

## Amendment X Industrial Hemp Definition

1 **Amendment X proposes amending the Colorado Constitution to:**

- 2     ♦ remove the definition of “industrial hemp” from the Colorado Constitution and,  
3     instead, use the definition in federal law or state statute.

### 4 **Summary and Analysis**

5     **Background.** Amendment 64, which legalized the recreational use of marijuana in  
6 Colorado in 2012, added a definition of “industrial hemp” to the Colorado Constitution.  
7 The definition states that industrial hemp is “the plant of the genus cannabis and any  
8 part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol [THC]  
9 concentration that does not exceed three-tenths [0.3] percent on a dry weight basis.”  
10 The definition of industrial hemp in federal law sets the same limit for THC concentration.

11     **Impact of the measure.** Amendment X removes the definition of industrial hemp  
12 from the state constitution and gives the term the same meaning as in federal law or  
13 state statute. In the event that federal law changes, Colorado would maintain  
14 compliance with federal regulation.

15     **What is industrial hemp?** Industrial hemp (commonly referred to as “hemp”) is an  
16 agricultural commodity that belongs to the cannabis family. Industrial hemp has only  
17 trace amounts of the psychoactive component of marijuana (delta-9 tetrahydrocannabinol  
18 or THC), typically around 0.3 percent. By contrast, most marijuana strains sold in  
19 Colorado range between 8 and 30 percent THC. Industrial hemp’s applications include  
20 building material, food, fuel, medicine, paper, plastic substitute, rope, and textiles.

21     **Industrial hemp and federal law.** Under current federal law, all cannabis varieties  
22 including industrial hemp, are classified as controlled substances regulated by the  
23 federal Drug Enforcement Agency in the U.S. Department of Justice. The  
24 U.S. Congress currently has legislation pending regarding industrial hemp.

25     **Industrial hemp industry in Colorado.** As of June 1, 2018, there are  
26 688 registered hemp growers in Colorado cultivating 23,500 outdoor acres and  
27 3.9 million indoor square feet of industrial hemp.

*For information on those issue committees that support or oppose the measures on the ballot at the **November 6, 2018**, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:*

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

1 **Argument For**

- 2 1) Colorado is the leading producer of industrial hemp in the country and the only  
3 state with a definition of industrial hemp in its constitution. Striking this definition  
4 will allow Colorado's hemp industry to remain competitive with other states as the  
5 regulatory landscape evolves for this crop.

6 **Argument Against**

- 7 1) Colorado voters added the definition of industrial hemp to the Colorado  
8 Constitution through the initiative process. The measure may deviate from the  
9 voter's original intent.

10 **Estimate of Fiscal Impact**

- 11 Removing the definition of industrial hemp from the Colorado Constitution has no  
12 impact on the revenue or expenditures of any state or local government agencies.

# Last Draft as Mailed to Interested Parties

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### 4 **Summary and Analysis**

5     ***What is industrial hemp?*** Industrial hemp (commonly referred to as “hemp”) is an  
6     agricultural commodity that belongs to the cannabis family. Industrial hemp has only  
7     trace amounts of the psychoactive component of marijuana (delta-9 tetrahydrocannabinol  
8     or THC), typically around 0.3 percent. By contrast, most marijuana strains sold in  
9     Colorado range between 8 and 30 percent THC. Industrial hemp’s applications include  
10    building material, clothing, food, oil, rope, and, potentially, medicine.

11    ***Existing definitions of industrial hemp.*** Federal law defines the term “industrial  
12    hemp” to mean “the plant Cannabis sativa L. and any part of such plant, whether  
13    growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than  
14    0.3 percent on a dry weight basis.”

15    The Colorado Constitution and state statutes define the term “industrial hemp” to  
16    mean “the plant of the genus cannabis and any part of such plant, whether growing or  
17    not, with a delta-9 tetrahydrocannabinol concentration that does not exceed three-tenths  
18    [0.3] percent on a dry weight basis.”

19    ***Colorado’s regulation of industrial hemp.*** Amendment 64, which legalized the  
20    recreational use of marijuana in 2012, added a definition of “industrial hemp” to the  
21    Colorado Constitution and required the state legislature to enact legislation concerning  
22    its cultivation, processing, and sale. In 2013, the state legislature modified the statutory  
23    definition of “industrial hemp” to mirror the state’s constitutional definition and created  
24    the Industrial Hemp Regulatory Program in the Colorado Department of Agriculture. In  
25    subsequent years, the state legislature has addressed several policy issues related to  
26    industrial hemp, including acceptable uses, seed certification, testing, and water rights.

27    Under current state law, in the event that the federal government authorizes the  
28    U.S. Department of Agriculture to regulate the cultivation and research and development  
29    of industrial hemp, the state’s program automatically repeals.

