

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



**FY 2016-17 STAFF BUDGET BRIEFING
DEPARTMENT OF AGRICULTURE**

**JBC Working Document - Subject to Change
Staff Recommendation Does Not Represent Committee Decision**

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DEPARTMENT OF AGRICULTURE

Department Overview

The Department of Agriculture has six divisions. A brief description of each division and its associated responsibilities is provided below.

The **Commissioner's and Administrative Services Division** provides administrative and technical support for department divisions and programs, including accounting, budgeting, and human resources functions.

The **Agricultural Services** consists of the following program areas:

- **Animal Industry Division** provides oversight for the prevention and control of livestock diseases, operation of the Rocky Mountain Regional Animal Health Laboratory, implementation of pest control, licensing and inspection of pet care facilities, and investigations animal of cruelty claims.
- **Inspection and Consumer Services Division (ICS)** provides metrology and regulatory laboratory services including content analysis of feeds, fertilizers, groundwater, and pesticides. Additionally, ICS inspects: anhydrous ammonia tanks, eggs, grain warehouses, agricultural commodity handlers and dealers, door-to-door sales companies, custom meat processors, and small and large weighing and measuring devices.
- **Plant Industry Division** is responsible for organic certification, nursery stock inspection, produce inspection, certification of plant and seed exports, seed inspection and certification, commercial and private pesticide applicator testing and licensing, and inspection of pesticide product records and labels.
- **Conservation Services Division** operates: the biological pest control program; noxious weed and weed free forage programs; a groundwater protection program, the chemigation permitting and inspection program; and encourages development of agricultural-based renewable energy projects through grants.

The **Agricultural Markets Division** promotes Colorado's agricultural products and services to domestic and international markets, provides export assistance, and develops value-added business ventures. The Markets Division is also responsible for promoting Colorado's wine industry, administering the Colorado Proud brand, and operating the agricultural products inspection program (including potato inspection).

The **Brand Board** inspects and verifies the ownership of livestock at sale barns, slaughterhouses, and export sites to protect producers and buyers from fraud and theft of

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livestock. The Brand Board also investigates reported livestock theft, maintains brand records, and licenses livestock sale barns, processing plants and alternative livestock farms.

The **Colorado State Fair Authority** is responsible for planning and operating the 11-day state fair in August, as well as various events that occur on the fairgrounds throughout the year.

The **Conservation Board** provides administrative and financial assistance and competitive grants to the 76 state conservation districts. The Conservation Board also works with districts on noxious weed management, groundwater protection, biological pest control, and erosion prevention projects.

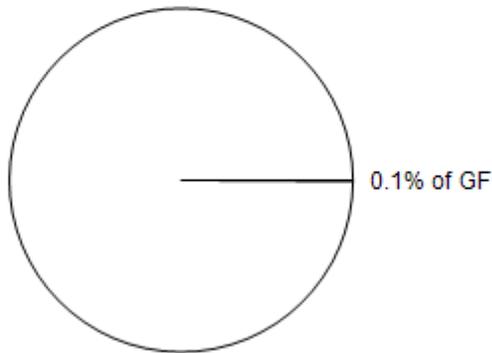
Department Budget: Recent Appropriations

Funding Source	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17 *
General Fund	\$7,723,805	\$9,317,936	\$9,706,234	\$10,087,946
Cash Funds	29,200,366	29,155,798	30,740,614	31,749,725
Reappropriated Funds	1,632,203	1,629,526	1,656,548	1,656,548
Federal Funds	<u>4,113,870</u>	<u>4,103,661</u>	<u>4,170,657</u>	<u>4,110,453</u>
Total Funds	\$42,670,244	\$44,206,921	\$46,274,053	\$47,604,672
Full Time Equiv. Staff	274.1	274.1	280.4	281.4

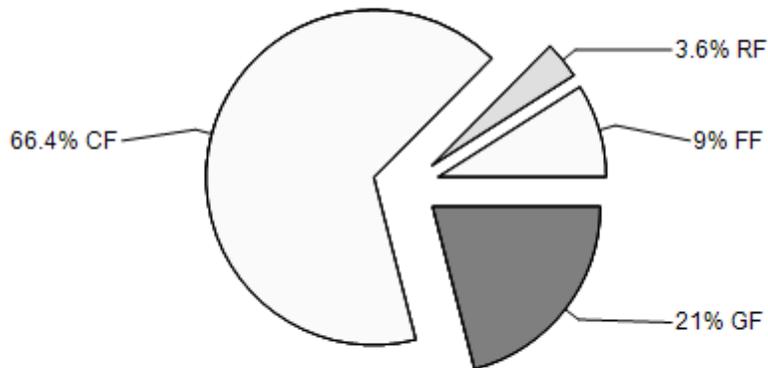
*Requested appropriation.

Department Budget: Graphic Overview

**Department's Share of Statewide
General Fund**

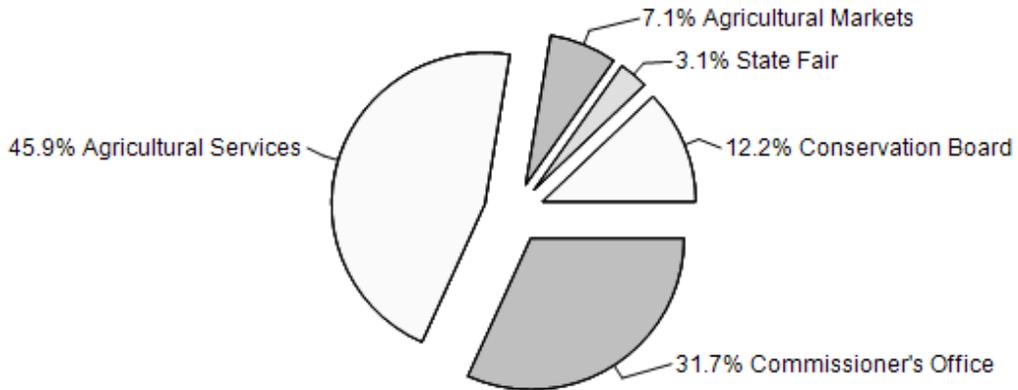


Department Funding Sources

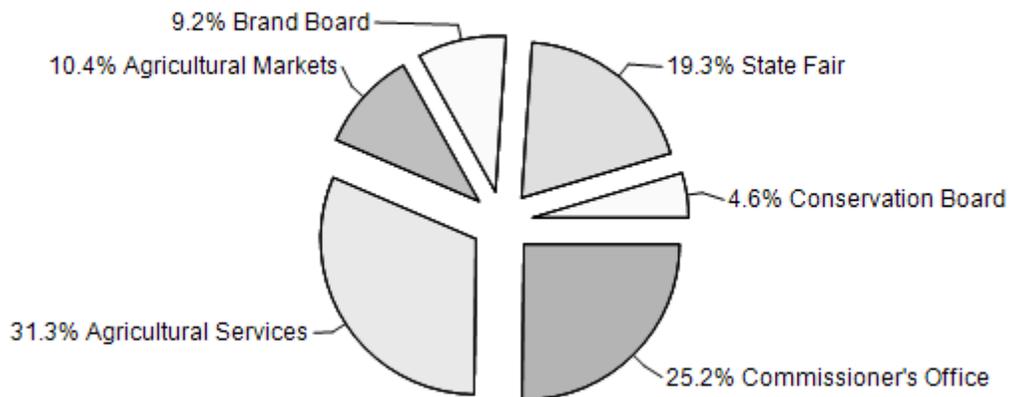


All charts are based on the FY 2015-16 appropriations.

Distribution of General Fund by Division



Distribution of Total Funds by Division



All charts are based on the FY 2015-16 appropriations.

General Factors Driving the Budget

Funding for the Department in FY 2015-16 consists of 21.0 percent General Fund, 66.4 percent cash funds, 3.6 percent reappropriated funds, and 9.0 percent federal funds.

Agricultural Services Divisions

The Divisions of Animal Industry, Plant Industry, Inspection and Consumer Services, and Conservation Services provide the majority of the agricultural services the Department offers. These agricultural services divisions (ASDs) account for roughly 31.3 percent of the Department's total appropriation in FY 2015-16, including 45.9 percent of the Department's total General Fund appropriation. The following table outlines the Agricultural Services Division's share of the Department's total appropriation from FY 2012-13 through FY 2016-17 request. The majority of the increase in FY 2013-13 represents a change in how federal funds are shown in the Long Bill, not an overall increase in funds.

