

Background

Industrial hemp is regulated by the CDA. It cannot contain a THC concentration above 0.3 percent on a dry weight basis. It is considered a Schedule I controlled substance by the federal government. This schedule includes substances such as marijuana, heroin and LSD that have no currently accepted medical use, a lack of accepted safety for use under medical supervision, and a high potential for abuse.

Access to industrial hemp seed has been a challenge for Colorado growers. The limited amount of seed that is available is not certified to produce plants with a THC content at or below 0.3 percent. Crop yields that exceed 0.3 percent THC are destroyed at a loss for the grower. Identification and production of a certified seed is a multi-year endeavor.

The most recent federal Farm Bill included a provision that authorized a state department of agriculture or institution of higher education in a state where cultivation of industrial hemp is legal, to conduct industrial hemp research. The CDA obtained a Drug Enforcement Agency (DEA) registration allowing it to import industrial hemp seed. The CDA will be able to provide contract farmers, Colorado State University, and the University of Colorado at Boulder with hemp seed for the certified seed program and research without those entities having to obtain a DEA registration.

Retail marijuana testing facilities regulated by the MED are currently only permitted to test retail marijuana and medical marijuana that is grown or produced by a licensee. As a result, only retail and medical marijuana that is tracked in the MED's seed-to-sale tracking system is allowed in a retail marijuana testing facility. Testing of industrial hemp by a retail marijuana testing facility is a violation of current law.

State Revenue

This bill will increase revenue from fees to the CDA by \$181,250 in FY 2015-16 and \$288,750 in FY 2016-17 to the Industrial Hemp Registration Program Cash Fund.

Assumptions. This analysis is based on the following assumptions:

- 250 total industrial hemp registrants in FY 2015-16; and
- 350 total industrial hemp registrants in FY 2016-17.

Under previous CDA rules, multiple grow sites could be included in one registration. The rules were recently changed to require a separate registration for each grow site which will increase the number of registrants significantly. However, the full effect of the change will not occur until FY 2016-17.

Fee impact on hemp registrants. Section 2-2-322, C.R.S., requires legislative service agency review of measures which create or increase any fee collected by a state agency. Table 1 below illustrates a scenario for funding the bill with fees. The actual fees will be set by the CDA in consultation with the Industrial Hemp Committee to cover the direct and indirect costs of the program.

Table 1. Fee Impact on Industrial Hemp Registrants					
Type of Fee	Current Fee	Proposed Fee	Fee Change	Number Affected	Total Fee Impact
Commercial Hemp Registration - FY 2015-16	\$500	\$1,225	\$725	151	\$109,475
Research & Development Registration - FY 2015-16	500	1,225	725	99	71,775
FY 2015-16 TOTAL					181,250
Commercial Hemp Registration - FY 2016-17	500	1,325	825	212	174,900
Research & Development Registration - FY 2016-17	500	1,325	825	138	113,850
FY 2016-17 TOTAL					288,750

TABOR Impact

This bill increases state revenue from fees, which will increase the amount required to be refunded under TABOR. TABOR refunds are paid from the General Fund.

State Expenditures

This bill increases expenditures for the CDA by 181,233 and 2.0 FTE in FY 2015-16 and \$289,132 and 2.0 FTE in FY 2016-17 from the Industrial Hemp Registration Program Cash Fund. Costs are shown in Table 2 and explained below.

Table 2. Expenditures Under SB15-196		
Cost Components	FY 2015-16	FY 2016-17
Personal Services	\$83,237	\$110,982
FTE	2.0 FTE	2.0 FTE
Temporary Staff	15,000	37,500
Operating Expenses and Capital Outlay Costs	11,406	2,000
Legal Services	3,780	3,780
Seed Stock	3,000	3,000
Land Contracts	7,500	7,500
Testing Laboratory Costs (\$150 per THC sample)	30,000	90,000
Travel	4,840	8,800
Centrally Appropriated Costs*	22,470	25,570
TOTAL	\$181,233	\$289,132

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

Department of Agriculture, Division of Plant Industry. The division will add 2.0 FTE to administer the program. Division staff will work with the commissioner, the Industrial Hemp Committee and independent seed producers to promulgate rules for the industrial seed certification program. The division will use 40 hours of legal services per year from the Department of Law for rulemaking, contracting with farmers, and compliance with DEA requirements. The division will be responsible for the selection, purchase, and importation of industrial hemp seed and will enter into agreements with farmers to produce varieties for testing on their land. Lab costs of \$150 per sample are required to measure the THC concentration level. The division is expected to conduct approximately 200 tests in FY 2015-16 at a cost of \$30,000, and 600 tests in FY 2016-17 at a cost of \$90,000.

The expenditures for the 2016 growing season are split over two fiscal years. Beginning in the spring of FY 2015-16, temporary staff will be added to collect samples multiple times from contract farmers and deliver the samples to the lab. Frequent trips will be required because industrial hemp samples cannot legally be sent through the U.S. mail. The division will lease state vehicles that have come off lease from other state agencies as seasonal vehicles at a cost of \$30 per month, per vehicle. The balance of travel costs are for overnight stays and vehicle mileage.

The first full year of the seed certification program is FY 2016-17, and the expenditures in Table 2 reflect the costs for a complete growing season which includes the end of the calendar year 2016 season and the beginning of the calendar year 2017 season. Beyond FY 2016-17, the division will need to purchase seed storage facilities and establish a distribution system, but those costs will be addressed during the annual budget process once known.

Department of Revenue, MED. This bill adds some complexity to the regulation of retail marijuana testing facilities by allowing them to test industrial hemp samples which are outside of the tracking system for retail marijuana. This workload is not expected to require new appropriations.

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. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 3.

Table 3. Centrally Appropriated Costs Under SB15-196*		
Cost Components	FY 2015-16	FY 2016-17
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$16,018	\$16,073
Supplemental Employee Retirement Payments	6,452	9,497
TOTAL	\$22,470	\$25,570

*More information is available at: <http://colorado.gov/fiscalnotes>

Effective Date

The bill takes effect August 5, 2015, if the General Assembly adjourns on May 6, 2015, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2015-16, the Department of Agriculture requires an appropriation of \$158,763 from the Industrial Hemp Registration Program Cash Fund and an allocation of 2.0 FTE. Of this, \$3,780 is reappropriated to the Department of Law.

State and Local Government Contacts

Agriculture
Corrections Law
Governor's Office

Revenue
Judicial Department

Public Health and Environment
Higher Education