the labeling provisions in I-522—even though the remaining two-thirds of foods may contain GE ingredients.

#### Compliance costs for farmers and food companies would be high.

Taking into account those categories of food which would be exempt from I-522's requirements, foods that would require special labeling for retail sale just in Washington would include thousands of common food products. The

Chart ES1: Two-Thirds of Food and Beverage Expenditures in Washington Would Be Exempt From I-522's Labeling Requirement

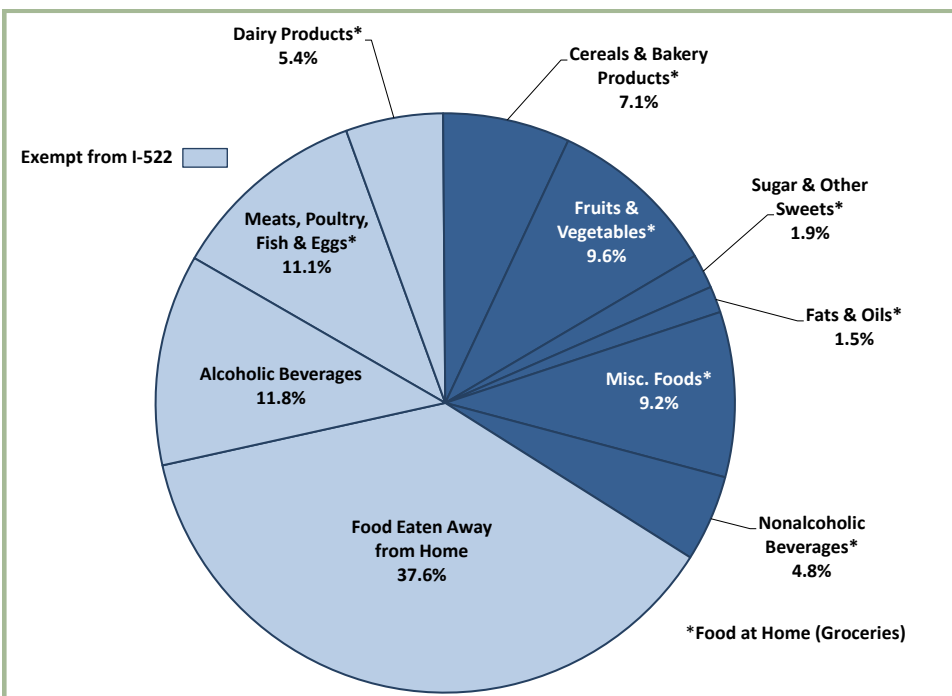


Table ES1: Estimated Range of Cost Increase in Annual Food Spending, by Household Size

Household Size	2	3	4	5	6
2015 to 2019	\$97-\$260	\$150-\$390	\$200-\$520	\$240-\$650	\$290-\$790
2019 and Beyond*	\$220-\$260	\$340-\$390	\$450-\$520	\$560-\$650	\$670-\$790

\*I-522 would set a 0% threshold for labeling in 2019. No existing data is available for the costs of complying with a threshold that low. Thus, existing data for obtaining non-GE ingredients to achieve a 0.5% threshold was used as a proxy for 0%. This means that the compliance costs shown for 2019 and beyond are actually understated.

Source: Northbridge Environmental Management Consultants

economic impact of complying with these Washington-only regulations would involve a number of initial and ongoing costs to farmers, food processors and manufacturers, retailers, consumers and taxpayers.

We estimate that the initial start-up costs to comply with I-522’s Washington-only regulations for farmers and food manufacturers would be \$264 million. (For reference, we estimate that retail expenditures on groceries in Washington in 2012 were \$16.4 billion.) On an ongoing basis, food manufacturers would either have to create special labels for the portions of their products sold in Washing-

ton state, or remake those products with higher-priced non-GE or organic ingredients to avoid the mandate to apply special labels. Those costs would be passed on to Washington consumers through higher food prices. This would increase grocery bills for most Washington families by hundreds of dollars per year.

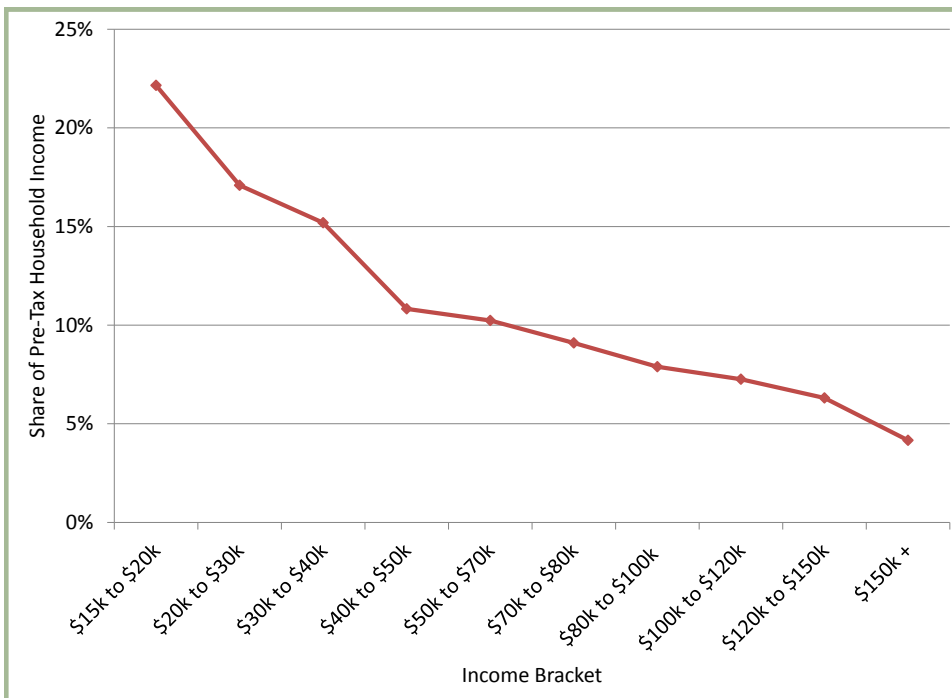
**Consumer food costs would increase by hundreds of dollars per year.**