Agricultural Services Divisions Appropriations Since FY 2012-13					
	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Approp.	FY 2016-17 Request
ASDs Total	\$13,621,829	\$12,360,616	\$13,504,607	\$14,462,138	\$14,915,266
Department Total	\$39,679,233	\$42,670,244	\$44,184,405	\$46,274,053	\$47,604,672
Percent of Department	34.3%	29.0%	30.6%	31.3%	31.3%

Department General Fund and Cash Fund Appropriations

The Department received reduced General Fund appropriations during the recent economic downturn; however, the FY 2014-15 appropriation exceeded the FY 2007-08 appropriation for the first time since funding cuts were experienced by the Department. The increases in the Department's General Fund appropriations from FY 2012-13 through FY 2014-15 are a result of several targeted programmatic appropriations, including: distributions to Conservation Districts; matching grants to Conservation Districts; 4-H and FFA programs run by the Colorado State Fair Authority; and Noxious Weed Management Program grants. The following table shows the Department's General Fund appropriation history from FY 2012-13 through the FY 2016-17 budget request.

Department of Agricultural GF 5-year Appropriations History					
	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17 Request
General Fund Appropriation	\$6,863,921	\$7,723,805	\$9,317,936	\$9,706,234	\$10,087,946
Increase/(Decrease) from Previous Year	n/a	12.5%	20.6%	4.2%	3.9%

The Department's total appropriation is 66.4 percent cash funds. The cash funds appropriations respond to increases and decreases in workload for products or services associated with specific

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cash funds within the Department. The three largest cash funds appropriations are the State Fair Cash Fund; Brand Inspection Cash Fund; and the Plant Health, Pest Control, and Environmental Protection Cash Fund. Together these appropriations account for 52.4 percent of the Department’s total cash funds appropriation in FY 2015-16.

Agriculture Management Fund

The Agriculture Management Fund was created by House Bill 08-1399 (Buescher/Isgar) and allows for the transfer of 65.0 percent of the interest earned on the sale of unclaimed securities from the Colorado Travel and Tourism Promotion Fund to the Agriculture Management Fund for agricultural efforts approved by the commissioner. The Fund is not subject to the excess uncommitted fee reserve balance because its revenue is not fee based. These moneys are spent in various divisions in the Department.

The following table outlines estimated use of moneys in the Agriculture Management Fund in FY 2015-16:

Division	Agriculture Management Fund Estimated Spending FY 2015-16
Agricultural Markets	\$600,000
Commissioner’s Office	500,000
State Fair Authority	500,000
Animal Industry	70,000
Conservation Services	25,000
Plant Industry	0
Inspection and Consumer Services	0
Brands Board	0
Conservation Board	0
Total	\$1,695,000

The \$600,000 the Department plans to allocate to the Agricultural Markets Division will be used to cover the expenses of 2.0 FTE, as funding for the Colorado Proud program, for trade shows hosted by the Division, and for other marketing projects and events.

The table below outlines the AMF’s annual balance beginning in FY2008-09. As the table shows, the current estimated balance of the Fund is \$2.3 million. In addition to its balance, the AMF receives 65.0 percent of the interest earned on the sale of unclaimed securities from the Unclaimed Property Tourism Promotion Fund (Section 38-13-116.7 (3) (a) (III), C.R.S.). The transfer of interest has averaged almost \$2.9 million annually since FY2012-13. Transfers of interest occur monthly.

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Agriculture Management Fund Annual Revenue, Expenditure, and Balance: FY2008-09 to FY2015-16			
Fiscal Year	Total Revenue	Total Expenditure	Balance
2008-09	\$842,990	(\$780,432)	\$62,558
2009-10	2,252,415	(1,154,398)	1,098,017
2010-11	2,315,512	(1,635,633)	679,879
2011-12	2,474,417	(2,096,420)	377,997
2012-13	2,663,110	(2,565,091)	98,019
2013-14	9,931,857	(9,951,514)	(19,657)
2014-15	3,005,999	(2,971,986)	34,013
2015-16*	10,359	(18,486)	(8,128)
Total	\$23,496,659	(\$21,173,960)	\$2,322,698

*Figure accurate as of August 2015.

Source: Data provided by the Department of Treasury.

Colorado State Fair Authority

On November 30th, the Office of the State Controller notified the Committee, the Governor, and the Legislative Audit Committee that OSPB had denied a \$1.1 million loan requested by the CSFA. This loan, which the CSFA has received for several years, was factored into both its FY 2015-16 and FY 2016-17 budgets. The loan, which accrues interest, would have allowed the CSFA to access the treasury pool to cover its expenses because the CSFA Cash Fund, created in Section 35-65-107 (1), C.R.S., is experiencing a cash deficit. OSPB denied the request because it determined that the CSFA did not have the ability to repay the loan. The Department may need supplemental funding for the current fiscal year.

The Governor has indicated in his November 2nd letter to the Committee that he will request a \$1.0 million General Fund budget amendment to support the Colorado State Fair Authority (CSFA). In the FY 2015-16 Long Bill (S.B. 15-234), the CSFA received a \$300,000 General Fund appropriation to support its 4-H and FFA programs (\$250,000) and for a financial sustainability study (\$50,000). The CSFA has contracted with a vendor to conduct the research and writing of the study, which will be completed by March 1, 2016. The study will include the following elements:

- A base line of costs to operate the facility without any further revenue generation outside of the Fair;
- A base case model without any changes to the current business model;
- A business plan with internal changes and what outcome could be expected;
- Investments that may produce a return and what could be expected from that return.

Staff will provide further analysis of the CSFA either during the Department’s supplemental hearing or its figure setting hearing.

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Summary: FY 2015-16 Appropriation & FY 2016-17 Request

Department of Agriculture						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2015-16 Appropriation						
S.B. 15-234 (Long Bill)	\$45,709,657	\$9,706,234	\$30,176,218	\$1,656,548	\$4,170,657	274.1
Other legislation	<u>564,396</u>	<u>0</u>	<u>564,396</u>	<u>0</u>	<u>0</u>	<u>6.3</u>
TOTAL	\$46,274,053	\$9,706,234	\$30,740,614	\$1,656,548	\$4,170,657	280.4
FY 2016-17 Requested Appropriation						
FY 2015-16 Appropriation	\$46,274,053	9,706,234	\$30,740,614	\$1,656,548	\$4,170,657	280.4
R2 Hemp regulatory and seed certification program	220,471	0	220,471	0	0	1.0
R1 Pesticide laboratory resources	90,865	0	90,865	0	0	0.0
NPI Secure Colorado	9,222	7,009	2,213	0	0	0.0
NPI Resources for administrative courts	156	0	156	0	0	0.0
NPI Annual fleet vehicle request	(16,275)	(5,934)	(10,166)	0	(175)	0.0
Centrally appropriated line items	728,072	380,637	403,853	0	(56,418)	0.0
Annualize prior year legislation	319,799	0	319,799	0	0	0.0
Indirect cost assessment	<u>(21,691)</u>	<u>0</u>	<u>(18,080)</u>	<u>0</u>	<u>(3,611)</u>	<u>0.0</u>
TOTAL	\$47,604,672	\$10,087,946	\$31,749,725	\$1,656,548	\$4,110,453	281.4
Increase/(Decrease)	\$1,330,619	\$381,712	\$1,009,111	\$0	(\$60,204)	1.0
Percentage Change	2.9%	3.9%	3.3%	0.0%	(1.4%)	0.4%

Description of Requested Changes

R2 Hemp regulatory and seed certification program: The decision item includes a request for an appropriation of \$220,471 cash funds, comprised of an increase of \$349,810 from the Marijuana Tax Cash Fund and a decrease of \$129,339 from the Industrial Hemp Registration Program Cash Fund (Section 35-61-106 (1), C.R.S.), and 1.0 FTE. The requested funds will be used by the Department to bolster its efforts to develop a seed certification and distribution program.

R1 Pesticide laboratory resources: The decision item includes a request for an appropriation of \$90,865 from the Marijuana Tax Cash Fund and 1.0 FTE to hire a qualified analytical chemist for the Biochemistry Laboratory. The additional FTE will allow the Department to significantly reduce the current sample testing backlog.

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NPI Secure Colorado: The request seeks an increase of \$9,222 total funds, including \$7,009 General Fund and \$2,213 cash funds, for FY 2016-17 to cover the Department's share of the Office of Information Technology's implementation of advanced security event analytics capabilities. *This request item will be addressed in separate staff briefings for the Governor's Office*

NPI Resources for administrative courts: The request includes an adjustment for the Administrative Law Judge Services line item from the Department of Personnel. *This request item will be addressed in separate staff briefings for the Department of Personnel and Administration.*

NPI Annual fleet vehicle request: The request includes a decrease in appropriation of \$16,275 total funds, including \$5,934 General Fund and \$10,166 cash funds, to the vehicle lease payments line item for changes in statewide vehicle costs. *This request item will be addressed in separate staff briefings for the Department of Personnel and Administration.*

Centrally appropriated line items: The request includes adjustments to centrally appropriated line items for the following: state contributions for health, life, and dental benefits; short-term disability; supplemental state contributions to the Public Employees' Retirement Association (PERA) pension fund; vehicle lease payments; workers' compensation; legal services; administrative law judges; payment to risk management and property funds; and Capitol complex leased space. *This request item will be addressed in separate staff briefings for the Department of Personnel and Administration.*

Annualize prior year legislation: The request includes adjustments related to prior year legislation.

