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FISCAL NOTE

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Prime Sponsors: Sen. Marble; Fenberg Bill Status: Senate Agriculture
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Bill Topic: HEMP REGULATION ALIGNMENT WITH 2018 FEDERAL FARM BILL

- Summary of Fiscal Impact: State Revenue, State Expenditure, State Transfer, TABOR Refund, Local Government, Statutory Public Entity

This bill authorizes the Commissioner of Agriculture to submit a hemp management plan to the U.S. Department of Agriculture. The bill increases state expenditures on an ongoing basis.

Appropriation Summary: For FY 2019-20, the bill requires an appropriation of \$406,470 to the Department of Agriculture.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1 State Fiscal Impacts Under SB 19-220

Table with 4 columns: Category, FY 2019-20, FY 2020-21. Rows include Revenue, Expenditures (Cash Funds, Centrally Appropriated, Total), Total FTE, Transfers, and TABOR Refund.

## **Summary of Legislation**

This bill authorizes the Commissioner of Agriculture to draft and submit a hemp management plan in accordance with requirements set forth by the Secretary of the United States Department of Agriculture (USDA) pursuant to the Agricultural Improvement Act of 2018, also known as the 2018 Farm Bill. The commissioner may consult with stakeholders in developing the plan. The bill also modifies the definition of industrial hemp or hemp to conform with the federal definition.

## **Background**

Amendment 64, passed by the voters in 2012, differentiated industrial hemp from marijuana and required the General Assembly to enact legislation governing the cultivation, processing, and sale of industrial hemp. The Colorado Department of Agriculture's (CDA) Industrial Hemp Registration Program regulates the cultivation of industrial hemp and administers a certified seed program. The program is cash funded by fees paid by hemp growers and an appropriation from the Marijuana Tax Cash Fund. In FY 2018-19, there were 943 farm registrants and approximately 300 samples were collected and analyzed by the CDA for Delta-9 Tetrahydrocannabinol (THC) content, which must be no more 0.3 percent for the product to be considered industrial hemp.

The 2018 Farm Bill removed hemp from the Controlled Substances Act and made hemp more of a mainstream agricultural product, but with a regulatory requirement. Regulation of hemp crops can be conducted at the state or federal level. For a state to regulate hemp growers, it will need to get approval for its state plan from the USDA.

## **Assumptions**

The fiscal note assumes that:

- the hemp management plan required by the USDA will have more regulatory requirements than the current regulatory program at CDA;
- the hemp management plan will be approved by the USDA; and
- federal decriminalization of hemp will increase the number of registrants and program expenditures.

## **State Expenditures**

This bill will increase expenditures for the CDA by \$555,785 and 4.6 FTE in FY 2019-20 and \$433,544 and 4.6 FTE in FY 2020-21 from the Industrial Hemp Registration Program Cash Fund. These costs are shown in Table 2 and explained below.

**Table 2  
 Expenditures Under SB 19-220**

	<b>FY 2019-20</b>	<b>FY 2020-21</b>
<b>Department of Agriculture</b>		
Personal Services	\$243,545	\$256,509
Operating Expenses and Capital Outlay Costs	\$37,885	\$14,370
Outreach and Education	\$40,000	\$20,000
Laboratory Instruments, Supplies, Maintenance	\$83,800	\$9,265
Vehicle and Mileage	\$1,240	\$3,960
Centrally Appropriated Costs*	\$149,315	\$129,440
<b>Total Cost</b>	<b>\$555,785</b>	<b>\$433,544</b>
<b>Total FTE</b>	<b>4.6 FTE</b>	<b>4.6 FTE</b>

\* Centrally appropriated costs are not included in the bill's appropriation.

**Staffing.** The CDA requires additional staffing to implement the hemp management plan and address the increase in registrants. These include:

- 1.0 FTE - Administrator III to oversee the licensing operations and outreach to industry.
- 1.0 FTE - Administrative Assistant II to address the increase in registration, to compile planting and harvest reports, and answer the high volume of phone calls coming from registrants and the public.
- 1.0 FTE - Compliance Specialist I/II to collect hemp samples as part of compliance investigations and to dispose of hot hemp (above 0.3 percent THC) as part of a new mandate from the 2018 Farm Bill. This position begins as a level one and is upgraded to a level two in FY 2020-21.
- 1.5 FTE - Physical Scientist Research/Scientist to process an increase in hemp samples and to address an increase in quality review for the program. This quality review is required to maintain laboratory accreditation. This position begins as a level one and is upgraded to a level two in FY 2020-21.
- 0.1 FTE - Program Manager III to account for the increased time and resources for the management of the sampling process, the CDA will allocate 5 percent of the current Director of the Division of Laboratory Services to the Industrial Hemp Registration Program.

Staff will require a vehicle for \$1,000 in FY 2019-20 and \$3,000 in FY 2020-21 with costs to be reappropriated to the Department of Personnel and Administration.

**Operating Expenses and Capital Outlay.** This includes the costs for computers, furniture, telephones, and supplies, as well as \$10,000 per year for data analytics software.

**Biochemistry laboratory.** To process an increased number of hemp samples, the CDA will add equipment and software to its biochemistry laboratory in FY 2019-20. These include the following:

- gas chromatograph with dual flame ionization detectors (GC-FID) (\$65,000);
- dedicated hemp drying oven (\$9,000);
- computer and software upgrade for existing GC-FID system (\$5,800); and
- consumable testing supplies for hemp analysis (\$4,000) which will be an ongoing cost.

Beginning in FY 2020-21, the CDA will have costs for a maintenance agreement for the new lab equipment (\$5,265).

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$149,315 in FY 2019-20 and \$129,440 in FY 2020-21.

### **Effective Date**

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

### **State Appropriations**

For FY 2019-20, the bill requires an appropriation of \$406,470 to the Department of Agriculture and an allocation of 4.6 FTE from the Industrial Hemp Registration Program Cash Fund: Of this amount, \$1,000 is reappropriated to the Department of Personnel and Administration.

### **State and Local Government Contacts**

Agriculture  
Information Technology

Higher Education  
Law