



Legislative  
Council Staff

*Nonpartisan Services for Colorado's Legislature*

**HB 19-1329**

**REVISED  
FISCAL NOTE**

(replaces fiscal note dated April 24, 2019)

**Drafting Number:** LLS 19-1115  
**Prime Sponsors:** Rep. Arndt; McKean  
Sen. Sonnenberg

**Date:** April 29, 2019  
**Bill Status:** House Appropriations  
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**Bill Topic:** WHOLESALE SALES AGRICULTURAL FERTILIZER TAX EXEMPTION

**Summary of  
Fiscal Impact:**

- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

This bill includes fertilizer and spray adjuvants used for agricultural purposes as wholesale sale products, thereby exempting them from the state sales tax.

**Appropriation  
Summary:** No appropriation is required.

**Fiscal Note  
Status:** This revised fiscal note reflects the bill as amended by the House Finance committee.

**Table 1  
State Fiscal Impacts Under HB 19-1329**

		<b>FY 2019-20</b>	<b>FY 2020-21</b>
<b>Revenue</b>	General Fund	(at least \$792,500)	(at least \$792,500)
<b>Expenditures</b>		-	-
<b>Transfers</b>		-	-
<b>TABOR Refund</b>		-	-

## **Summary of Legislation**

This bill includes the sale of fertilizer and spray adjuvants for use in agricultural and livestock production as wholesale sale products, which exempts them from state sales and use tax. Specialty fertilizers are not included in this exemption; however, greenhouses, nurseries, and hydroponic facilities are no longer included under the definition of specialty fertilizers.

## **Background**

Until 2014, fertilizer for agricultural producers was exempt from state sales tax based on rules promulgated by the Department of Revenue. The exemption clarified in the rules was removed in 2014, leaving no statutory or rules-based language to exempt fertilizer from state sales tax.

Based on the 2017 U.S. Department of Agriculture's Agricultural Census, there was \$461.0 million in total fertilizer and chemical expenses in 2017 in Colorado, down from \$493.8 million in the 2012 census.

## **Assumptions**

Under the 2014 rule change, approximately 89 percent of agricultural producers are currently receiving a sales tax exemption upon the purchase of fertilizer for agricultural use based on the State Auditor's 2019 report, *Agricultural Inputs, Sales Tax Exemptions*. It is assumed that the same percentage of producers are receiving an exemption on spray adjuvants.

Marijuana is assumed to receive the sales tax exemption under the speciality fertilizer definitional change in this bill; however, it is unknown to what extent marijuana producers are receiving the exemption currently. Additionally, data are not available to estimate the total cost of fertilizer used as an input for marijuana production. Therefore, the fiscal impact may be higher than the revenue amount shown in Table 1.

## **State Revenue**

This bill will decrease General Fund revenue by at least \$792,500 in FY 2019-20 and FY 2020-21, with similar reductions in future years. This includes only the sales tax revenue for those agricultural producers who are presumed to not be receiving the exemption currently. This revenue is subject to TABOR. No TABOR refund is expected in FY 2019-20 or FY 2020-21. This bill will reduce TABOR refunds in future years for which a refund occurs.

## **Local Government**

This bill will decrease sales tax revenue for state collected local taxing jurisdictions and special districts that have adopted the state's sales tax base depending on the amount of fertilizer and spray adjuvants sold in each jurisdiction.

## **Effective Date**

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

**State and Local Government Contacts**

Agriculture  
Revenue

Counties  
Special Districts

Municipalities  
Regional Transportation District