Indirect Cost Assessment: The request includes a \$21,691 decrease in total funds, including \$18,080 cash funds and \$3,611 federal funds, for adjustments to the indirect cost assessments line item.

Issue: Biochemistry Laboratory Appropriation Request

This issue brief provides an analysis of the Department of Agriculture’s request for an appropriation for an additional 1.0 FTE for the Biochemistry Laboratory (BCL), which is housed in the Inspection and Consumer Services Division.

SUMMARY:

- The Department requests an FY 2016-17 appropriation of \$90,865 from the Marijuana Tax Cash Fund, created in Section 39-28.8-501 (1), C.R.S., and 1.0 FTE. The appropriation will be used to hire a qualified analytical chemist for the Biochemistry Laboratory to address an increase in workload due to the regulation of recreational marijuana. A supplemental request for FY 2015-16 will be submitted by the Department.
- The BCL’s current testing backlog is approximately 175 samples, over five times the usual number at this time of year.
- The Department anticipates a 66.6 percent increase in the number of pesticide misuse complaint investigations from 2014 to 2015.
- In 2015, there have been 12 pesticide use related recalls of marijuana products by the Denver Department of Environmental Health.

RECOMMENDATION:

Staff will make a recommendation on this decision item during the figure setting hearing for the Department.

DISCUSSION:

Background

The Biochemistry Laboratory is part of the Department’s pesticide program and provides laboratory analysis services for pesticide residues on all types of materials, including marijuana, animal feeds, soil, vegetation, and water. The BCL supports the following divisions: Inspection and Consumer Services, Plant Industry, and Conservation Services. These analyses are used in determining if a misapplication or misuse of pesticides has occurred. The BCL currently has 2.5 FTE dedicated to this task. The turnaround times for samples can take anywhere from several weeks to months, depending on the number of compounds detected and the levels present.

The BCL tests samples for specific individual chemical constituents, the results of these tests are considered determination. Each sample can have multiple determinations; pesticide residue tests consist of 104 determinations. The Department reports that marijuana pesticide misuse complaint investigations consist of 10-40 samples depending on the size of the grow operation. Samples are classified as either “typical” or “unusual” matrices. Typical matrices include water, soil, vegetation, and swabs. A chemical analyst can complete 100-150 samples per year for typical matrices. Unusual matrices include clothing, animal parts, pieces of building material,

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and marijuana. Samples that contain unusual matrices require additional research, which reduces the sample completion rate to as low as 40-50 samples per year.

The Department reports that the number of pesticide misapplication complaints has significantly increased since recreational marijuana became legal. In 2013 and 2014, the Department conducted 44 and 45 misuse complaint investigations, respectively. The anticipated number of investigations conducted in 2015 is 75, a 66.6 percent increase from 2014. Limited staffing resources and the additional workload resulting from marijuana cases has resulted in a significant increase in the BCL’s backlog.

Pesticide Misapplication Complaint Investigations	
2013	44
2014	45
2015*	75

*Projected number of complaint investigations for the 2015 calendar year.

The delivery of testing results and confidence in those results are critical in the Department’s efforts to take enforcement actions in a timely manner. Long turnaround times in testing can lead to the degradation of samples, which adversely impacts the Department’s ability to recommend regulatory actions in response to an investigation. While per case workload varies widely depending on the type of analyses that must be conducted, the Department has set a sample turnaround target time of 14 to 30 days. This target turnaround time, which the Department believes is attainable, is comparable to commercial laboratories.

Marijuana Product Recalls

On November 12, 2015, Governor Hickenlooper issued Executive Order D2015-015 (Appendix E) that directs “state agencies to address threats to public safety posed by marijuana contaminated by pesticide.” The executive order further directs the Department to use its investigatory and enforcement authorities to protect public health and safety. According to The Denver Post, there have been 12 pesticide use related recalls of marijuana products by the Denver Department of Environmental Health in 2015.

Department Request

The Department requests an FY 2016-17 appropriation of \$90,865 from the Marijuana Tax Cash Fund, created in Section 39-28.8-501 (1), C.R.S., and 1.0 FTE to hire a qualified analytical chemist for the Biochemistry Laboratory. A supplemental request for FY 2015-16 will be submitted by the Department. The additional FTE resource will allow the BCL to better manage its workload and to reduce its backlog. The Department predicts that within a month of hiring the new analyst there will be a 50.0 percent reduction in sample turnaround time; after three months the turnaround times will fall within the target window of 14 to 30 days. The Department has set a goal for the BCL to achieve the 14-30 day sample turnaround in 95.0 percent of samples tested.

Issue: Industrial Hemp Regulatory and Seed Certification Program Appropriation Request

This issue brief discusses the Department of Agriculture's FY 2016-17 appropriation request for the Industrial Hemp Regulatory and Seed Certification Program (Program), created in Sections 35-61-104 and 35-61-104.5 (1.5), C.R.S.

SUMMARY:

- The Department requests an appropriation of \$220,471 cash funds and 1.0 FTE for FY 2016-17 for the Industrial Hemp Regulatory and Seed Certification Program.
- The General Assembly passed H.B. 15-1367 (Retail Marijuana Taxes) and S.B. 15-196 (Industrial Hemp Certified Seeds Concentration Test) during the 2015 legislative session, both of which included appropriations to the Program. Excluding centrally appropriated costs, the total FY 2015-16 appropriation from these two bills is \$535,913 cash funds and 6.3 FTE.
- Colorado has approximately 3,800 acres registered in the Industrial Hemp Program, with about 2,200 acres planted.

RECOMMENDATION:

Staff will make a recommendation on this decision item during the figure setting hearing for the Department.

DISCUSSION:

Industrial Hemp Program FY 2016-17 Request

The Department has requested a FY 2016-17 appropriation of for \$220,471 cash funds, comprised of an increase of \$349,810 from the Marijuana Tax Cash Fund (Section 39-28.8-501 (1), C.R.S.) and a decrease of \$129,339 from the Industrial Hemp Registration Program Cash Fund (Section 35-61-106 (1), C.R.S.), and 1.0 FTE. This request will be used for the continued development of the Industrial Hemp Regulatory and Seed Certification Program, pursuant to Sections 35-61-104 and 35-61-104.5 (1.5), C.R.S. Of the total requested, \$195,211 will be used for direct program support and \$25,260 will be used for leasing vehicles from the state motor pool.

Total Program Funding Request

The Department's total FY 2016-17 request for the Program is \$730,430 cash funds and 7.3 FTE, excluding centrally appropriated costs, vehicle lease payments, and legal services appropriations. Two pieces of legislation were passed during the 2015 legislative session that appropriated cash funds to the Program: H.B. 15-1367 (Retail Marijuana Taxes) and S.B. 15-196 (Industrial Hemp Certified Seeds Concentration Test). The FY 2016-17 annualization of the program funding from these two pieces of legislation totals \$555,712 cash funds and 6.3 FTE, excluding centrally

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appropriated costs, vehicle lease payments, and legal services appropriations. The table below details the FY 2015-16 appropriated and FY 2016-17 requested funding for the Program.

Industrial Hemp Regulatory and Seed Certification Program Funding*				
	FY 2015-16 Appropriated		FY 2016-17 Requested	
	Cash Funds	FTE	Cash Funds	FTE
H.B. 15-1367	\$289,930	4.3	\$289,930	4.3
S.B. 15-196	245,983	2.0	265,782	2.0
Department FY 2016-17 request	n/a	n/a	174,718	1.0
Total	\$535,913	6.3	\$730,430	7.3

*The amounts in this table exclude centrally appropriated costs, vehicle lease payments, and the purchase of legal services.

H.B. 15-1367 adjusted the FY 15-16 Long Bill to appropriate \$314,633 from the Marijuana Tax Cash Fund to the Department for the Program. This appropriation was based on the assumption of an additional 4.3 FTE, associated operating costs, and the purchase of legal services; this appropriation is assumed to be base building. S.B. 15-196 appropriated \$249,763 in FY 15-16 from the Marijuana Tax Cash Fund to the Department for the Program’s seed certification activities. The appropriation was based on the assumption of an additional 2.0 FTE, associated operating costs, and the purchase of legal services; this appropriation is assumed for FY 2015-16 and FY 2016-17.

During the fiscal analysis process for S.B. 15-196, the Department underestimated the Programs personnel requirements. It was assumed that the program management duties would be absorbed by existing FTE. However, the Department does not believe it will be able to meet its targeted timeframe for the Program to be fully operational without the additional FTE requested. It is estimated that the Program will be fully operational in 4-5 years. Due to programmatic growth, the Department believes a dedicated Program Manager is required.