30    ***Industrial hemp industry in Colorado.*** Since 2014, Colorado has been the leading  
31    producer of industrial hemp in the country. As of June 1, 2018, there are 688 registered  
32    hemp growers in Colorado cultivating 23,500 outdoor acres and 3.9 million indoor  
33    square feet of industrial hemp.

34    ***Industrial hemp and federal law.*** Under current federal law, all cannabis varieties,  
35    including industrial hemp, are classified as controlled substances regulated by the

# Last Draft as Mailed to Interested Parties

1 federal Drug Enforcement Agency in the U.S. Department of Justice. However, the  
2 U.S. Congress authorized the limited cultivation of industrial hemp for research purposes  
3 in 2014, and currently has legislation pending regarding industrial hemp.

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## 4 **Argument For**

5 Striking the definition of industrial hemp from the Colorado Constitution allows the  
6 state legislature to react to changes to the definition at the federal level. As a result,  
7 Colorado's industrial hemp growers will maintain compliance with federal policy and  
8 remain competitive with other states.

## 9 **Argument Against**

10 Voters approved Amendment 64 to the Colorado Constitution in 2012, which  
11 included the current definition of industrial hemp. Amendment X allows the state  
12 legislature to make changes to the term's definition, which may cause uncertainty among  
13 industrial hemp growers who have relied on the constitutional definition in establishing  
14 their businesses.

## 15 **Estimate of Fiscal Impact**

16 Removing the definition of industrial hemp from the Colorado Constitution has no  
17 impact on the revenue or expenditures of any state or local government agencies.

# Last Draft Comments from Interested Parties

## Amendment X Industrial Hemp Definition

### **Hunter Buffington, representing Colorado Hemp Industries Association:**

Under What is industrial hemp?

-Add plastic substitute & biofuels (& fix the commas) and, potentially, medicine.

Under Argument For

- Emphasize and clarify that if the federal definition changes & Amendment X fails Colorado farmers will be at a competitive disadvantage compared to producers in other states.

### **Senator Vicki Marble, bill sponsor of SCR 18-003:**

The language for Amendment X is lacking in some important clarity.

- The Concurrent Resolution did move the definition from the Constitution to statute but it also made it possible for the Colorado hemp definition to automatically adjust to federal limits. This is a critical part in keeping Colorado competitive in the hemp market. If the Farm Bill changes the hemp definition after the Colorado Legislature has adjourned for the year, it is not a problem for farmers because they do not have to wait for legislation to pass the next year in order to move Colorado into compliance with federal law.

- Fiscal Note: If this does not pass, the state of Colorado stands to lose a great deal of revenue due to our not being able to compete with other states on the same level of hemp limits. It would take possibly 3 years for farmers to get the permission they need to adjust to federal limits if we had to take it back to the voters to change it every time in the Colorado Constitution. This would be a devastating blow to our Hemp growers and the state would immediately lose its #1 position in the hemp industry.

- It should be noted that Colorado is the only state that has their hemp definition in their State Constitution. This is an industry killer for hemp as other states have wisely recognized. Having the definition in statute allows for immediate response to federal changes when they occur keeping the State effectively, and responsibly, competitive.

Please take these comments into account as I am the one who sponsored and worked so hard on this Concurrent Resolution. It is a win-win for Colorado.

**Amendment X  
Industrial Hemp Definition  
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**Amendment X**  
**Industrial Hemp Definition**

1 **Ballot Title:** Shall there be an amendment to the Colorado constitution concerning changing the  
2 industrial hemp definition from a constitutional definition to a statutory definition?

3 *Be It Resolved by the Senate of the Seventy-first General Assembly of the State of*  
4 *Colorado, the House of Representatives concurring herein:*

5 **SECTION 1.** At the election held on November 6, 2018, the secretary of state shall submit  
6 to the registered electors of the state the ballot title set forth in section 2 for the following  
7 amendment to the state constitution:

8 In the constitution of the state of Colorado, section 16 of article XVIII, **amend** (2)(d) as  
9 follows:

10 **Section 16. Personal use and regulation of marijuana. (2) Definitions.** As used in  
11 this section, unless the context otherwise requires,

12 (d) "Industrial hemp" ~~means the plant of the genus cannabis and any part of such plant,~~  
13 ~~whether growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed~~  
14 ~~three-tenths percent on a dry weight basis~~ HAS THE SAME MEANING AS IT IS DEFINED IN FEDERAL LAW  
15 OR AS THE TERM IS DEFINED IN COLORADO STATUTE.

16 **SECTION 2.** Each elector voting at the election may cast a vote either "Yes/For" or  
17 "No/Against" on the following ballot title: "Shall there be an amendment to the Colorado  
18 constitution concerning changing the industrial hemp definition from a constitutional definition to  
19 a statutory definition?"

20 **SECTION 3.** Except as otherwise provided in section 1-40-123, Colorado Revised  
21 Statutes, if at least fifty-five percent of the electors voting on the ballot title vote "Yes/For", then  
22 the amendment will become part of the state constitution.