We estimate that, for the 2015–19 period, the increase in food costs that I-522 would impose for a household of four would be between \$200 and \$520 per year. For 2019 and onward, the increase in food costs for such a family would be more than \$450 per year. The increase in food prices caused by the initiative would disproportionately affect households with lower incomes.

**Regulations would increase state spending and costs to taxpayers.**

Based on regulatory costs for comparable existing programs, we estimate that a program to actively enforce I-522’s Washington-only labeling regulations on thousands of common food products sold at thousands of retail stores statewide, as well as on seed and seed stock, would require the Department of Health to hire approximately 200 full time equivalent employees at a cost of \$22.5 million annually. The initiative dedicates no source of funding to cover the cost of this new state government program.

Chart ES2: I-522’s Increased Costs Would Fall Heavily On Lower Income Families (Expenditures on Groceries as a Percentage of Income)



### **I-522 exceeds international standards.**

I-522 backers claim the initiative conforms to international standards. That is simply not the case. For example, in the European Union (EU), the threshold set for labeling is 0.9 percent GE content by total weight of the product. In Japan, it is 5 percent. The zero percent threshold standard that would be implemented under I-522 would be far stricter than global standards and would be difficult or impossible to enforce, given the absence of existing tests that can detect trace amounts of GE ingredients.

### **New lawsuit provision would be costly and complicated for farmers, retailers and food companies.**

I-522 would give trial lawyers, anti-biotechnology activists and any other person a special new right to file lawsuits against farmers, food manufacturers and grocers, by claiming they had somehow violated I-522's labeling requirements. This would undoubtedly encourage costly, "shakedown" lawsuits.

The minimal level of Department of Health activity related to the initiative anticipated by the state fiscal note seems to suggest that the state would not actively enforce the measure's labeling requirements. This means that most of the enforcement effort would be based on lawsuits filed by private parties, thus increasing the likelihood that the risks and costs of litigation over the initiative's labeling regulations would be high for the food industry and retailers.

### **Federal law may preempt I-522.**

There may be federal legal challenges to the law created by the initiative's passage on First Amendment and other grounds, including that the labels may be considered misleading. The costs of defending I-522 against such challenges would fall to the state government, opening the door to costly litigation.

### **I-522 would block adoption of future technological advancements for Washington farmers and food companies.**

Supporters of I-522 and other such labeling proposals have said that labeling is a step toward stigmatizing and achieving a complete ban on GE foods. To the extent that they succeed, GE research and development activity and the use of new GE breakthroughs in Washington would be stifled. This could have severe negative consequences for Washington's agricultural sector in the future, by discouraging local farmers from using GE varieties of crops that are more resistant to diseases, pests and drought, thus requiring less pesticides and water.

### **Existing federal labeling policy already provides consumers with ample information on GE foods.**

Food labeling requirements are typically set at the federal level. Current federal food labeling regulations in the U.S. do not require special labels for foods containing GE ingredients. However, there are existing voluntary labeling standards that already provide consumers with options to purchase foods made without GE ingredients, if that is what they prefer. In addition, the "USDA organic" label is a nationally approved standard which allows consumers another option for identifying foods without GE ingredients.

### **I-522 would be first state-based labeling policy in the U.S.**

While some countries do have GE labeling requirements, the scope and enforcement of those laws vary considerably and such regulations are set at the national level, not at the state or provincial level. If I-522 were to pass, Washington would be the only state to have such regulations in effect. (Connecticut did recently enact a GE-related labeling law, but it would not go into effect unless major "trigger" conditions are met, making it unlikely to be implemented.)

By unilaterally imposing special label-

ing as a single state, Washington would put local producers, processors and retailers at a competitive disadvantage. They would face significant costs due to having to install and maintain different sets of production processes and packaging depending on whether they are selling in Washington or in the rest of the U.S. Such a patchwork of laws does every member of the food supply chain, along with the consumer, a disservice.

**I-522 would reduce consumer choice.**

The end result of labeling, as has been borne out in the EU, would be reduced consumer choice. As a European Com-

mission report noted,

The introduction of the current labeling provisions coincided with a general withdrawal of products which would have had to be labeled and this has not facilitated choice, informed or otherwise.

In all, I-522 would have an unfair and adverse economic impact on Washington's food industry, and it would increase costs and reduce choice for consumers. Additionally, requiring producers and retailers to label products in only one state is bad policy, and it would put Washington's food industry at a competitive disadvantage.