Industrial Hemp Program Status

Revenue and Expenditures

The Industrial Hemp Registration and Seed Certification Program is funded through registration fees, inspection fees, and fines. Registration fees are set at \$500 plus \$5.00 per acre outdoors plus \$0.33 per 1,000 square feet indoors. The Department has instituted a \$35 per hour fee for field sampling and inspection done by its employees. If a registrant is discovered to have committed a statutory violation, the Department may assess a fine of no more than \$2,500. (Section 35-61-107 (2), C.R.S.) The proceeds from these fees and fines are placed in the Industrial Hemp Registration Program Cash Fund, which is subject to annual appropriation by the General Assembly.

The Department reports that revenue from fees and fines are not sufficient to cover the costs of the program. Ensuring the Program is compliant with Federal regulations and guidelines

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generates significant administrative costs, beyond what was anticipated. As the table below shows, the anticipated revenue in FY 2015-16 and FY 2016-17 is significantly less than projected Program expenses. The Department anticipates that by FY 2017-18 the revenue from the Program’s registration fees and sale of certified seeds will cover its expenses.

Industrial Hemp Regulatory and Seed Certification Program, Revenue vs Expenditures			
	FY 2014-15	FY 2015-16	FY 2016-17
	Actual	Approp.	Requested
Fees	\$7,596	\$25,000	\$25,000
Registrations	106,009	50,000	75,000
Total Revenue	\$113,605	\$75,000	\$100,000
Total Expenses	\$129,526	\$152,100	\$180,223

Registrations and Acres Planted

The Department has obtained a DEA permit to import hemp seeds, which are then provided to in-state institutions of higher education for research and development. The long-term goal for these seeds and the research is to develop the Department’s seed certification program to provide verified and quality seeds to Colorado farmers. The following metrics and targets will be used to measure Program success:

1. Successful development of rules for seed certification;
2. Number of registrations processed;
3. Number of acres registered;
4. At least 17 seed varieties screened for THC levels in FY 2015-16; and
5. Approximately 100 seed varieties screened for THC levels in FY 2016-17

The table below details the Program’s registrations, acres registered, and total acres planted. The Department reports a 10-fold increase in the number of acres planted between FY 2014-15 and FY 2015-16. It should be noted that the Department is still determining its methodology for tracking Program growth and success.

Industrial Hemp Regulatory and Seed Certification Program Status						
Calendar Year	Registrations*		Acres registered		Approx. Total Acres Planted	
	Commercial	Research & Development	Commercial	Research & Development		
2014	137	141	1,547	255	220	
2015	332	10	3,768	24	2,200	

* The Department changed the method it uses to count registrations and the definition of a Research & Development registration between 2014 and 2015. Any apparent trends in registration should be discounted.

The drastic drop in research and development (R&D) registrations and acres registered is attributable to a change the Department made in the definition of what constitutes an R&D project. This change aligned the Department’s definition with the federal definition, so as not to jeopardize institutions of higher education that are conducting hemp research. Under the new

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definition, only institutions of higher education can submit R&D registration applications. Private companies are now required to work under commercial registrations.

Background of Industrial Hemp Production in the U.S.

Industrial hemp production in the United States has been effectively dormant since the 1950s. Until the mid-19th century, hemp was widely grown and commonly used by the textile and paper industries. However, the introduction of harvesting technology in the late-19th century made the use of cotton for textiles more commercially competitive than hemp. Domestic production of cotton for textiles replaced domestic hemp production, resulting in the demand for hemp’s coarse natural fibers being met by an increase in imports. The Marihuana Tax Act of 1937 further limited the domestic cultivation of industrial hemp by defining the plant as a narcotic. During World War II, there was a brief resurgence in hemp production, encouraged by the USDA, to help supply basic material for the war effort. The Controlled Substances Act of 1970 made it illegal to grow hemp without a permit from the DEA. (21 U.S.C., § 801 et seq.)

The barriers to domestic hemp production have forced those businesses that utilized hemp fibers, oils, and seeds, as well as other hemp products, to import those materials. The table below shows the customs value of selected U.S. hemp product imports, both raw and processed, from 2011 to 2014. In 2014, these imports were worth approximately \$42.9 million, which represents a roughly 15.5 percent increase from 2013. The data show large increases from 2013 to 2014 in the importation of all hemp products except for woven fibers, which declined by 14.9 percent. According to the Hemp Industries Association (HIA), a non-profit trade group, the total retail value of hemp products sold in the U.S. in 2014 exceeded \$620 million.

Value of Selected U.S. Hemp Product Imports (\$1,000)						
Harmonized Tariff Schedule (HTS)	Description	2011	2012	2013	2014	% Change 2013-2014
1207990220/ 1207990320*	Hemp seeds, whether or not broken	\$6,553	\$13,035	\$26,942	\$29,326	8.8%
1515908010	Hemp oil and their fractions	1,146	1,098	2,264	3,446	52.2
2306900130	Hemp seed oilcake & other solid residues	2,947	4,388	6,279	8,159	29.9
5302	True hemp, raw/processed but not spun	181	157	78	113	44.9
5308200000	True hemp yarn	580	497	482	909	88.6
5311004010	True hemp woven fibers	1,364	1,362	1,057	900	(14.9)
	Total	\$12,771	\$20,537	\$37,102	\$42,853	15.5%

*The HTS code 1207990220 corresponds to the year 2011. The HTS code 1207990320 corresponds to the years 2012-2014.

Source: United States International Trade Commission, DataWeb. <http://dataweb.usitc.gov/>

Federal Industrial Hemp Statute and Guidance

The 2014 Farm Bill included an amendment that eased the federal restrictions on industrial hemp research. According to 7 U.S.C., § 5940 et seq., “an institution of higher education...or a state department of agriculture may grow or cultivate industrial hemp,” as long as it is done for research purposes and is legal under state law. Federal statute requires that any R&D program and its sites be “certified by, and registered with,” the state's department of agriculture. Furthermore, federal statute defines industrial hemp as the plant *Cannabis sativa* L. that has a delta-9 tetrahydrocannabinol (THC) concentration of less than or equal to 0.3 percent on a dry weight basis. Colorado's industrial hemp statute and R&D program meet these federal requirements.

Federal guidance on banking poses limitations on the state's industrial hemp program. The federal Department of Justice and the Department of the Treasury recently issued guidance on bank involvement with Cannabis operations; however, the guidance merely “clarifies how financial institutions can provide services to marijuana-related businesses consistent with” their responsibility to uphold their Bank Secrecy Act obligations. Industrial hemp's status in relation to the Controlled Substance Act makes it illegal to produce and distribute under federal law, with the limited exceptions discussed in the previous paragraph, because it is included in the federal definition of Cannabis. The guidance does not free financial institutions from the risks involved with doing business with Cannabis producers, which makes many financial institutions reluctant to provide services to growers of industrial hemp.

Cultivating Hemp in Colorado

There are several barriers to the successful cultivation and commercial processing of industrial hemp, including: Federal laws and regulations, access to proper processing facilities, and the existence of suitable hemp strains for Colorado's climate and soil. The most formidable of these barriers are the restrictions placed on industrial hemp production by Federal laws and regulations. As described above, the cultivation of industrial hemp is strictly regulated by the DEA. The importation of non-sterilized hemp seeds is heavily restricted, with the DEA seizing or preventing attempted shipments into the country, as well as shipments across state lines. These restrictions are a particularly potent barrier for domestic production of industrial hemp, as the industry is starting from scratch and access to in-state resources is limited.

The dormancy of the industrial hemp market in the U.S. for the past half-century has resulted in a dearth of expertise and knowledge about the cultivation of hemp. Farmers are reliant on whatever seeds they can acquire, but those seeds may not be suitable for Colorado's climate and soil. Identifying the correct strains of hemp for cultivation in Colorado is one of the goals of the R&D and seed certification portions of the Department's Program. R&D in industrial hemp will also identify best cultivation practices, hemp processing techniques, and additional uses for the raw materials derived from processing hemp, all of which can contribute to the establishment of a viable commercial market in the state. The Department anticipates program growth even with the current barriers, especially in the area of research and development, as seeds are accumulated from harvests and are made available in-state.

The lack of a wide spread in-state hemp processing infrastructure poses a difficulty to commercializing industrial hemp. Investors are reluctant to spend the necessary capital to build a processing infrastructure because there is not a steady and adequate supply of industrial hemp. This lack of industrial infrastructure, coupled with stringent Federal regulation, creates a conservative market environment towards industrial hemp investment. Despite the current market environment, the industry is growing. There are several industry cooperatives operating in Colorado, including the National Hemp Association and the Northeastern Colorado Hemp Farmers Association. These cooperatives offer farmers a mechanism through which they can gain access to materials and services to expand their operations.

Industrial Hemp in Other States

There are currently 22 states that have laws to provide for industrial hemp research or for production as allowed by the 2014 Farm Bill. Of these, 13 states — including Colorado — have laws to promote the commercial growth and marketing of industrial hemp. Many of these states' policies mirror the federal statutes in regards to research and development. However, the more aggressive states also seek to promote the commercialization of industrial hemp by excluding industrial hemp from the state's definition of controlled substances and by establishing a defense to criminal prosecution for cultivation. Other states take a more cautious approach by passing legislation allowing commercial production of hemp only when the federal government allows for the differentiation between hemp and marijuana in relation to the Controlled Substance Act.

Issue: Noxious Weeds Management Fund Spending Authority

This issue brief provides an analysis of the spending authority of the Noxious Weed Management Fund (Fund) created in Section 35-5.5-116 (1), C.R.S., and how that authority impacts the Fund's ability to support grants.

SUMMARY:

- The Noxious Weed Management Fund, which funds the noxious weed management grants, does not have roll-forward spending authority.
- The Noxious Weed Management Program (Program) received an appropriations increase of \$700,000 General Fund in the FY 2014-15 Long Bill (H.B. 14-1336). The General Assembly appropriated the same amount in the FY 2015-16 Long Bill (S.B. 15-234).
- The Program's grants for noxious weed management operate on a calendar year cycle to match the budget cycle of grantees.

RECOMMENDATION:

Staff recommends that the Committee consider legislation amending statute to allow roll-forward spending authority for the Noxious Weed Management Fund. The proposed language for this fix is provided at the end of this section.

DISCUSSION:

Background

House Bill 90-1175 established the Colorado Weed Management Act (Act) which gave authority to local governing bodies to use integrated management practices to manage plants designated as undesirable. Counties and municipalities were required to develop management plans and comply with the statute but no state funding was provided.

The Act was substantively amended by the following bills:

- House Bill 96-1008 (Entz/Ament) changed the name to the Colorado Noxious Weed Act, set up the Noxious Weed Management Fund to provide financial support for weed management projects across the state, and created the State Weed Coordinator position.
- House Bill 03-1140 (Larson/Entz) instituted the following list-based classification system for noxious weeds in the state:
 - List A: rare non-native weed species with limited distribution in the state. There are currently 23 weed species on this list and eradication is required by law.

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- List B: noxious weed species with discrete or limited distribution throughout the state. A total of 34 weeds are currently classified as List B species and are subject to eradication, containment, or suppression to avoid further spread.
- List C: well-established and widespread non-native weed species for which control is recommended but not required. Sixteen species have a List C designation.

The bill also established the Colorado Noxious Weed Advisory Committee to make recommendations on the designation and classification of noxious weeds in the state; the development and implementation of management programs; and techniques for eradication, containment, or suppression for weed species.

- Senate Bill 13-223 (Brophy/Mitsch Bush) continued the Noxious Weed Advisory Committee until September 1, 2023 and added two non-voting members to the Committee. The bill also instructed the Committee to make recommendations about noxious weeds on surface water and public lands.

At present, the Noxious Weed Management Program is part of the Conservation Services Division in the Department of Agriculture and continues to serve as the point agency for noxious weed management efforts in the state of Colorado.

Recent Program Funding and Results

The Noxious Weed Management Program received an appropriations increase of \$700,000 General Fund in the FY 2014-15 Long Bill (H.B. 14-1336). The General Assembly appropriated the same amount in the FY 2015-16 Long Bill (S.B. 15-234). These monies are transferred into the Noxious Weed Management Fund and used to award grants to counties, communities, weed control districts, and other entities that are engaged in the eradication and containment of noxious weeds in Colorado. (Section 35-5.5-116, C.R.S.) The Department also utilized some monies from the Agriculture Management Fund, created in Section 35-1-106.9, C.R.S., for Program grants. In FY 2013-14, 85.0 percent of List A sites met the annual elimination objective, excluding myrtle spurge, purple loosestrife, and giant reed sites. In 2015, the Fund was used to provide support for 53 high-priority projects primarily along the Front Range and in Western Colorado.

Grant Cycle vs Appropriation Cycle

The Program's grant cycle runs on a calendar year and reimburses grantees for eligible expenses. Proposals are due in mid-January and grants are awarded in March. Applications are reviewed by an evaluation team consisting of members from the state Noxious Weed Advisory Committee, Colorado State University, the Department, and federal agencies. The applications are ranked on merit and compared to other proposals. The following entities are eligible for grant awards: counties, municipalities, conservation districts, non-profit organizations, and organized private entities such as road associations and homeowner's associations. State and federal agencies are eligible to receive funding if they are significant project partners and are not the project applicant. Grant recipients must contribute a 1-for-1 match for funds received by the state; this match can be cash or in-kind expenses.

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Due to the Program’s grant cycle, the seasonal nature of weed growth, and current statutory restrictions on the Fund, the Program may not be able to fully utilize its appropriated funds. Specifically, Section 35-5.5-116 (1), C.R.S., requires the annual appropriation of spending authority from the Fund and does not allow for monies appropriated in the current fiscal year to be expended in subsequent fiscal years. As a result, any monies unspent at the end of a fiscal year revert to the Fund, even if those monies have previously been obligated for grant awards. At the time the Department submits its budget requests, it cannot know how much of the current fiscal year appropriation will go unexpended.

The following is an illustrative example of current statutory restrictions. The General Assembly appropriates \$700,000 to the Fund in FY 2015-16; this is appropriated spending authority. The Program obligates the entire appropriation for the 2015 and 2016 weed seasons; however, only \$600,000 is actually expended. The remaining \$100,000 reverts to the Fund at the end of the fiscal year. If the General Assembly appropriates another \$700,000 to the Fund in FY 2016-17, the first \$100,000 expended by the Fund would be used to meet the prior fiscal year’s obligations. This leaves only \$600,000 for the 2016-17 weed seasons, leaving \$100,000 in the Fund that the Program is unable to spend. The table below outlines this scenario.

Example of Current Statutory Restrictions on Noxious Weed Management Fund Spending Authority		
Date	Program Revenue and Expenditures	Point in Time Fund Balance
July 1, 2015	- Program receives \$700,000 appropriation - Obligates \$500,000 for grants for remainder of 2015 weed season	\$700,000
Dec. 31, 2015	- Entire \$500,000 for 2015 grants is expended	200,000
April 1, 2016	- Program obligates \$200,000 for grants for 2016 weed season	200,000
June 30, 2016	- Only \$100,000 of 2016 grants expended - Remaining \$100,000 revert to Fund	100,000
July 1, 2016	- Program receives \$700,000 appropriation - \$100,000 obligated from prior FY - Only \$600,000 available for FY 2016-17 weed seasons	\$800,000

Currently, if an approved project occurs in two fiscal years, the Program splits the project into two contracts. One contract covers the payment of eligible expenses in the current fiscal year, while the second contract covers the payments for the next fiscal year. The Department reports that this practice has been a challenge for the Program because it significantly increases the amount of paperwork for the Department, Program staff, and the grantees.

Proposed Solution

Staff recommends the Committee consider legislation to give the Fund roll-forward spending authority. After consulting with the Office of Legislative Legal Services, Staff believes the addition of a single sentence to Section 35-5.5-116 (1) would be sufficient to solve this spending authority issue. If added, the following sentence would confer roll-forward spending authority to the Fund:

“Any unexpended and unencumbered moneys from an appropriation made in accordance with this subsection (1) remain available for expenditure by the department in the next fiscal year without further appropriation.”

This sentence would allow the Program to spend monies appropriated in FY 2015-16 on grants in the second half of the 2016 calendar year.

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Appendix A: Number Pages

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	Request vs. Appropriation
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DEPARTMENT OF AGRICULTURE
Don Brown, Commissioner

(1) COMMISSIONER'S OFFICE AND ADMINISTRATIVE SERVICES

This division provides administrative and technical support for department divisions and programs, including accounting budgeting, and human resources. cash funds are from various fees and the reappropriated funds are from departmental and statewide indirect cost recoveries. Federal funds are from federal grants for agricultural purposes.

Personal Services	<u>1,088,468</u>	<u>1,342,815</u>	<u>1,601,893</u>	<u>1,635,471</u>
FTE	17.5	16.7	16.7	16.7
General Fund	178,741	222,447	305,571	337,186
Cash Funds	0	393	8,057	8,165
Reappropriated Funds	909,727	1,119,975	1,173,627	1,173,627
Federal Funds	0	0	114,638	116,493
Health, Life, and Dental	<u>2,054,944</u>	<u>1,963,808</u>	<u>2,178,910</u>	<u>2,242,232</u>
General Fund	518,245	726,809	712,713	889,679
Cash Funds	1,441,357	1,236,999	1,373,343	1,325,131
Federal Funds	95,342	0	92,854	27,422
Short-term Disability	<u>29,150</u>	<u>32,753</u>	<u>35,488</u>	<u>29,524</u>
General Fund	7,785	13,367	13,883	10,525
Cash Funds	19,022	19,386	19,694	17,703
Federal Funds	2,343	0	1,911	1,296
S.B. 04-257 Amortization Equalization Disbursement	<u>630,509</u>	<u>654,611</u>	<u>709,705</u>	<u>938,839</u>
General Fund	168,695	267,267	277,853	334,750
Cash Funds	411,377	387,344	393,626	562,886
Federal Funds	50,437	0	38,226	41,203

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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	Request vs. Appropriation
S.B. 06-235 Supplemental Amortization Equalization					
Disbursement	<u>568,674</u>	<u>613,671</u>	<u>685,511</u>	<u>929,059</u>	
General Fund	151,758	250,536	268,381	331,263	
Cash Funds	371,382	363,135	380,207	557,022	
Federal Funds	45,534	0	36,923	40,774	
Salary Survey	<u>549,150</u>	<u>440,968</u>	<u>176,518</u>	<u>7,298</u>	
General Fund	165,804	179,967	69,052	3,803	
Cash Funds	346,136	261,001	97,963	3,262	
Federal Funds	37,210	0	9,503	233	
Merit Pay	<u>249,959</u>	<u>141,506</u>	<u>172,276</u>	<u>0</u>	
General Fund	74,821	77,582	73,028	0	
Cash Funds	157,462	63,924	89,587	0	
Federal Funds	17,676	0	9,661	0	
Workers' Compensation	<u>161,359</u>	<u>195,784</u>	<u>217,025</u>	<u>272,049</u>	
General Fund	3,135	3,135	8,445	10,578	
Cash Funds	158,224	192,649	208,580	261,471	
Operating Expenses	<u>241,982</u>	<u>1,052,163</u>	<u>242,932</u>	<u>242,932</u>	
General Fund	0	0	0	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	241,982	241,982	241,982	241,982	
Federal Funds	0	810,181	950	950	

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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	Request vs. Appropriation
Legal Services	<u>380,713</u>	<u>371,325</u>	<u>470,565</u>	<u>817,870</u>	*
General Fund	150,027	71,804	148,412	150,193	
Cash Funds	226,436	299,521	307,153	652,497	
Federal Funds	4,250	0	15,000	15,180	
Administrative Law Judge Services	<u>4,446</u>	<u>1,313</u>	<u>6,676</u>	<u>2,629</u>	*
Cash Funds	4,446	1,313	6,676	2,629	
Payment to Risk Management and Property Funds	<u>147,063</u>	<u>156,601</u>	<u>155,570</u>	<u>182,637</u>	
General Fund	24,870	24,870	24,767	29,106	
Cash Funds	122,193	131,731	130,803	153,531	
Vehicle Lease Payments	<u>217,822</u>	<u>194,760</u>	<u>261,926</u>	<u>321,071</u>	*
General Fund	87,930	48,093	128,641	122,707	
Cash Funds	103,503	116,112	129,492	194,746	
Federal Funds	26,389	30,555	3,793	3,618	
Information Technology Asset Maintenance	<u>153,031</u>	<u>133,237</u>	<u>153,031</u>	<u>153,031</u>	
General Fund	42,041	42,041	42,041	42,041	
Cash Funds	110,990	91,196	110,990	110,990	
Leased Space	<u>121,311</u>	<u>13,914</u>	<u>13,914</u>	<u>13,914</u>	
General Fund	39,209	0	0	0	
Cash Funds	82,102	13,914	13,914	13,914	
Capitol Complex Leased Space	<u>213,608</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	149,603	0	0	0	
Cash Funds	64,005	0	0	0	

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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	Request vs. Appropriation
Office Consolidation COP	<u>0</u>	<u>0</u>	<u>529,063</u>	<u>529,063</u>	
FTE	0.0	0.0	0.0	0.0	
Cash Funds	0	0	529,063	529,063	
CORE Operations	<u>66,270</u>	<u>78,818</u>	<u>76,354</u>	<u>104,575</u>	
General Fund	9,783	10,196	7,250	9,930	
Cash Funds	56,487	68,622	60,331	82,629	
Federal Funds	0	0	8,773	12,016	
Payments to OIT	<u>0</u>	<u>1,188,097</u>	<u>1,248,818</u>	<u>1,356,760</u> *	
General Fund	0	860,680	950,293	1,032,423	
Cash Funds	0	327,417	298,525	324,337	
Utilities	<u>161,939</u>	<u>161,939</u>	<u>161,939</u>	<u>161,939</u>	
General Fund	50,000	50,000	50,000	50,000	
Cash Funds	0	0	0	0	
Reappropriated Funds	111,939	111,939	111,939	111,939	
Agricultural Statistics	<u>0</u>	<u>14</u>	<u>15,000</u>	<u>15,000</u>	
Cash Funds	0	14	15,000	15,000	
Agriculture Management Fund	<u>1,976,283</u>	<u>2,544,389</u>	<u>2,048,914</u>	<u>2,048,914</u>	
FTE	1.4	2.0	2.0	2.0	
Cash Funds	1,976,283	2,544,389	2,048,914	2,048,914	
Adult Agriculture Leadership Grant Program	<u>0</u>	<u>0</u>	<u>300,000</u>	<u>300,000</u>	
General Fund	0	0	0	0	
Cash Funds	0	0	300,000	300,000	

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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	Request vs. Appropriation
Indirect Cost Assessment	<u>195,377</u>	<u>197,014</u>	<u>203,114</u>	<u>199,148</u>	
Cash Funds	195,377	197,014	197,014	193,121	
Federal Funds	0	0	6,100	6,027	
Purchase of Services from Computer Center	<u>921,093</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	632,600	0	0	0	
Cash Funds	288,493	0	0	0	
Colorado State Network	<u>157,528</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	61,569	0	0	0	
Cash Funds	95,959	0	0	0	
Communication Services Payments	<u>16,049</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	4,009	0	0	0	
Cash Funds	12,040	0	0	0	
Information Technology Security	<u>10,721</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	7,306	0	0	0	
Cash Funds	3,415	0	0	0	
TOTAL - (1) Commissioner's Office and Administrative Services	10,317,449	11,479,500	11,665,142	12,503,955	7.2%
<i>FTE</i>	<u>18.9</u>	<u>18.7</u>	<u>18.7</u>	<u>18.7</u>	<u>0.0%</u>
General Fund	2,527,931	2,848,794	3,080,330	3,354,184	8.9%
Cash Funds	6,246,689	6,316,074	6,718,932	7,357,011	9.5%
Reappropriated Funds	1,263,648	1,473,896	1,527,548	1,527,548	0.0%
Federal Funds	279,181	840,736	338,332	265,212	(21.6%)

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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	Request vs. Appropriation
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(2) AGRICULTURAL SERVICES

The section is divided into four distinct divisions: (1) Animal Industry Division; (2) Plant Industry; (3) Inspection and Consumer Services Division; and (4) Conservation Services Division.

Animal Industry Division	<u>2,396,282</u>	<u>2,430,150</u>	<u>2,684,189</u>	<u>2,731,642</u>	
FTE	27.6	25.5	26.5	26.5	
General Fund	1,419,967	1,489,046	1,553,164	1,593,902	
Cash Funds	528,569	573,558	954,522	960,480	
Federal Funds	447,746	367,546	176,503	177,260	
Vaccine and Service Fund	<u>279,868</u>	<u>355,095</u>	<u>0</u>	<u>0</u>	
FTE	0.4	1.0	0.0	0.0	
Cash Funds	279,868	355,095	0	0	
Plant Industry Division	<u>3,102,272</u>	<u>3,488,953</u>	<u>4,549,568</u>	<u>6,153,391</u>	*
FTE	40.3	36.5	42.8	57.8	
General Fund	350,550	113,372	623,724	633,995	
Cash Funds	1,977,644	2,517,456	3,130,716	4,717,540	
Federal Funds	774,078	858,125	795,128	801,856	
Inspection and Consumer Services Division	<u>3,593,726</u>	<u>3,550,114</u>	<u>3,643,139</u>	<u>3,789,272</u>	*
FTE	43.4	44.6	44.6	45.6	
General Fund	1,055,240	924,023	1,172,298	1,189,027	
Cash Funds	2,118,499	2,232,231	2,072,680	2,200,402	
Reappropriated Funds	0	55,853	84,000	84,000	
Federal Funds	419,987	338,007	314,161	315,843	

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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	Request vs. Appropriation
Conservation Services Division	<u>2,253,662</u>	<u>2,916,395</u>	<u>2,547,613</u>	<u>2,573,509</u>	
FTE	14.5	15.3	15.3	15.3	
General Fund	639,983	1,454,369	1,103,877	1,120,961	
Cash Funds	569,864	412,118	621,638	626,244	
Federal Funds	1,043,815	1,049,908	822,098	826,304	
Lease Purchase Lab Equipment	<u>0</u>	<u>0</u>	<u>99,360</u>	<u>99,360</u>	
General Fund	0	0	0	0	
Cash Funds	0	0	99,360	99,360	
Indirect Cost Assessment	<u>734,806</u>	<u>763,900</u>	<u>938,269</u>	<u>925,867</u>	
Cash Funds	589,625	618,733	645,755	636,840	
Federal Funds	145,181	145,167	292,514	289,027	
Noxious Weed Management Fund	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	0	0	0	0	
Cash Funds	0	0	0	0	
TOTAL - (2) Agricultural Services	12,360,616	13,504,607	14,462,138	16,273,041	12.5%
FTE	<u>126.2</u>	<u>122.9</u>	<u>129.2</u>	<u>145.2</u>	<u>12.4%</u>
General Fund	3,465,740	3,980,810	4,453,063	4,537,885	1.9%
Cash Funds	6,064,069	6,709,191	7,524,671	9,240,866	22.8%
Reappropriated Funds	0	55,853	84,000	84,000	0.0%
Federal Funds	2,830,807	2,758,753	2,400,404	2,410,290	0.4%

JBC Staff Budget Briefing: FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	Request vs. Appropriation
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(3) AGRICULTURAL MARKETS DIVISION

This division provides marketing assistance and related support to Colorado agricultural-based businesses competing in local, national, and international arenas. The reappropriated funds are from a transfer from the Economic Development Commission, in the Office of the Governor.

(A) Agricultural Markets

Program Costs	<u>1,099,103</u>	<u>1,377,142</u>	<u>1,461,819</u>	<u>1,474,246</u>
FTE	7.4	5.4	5.4	5.4
General Fund	446,232	469,145	489,079	499,841
Cash Funds	0	25,753	50,454	50,454
Federal Funds	652,871	882,244	922,286	923,951
Economic Development Grants	<u>55,342</u>	<u>22,587</u>	<u>45,000</u>	<u>45,000</u>
Reappropriated Funds	0	22,587	45,000	45,000
Federal Funds	55,342	0	0	0
Agricultural Development Board	<u>197,818</u>	<u>108,773</u>	<u>500,000</u>	<u>500,000</u>
FTE	0.0	0.0	0.0	0.0
Cash Funds	197,818	108,773	500,000	500,000
Wine Promotion Board	<u>604,662</u>	<u>779,107</u>	<u>572,493</u>	<u>574,246</u>
FTE	1.5	1.5	1.5	1.5
Cash Funds	604,662	779,107	572,493	574,246
Indirect Cost Assessment	<u>35,058</u>	<u>11,548</u>	<u>14,270</u>	<u>14,081</u>
Cash Funds	29,928	10,000	10,000	9,862
Federal Funds	5,130	1,548	4,270	4,219

JBC Staff Budget Briefing: FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	Request vs. Appropriation
SUBTOTAL - (A) Agricultural Markets	1,991,983	2,299,157	2,593,582	2,607,573	0.5%
<i>FTE</i>	<u>8.9</u>	<u>6.9</u>	<u>6.9</u>	<u>6.9</u>	<u>0.0%</u>
General Fund	446,232	469,145	489,079	499,841	2.2%
Cash Funds	832,408	923,633	1,132,947	1,134,562	0.1%
Reappropriated Funds	0	22,587	45,000	45,000	0.0%
Federal Funds	713,343	883,792	926,556	928,170	0.2%
(B) Agricultural Products Inspection					
Program Costs	<u>1,863,439</u>	<u>2,095,926</u>	<u>2,142,213</u>	<u>2,167,056</u>	
<i>FTE</i>	<u>30.1</u>	<u>34.5</u>	<u>34.5</u>	<u>34.5</u>	
General Fund	200,000	200,000	200,000	200,000	
Cash Funds	1,663,439	1,895,926	1,942,213	1,967,056	
Indirect Cost Assessment	<u>92,539</u>	<u>93,895</u>	<u>93,895</u>	<u>92,599</u>	
Cash Funds	92,539	93,895	93,895	92,599	
SUBTOTAL - (B) Agricultural Products Inspection	1,955,978	2,189,821	2,236,108	2,259,655	1.1%
<i>FTE</i>	<u>30.1</u>	<u>34.5</u>	<u>34.5</u>	<u>34.5</u>	<u>0.0%</u>
General Fund	200,000	200,000	200,000	200,000	0.0%
Cash Funds	1,755,978	1,989,821	2,036,108	2,059,655	1.2%
TOTAL - (3) Agricultural Markets Division	3,947,961	4,488,978	4,829,690	4,867,228	0.8%
<i>FTE</i>	<u>39.0</u>	<u>41.4</u>	<u>41.4</u>	<u>41.4</u>	<u>(0.0%)</u>
General Fund	646,232	669,145	689,079	699,841	1.6%
Cash Funds	2,588,386	2,913,454	3,169,055	3,194,217	0.8%
Reappropriated Funds	0	22,587	45,000	45,000	0.0%
Federal Funds	713,343	883,792	926,556	928,170	0.2%

JBC Staff Budget Briefing: FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	Request vs. Appropriation
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(4) BRAND BOARD

The Brand Board is responsible for inspecting cattle, horse, and alternative livestock brands to verify ownership at the time of sale, transport, or slaughter, and constitutes an enterprise for the purposes of Section 20 of Article X of the Colorado Constitution.

Brand Inspection	<u>3,905,478</u>	<u>4,061,546</u>	<u>4,032,313</u>	<u>4,081,414</u>
FTE	55.1	59.0	59.0	59.0
General Fund	0	0	0	0
Cash Funds	3,905,478	4,061,546	4,032,313	4,081,414
Reappropriated Funds	0	0	0	0
Federal Funds	0	0	0	0
Alternative Livestock	<u>15,000</u>	<u>14,973</u>	<u>15,000</u>	<u>15,000</u>
Cash Funds	15,000	14,973	15,000	15,000
Brand Estray Fund	<u>68,016</u>	<u>0</u>	<u>40,000</u>	<u>40,000</u>
General Fund	0	0	0	0
Cash Funds	68,016	0	40,000	40,000
Indirect Cost Assessment	<u>168,019</u>	<u>164,731</u>	<u>164,731</u>	<u>162,457</u>
Cash Funds	168,019	164,731	164,731	162,457

TOTAL - (4) Brand Board	4,156,513	4,241,250	4,252,044	4,298,871	1.1%
FTE	<u>55.1</u>	<u>59.0</u>	<u>59.0</u>	<u>59.0</u>	<u>0.0%</u>
General Fund	0	0	0	0	0.0%
Cash Funds	4,156,513	4,241,250	4,252,044	4,298,871	1.1%
Reappropriated Funds	0	0	0	0	0.0%
Federal Funds	0	0	0	0	0.0%

JBC Staff Budget Briefing: FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	Request vs. Appropriation
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(5) COLORADO STATE FAIR

This division administers the State Fair under the guidance of the State Fair Authority. Cash funds are from the fees collected by the State Fair during its 11-day event, and from non-fair events held at the State Fairgrounds in Pueblo, Colorado.

Program Costs	<u>7,412,903</u>	<u>8,402,440</u>	<u>8,512,643</u>	<u>9,300,143</u>	
FTE	24.4	26.9	26.9	26.9	
General Fund	0	0	0	750,000	
Cash Funds	7,412,903	8,402,440	8,512,643	8,550,143	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
FFA and 4H Funding	<u>0</u>	<u>250,000</u>	<u>550,000</u>	<u>550,000</u>	
General Fund	0	250,000	550,000	250,000	
Cash Funds	0	0	0	300,000	
State Fair Financial Stability Study	<u>0</u>	<u>0</u>	<u>50,000</u>	<u>50,000</u>	
General Fund	0	0	50,000	50,000	
Indirect Cost Assessment	<u>107,602</u>	<u>113,269</u>	<u>113,269</u>	<u>111,705</u>	
Cash Funds	107,602	113,269	113,269	111,705	

TOTAL - (5) Colorado State Fair	7,520,505	8,765,709	9,225,912	10,011,848	8.5%
FTE	<u>24.4</u>	<u>26.9</u>	<u>26.9</u>	<u>26.9</u>	<u>0.0%</u>
General Fund	0	250,000	600,000	1,050,000	75.0%
Cash Funds	7,520,505	8,515,709	8,625,912	8,961,848	3.9%
Reappropriated Funds	0	0	0	0	0.0%
Federal Funds	0	0	0	0	0.0%

JBC Staff Budget Briefing: FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	Request vs. Appropriation
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(6) CONSERVATION BOARD

This division works to preserve Colorado's natural resources including reducing soil erosion and flood damage, as well as protecting underground water reserves.

Program Costs	<u>439,008</u>	<u>417,275</u>	<u>474,995</u>	<u>487,388</u>	
FTE	5.6	5.2	5.2	5.2	
General Fund	439,008	417,275	474,995	487,388	
Reappropriated Funds	0	0	0	0	
Distribution to Soil Conservation Districts	<u>391,714</u>	<u>391,496</u>	<u>483,767</u>	<u>483,767</u>	
General Fund	391,714	391,496	483,767	483,767	
Matching Grants to Districts	<u>444,222</u>	<u>612,472</u>	<u>675,000</u>	<u>675,000</u>	
General Fund	225,000	225,000	225,000	225,000	
Cash Funds	219,222	387,472	450,000	450,000	
Salinity Control Grants	<u>1,021,926</u>	<u>1,550,034</u>	<u>505,365</u>	<u>506,781</u>	
FTE	1.8	0.0	0.0	0.0	
Federal Funds	1,021,926	1,550,034	505,365	506,781	
TOTAL - (6) Conservation Board	2,296,870	2,971,277	2,139,127	2,152,936	0.6%
FTE	<u>7.4</u>	<u>5.2</u>	<u>5.2</u>	<u>5.2</u>	<u>0.0%</u>
General Fund	1,055,722	1,033,771	1,183,762	1,196,155	1.0%
Cash Funds	219,222	387,472	450,000	450,000	0.0%
Reappropriated Funds	0	0	0	0	0.0%
Federal Funds	1,021,926	1,550,034	505,365	506,781	0.3%
TOTAL - Department of Agriculture	40,599,914	45,451,321	46,574,053	50,107,879	7.6%
FTE	<u>271.0</u>	<u>274.1</u>	<u>280.4</u>	<u>296.4</u>	<u>5.7%</u>
General Fund	7,695,625	8,782,520	10,006,234	10,838,065	8.3%
Cash Funds	26,795,384	29,083,150	30,740,614	33,502,813	9.0%
Reappropriated Funds	1,263,648	1,552,336	1,656,548	1,656,548	0.0%
Federal Funds	4,845,257	6,033,315	4,170,657	4,110,453	(1.4%)

Appendix B: Recent Legislation Affecting Department Budget

2014 Session Bills

H.B. 14-1300 (GF Transfer to CO State Fair Authority Cash Fund): Transferred \$300,000 General Fund from the Controlled Maintenance Trust Fund to the Colorado State Fair Authority Cash Fund to renovate and improve facilities at the Colorado State Fairgrounds in Pueblo and to pay associated program costs.

H.B. 14-1336 (Long Bill): General appropriations act for FY 2014-15.

2015 Session Bills

S.B. 15-143 (Supplemental Bill): Supplemental appropriation to the Department to modify FY 2014-15 appropriations included in the FY 2014-15 Long Bill (H.B. 14-1336).

S.B. 15-196 (Industrial Hemp Certified Seeds Concentration Test): Provides the Department with \$249,763 cash funds and 2.0 FTE to expand the Industrial Hemp Committee from 9 to 11 members and requires the Department to administer an industrial hemp certified seed program. The Department may import seeds to develop the certified seed program in accordance with state and federal laws.

S.B. 15-234 (Long Bill): General appropriations act for FY 2015-16.

H.B. 15-1367 (Retail Marijuana Taxes): Refers a ballot issue to voters in November 2015, asking whether the State may retain and spend revenue collected from the Proposition AA excise and special sales taxes on retail marijuana in FY 2014-15. Creates a \$58.0 million Proposition AA Refund Account (Refund Account) in the General Fund. Contingent on voter approval of the ballot issue, the act makes several appropriations to the Department of Agriculture for FY 2015-16, as detailed in the following table.

Appropriations to Department of Agriculture That Are Contingent on Voter Approval		
Division and Line Item	Fund Source	Dollar Amount
<u>Colorado State Fair</u>		
FFA and 4H Funding	CF - Proposition AA Refund Account	<u>300,000</u>
Total		\$300,000

Independent of whether the voters approve the ballot issue, the act appropriates \$314,633 from the Marijuana Tax Cash Fund and 4.3 FTE to the Department in FY 2015-16 for the regulation of pesticide application to marijuana crops. For additional information, see the "Recent Legislation" section at the end of the Department of Revenue.

Appendix C: Update on Long Bill Footnotes & Requests for Information

Long Bill Footnotes

None.

Requests for Information

None.

Appendix D: FY 2014-15 SMART Act Annual Performance Report and FY 2015-16 Performance Plan

Pursuant to Section 2-7-205 (1) (a) (I), C.R.S., the Office of State Planning and Budgeting is required to publish an Annual Performance Report for the Department of Agriculture by November 1 of each year. This report is to include a summary of the Department's performance plan and most recent performance evaluation. For consideration by the Joint Budget Committee in prioritizing the Department's budget request, the FY 2014-15 report dated October 2015 can be found at the following link:

<https://sites.google.com/a/state.co.us/colorado-performance-management/department-performance-plans/agriculture/fy-2014-15-performance-plan-and-evaluation-reports>

Pursuant to Section 2-7-204 (3) (a) (I), C.R.S., the Department of Agriculture is required to develop a performance plan and submit that plan to the Joint Budget Committee and appropriate Joint Committee of Reference by July 1 of each year. For consideration by the Joint Budget Committee in prioritizing the Department's budget request, the FY 2015-16 plan dated July 1, 2015 can be found at the following link:

<https://sites.google.com/a/state.co.us/colorado-performance-management/department-performance-plans/agriculture/fy-2015-16-performance-plan-and-evaluation-reports>

Appendix E: Executive Order D2015-015

The following is a copy of Executive Order D2015-015 issued by Governor Hickenlooper on November 12, 2015.

STATE OF COLORADO

OFFICE OF THE GOVERNOR

136 State Capitol
Denver, Colorado 80203
Phone (303) 866-2471
Fax (303) 866-2003



John W. Hickenlooper
Governor

D 2015-015

EXECUTIVE ORDER

Directing State Agencies to Address Threats to Public Safety Posed by Marijuana Contaminated by Pesticide

Pursuant to the authority vested in the Governor of the State of Colorado, and in particular, pursuant to Article IV, Section 2 of the Colorado Constitution, I, John W. Hickenlooper, Governor of the State of Colorado, hereby issue this Executive Order directing state agencies to address threats to public safety posed by marijuana contaminated by pesticide.

I. Background and Purpose

Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, the Environmental Protection Agency (the "EPA") regulates pesticides that are sold and distributed in the United States. Before a pesticide can be distributed, the EPA performs a comprehensive scientific risk assessment of the product. The EPA's evaluations are conducted to prevent potential harm to humans, wildlife, and the environment. The EPA also evaluates and approves the language that appears on each pesticide label to ensure safe use of the product.

Because marijuana remains a schedule 1 narcotic under the Controlled Substances Act, the EPA has neither assessed the potential health hazards posed by treating marijuana with pesticides, nor has it authorized the application of any pesticide specifically for use on marijuana.

The State of Colorado regulates pesticide use pursuant to the Colorado Pesticide Applicators' Act and rules promulgated under the Act. It is a violation of state and federal law to use pesticides in a manner that is inconsistent with the EPA's label directions or otherwise unsafe. When a pesticide is applied to a crop in a manner that is inconsistent with the pesticide's label (an "Off-Label Pesticide"), and the crop is contaminated by that pesticide, it constitutes a threat to the public safety.

Until scientific assessment establishes which additional pesticides can be safely applied to marijuana, marijuana contaminated by an Off-Label Pesticide shall constitute a threat to the public safety.

II. Declaration and Directives

1. The Colorado Department of Health and Environment (“CDPHE”) shall hereby deem all marijuana contaminated by an Off-Label Pesticide a risk to public health, and the Department of Revenue is authorized to find such contaminated marijuana a threat to public safety.
2. Several executive branch agencies, including CDPHE, the Colorado Department of Agriculture (“CDA”) and the Colorado Department of Revenue (“DOR”) are statutorily charged with executing state policy governing cultivation and sale of marijuana. These agencies are hereby directed to utilize all existing investigatory and enforcement authorities established by law to protect against threats to the public safety posed by contaminated marijuana including, but not limited to, placing contaminated marijuana on administrative hold and destroying contaminated marijuana pursuant to existing law.

III. Duration

This Executive Order shall remain in full force and effect until amended or rescinded by further executive order or otherwise superseded by Colorado law.



GIVEN under my hand and the
Executive Seal of the State of
Colorado this 12th day of
November, 2015.

A handwritten signature in blue ink, which appears to read "John Hickenlooper". The signature is written in a cursive, flowing style.

John W. Hickenlooper
Governor