

JOINT BUDGET COMMITTEE



STAFF BUDGET BALANCING FY 2020-21

DEPARTMENT OF AGRICULTURE

JBC WORKING DOCUMENT - SUBJECT TO CHANGE
STAFF RECOMMENDATION DOES NOT REPRESENT COMMITTEE DECISION

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HOW TO USE THIS DOCUMENT

The **first section** of this document includes a summary table showing:

- Committee action on Long Bill appropriations through March 16, 2020; and
- Staff recommended changes to Long Bill appropriations, assuming that General Fund appropriations in FY 2020-21 must be kept at approximately the same level as FY 2019-20 to bring the budget into balance. This recommendation is based on the Legislative Council Staff March 16, 2020, revenue forecast, assumes that the statutory General Fund reserve will be increased in FY 2020-21 as proposed by the Governor, and assumes that only the federal increase in the Medicaid matching funds rate will be available to help cover shortfalls.

The table is followed by descriptions of each change recommended by staff.

A **second section** of the document (if applicable) summarizes staff recommendations that require statutory changes. This may include appropriation reductions that cannot be implemented without a statutory change, changes that affect the amount of available General Fund (e.g., a transfer from a cash fund), or any other items that are not captured in the Long Bill appropriations table. The recommendations in the second section are also based on the assumption that General Fund appropriations in FY 2020-21 must be kept at approximately the level of FY 2019-20 to bring the budget into balance.

A **third section** of the document includes additional staff recommendations and options for the Committee to consider if deeper cuts are required. For purposes of this section, staff has assumed additional reductions of 10.0 to 20.0 percent in General Fund appropriations and transfers will be required to bring the budget into balance in FY 2020-21.

SUMMARY OF STAFF BUDGET BALANCING RECOMMENDATIONS FOR LONG BILL

DEPARTMENT OF AGRICULTURE						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2019-20 APPROPRIATION						
SB 19-207 (Long Bill)	\$54,671,192	\$11,975,760	\$36,289,774	\$2,496,093	\$3,909,565	290.8
HB 20-1242 (Supplemental Bill)	298,375	0	296,050	2,325	0	0.2
Other legislation	769,069	123,007	646,062	0	0	6.8
TOTAL	\$55,738,636	\$12,098,767	\$37,231,886	\$2,498,418	\$3,909,565	297.8
FY 2020-21 RECOMMENDED APPROPRIATION						
FY 2019-20 Appropriation	\$55,738,636	\$12,098,767	\$37,231,886	\$2,498,418	\$3,909,565	297.8
R1 Renewable energy and energy efficiency (ACRE3)	0	0	0	0	0	0.0
R2 Organic program staff expansion	0	0	0	0	0	0.0
R3 Colorado soil health program	0	0	0	0	0	0.0
R4 Sustainable marijuana certification funding	65,885	0	65,885	0	0	0.8
R5 Pet animal care facilities licensing requirements	142,971	65,921	77,050	0	0	0.8
R6 Lab equipment maintenance agreement	48,000	0	48,000	0	0	0.0
R7 Indirect cost recoveries	226,930	0	113,465	113,465	0	0.0
R8 Unused spending authority	(382,528)	0	(322,528)	(60,000)	0	0.0
R9 Implementing budget efficiencies	(214,143)	(89,300)	(124,843)	0	0	(1.0)
BA1 Industrial hemp compliance funding	586,502	0	579,774	6,728	0	1.0
BA2 Hemp Center of Excellence funding	103,403	0	103,403	0	0	0.0
Annualize prior year budget action and legislation	327,590	34,836	292,754	0	0	1.4
SB 19-158 PACFA second year costs	25,869	25,869	0	0	0	0.4
Centrally appropriated line items	1,515,161	688,657	767,549	19,290	39,665	0.0
Nonprioritized requests	(27,874)	(14,314)	(13,435)	0	(125)	0.0
Technical correction	0	0	0	0	0	0.5
Subtotal - JBC Action as of 3/16/20	\$58,156,402	\$12,810,436	\$38,818,960	\$2,577,901	\$3,949,105	301.7
Remove half appropriated to 4H and FFA at the state fair	(275,000)	(125,000)	(150,000)	0	0	0.0
Remove GF for R5 New FTE for PACFA	(65,921)	(65,921)	0	0	0	(0.8)
Remove GF SB19-158 PACFA second year costs	(25,869)	(25,869)	0	0	0	(0.4)
Remove MTCF for R4 Sustainable marijuana study	(65,885)	0	(65,885)	0	0	(0.8)
TOTAL	\$57,723,727	\$12,593,646	\$38,603,075	\$2,577,901	\$3,949,105	299.7
INCREASE/(DECREASE)	\$1,985,091	\$494,879	\$1,371,189	\$79,483	\$39,540	1.9
Percentage Change	3.6%	4.1%	3.7%	3.2%	1.0%	0.6%

Note: Changes to staff recommendations for common policy items, including salary survey and provider rates, will be addressed in statewide policy packets.

→ REMOVE HALF APPROPRIATED TO 4H AND FFA AT THE STATE FAIR

JBC ACTION AS OF 3/16/20: The Committee approved continuation level funding for the 4-H and FFA programs that run concurrently with the annual state fair, which is for an appropriation of

\$550,000 total funds including \$250,000 General Fund and \$300,000 cash funds from the Marijuana Tax Cash Fund.

RECOMMENDATION: Staff recommends the Committee temporarily reduce funding for 4H and FFA at the State Fair by half from both fund sources, \$125,000 General Fund and \$150,000 from the Marijuana Tax Cash Fund.

ANALYSIS:

Key Considerations: Direct appropriations from the General Fund began in FY 2014-15 and from the Marijuana Tax Cash Fund in FY 2015-16, however, the State Fair Authority subsidized the programs through appropriations for general operations.

Other Items of Note: The recommendation is to reduce appropriations for one-year only to account for likely reduced participation in 2020.

Additional Background: The Colorado State Fair dates are August 28th through September 7th for 2020. Under current guidance, Executive Orders requiring social distancing and avoiding nonessential travel will be modified to allow some Coloradans to return to work and resume daily activities by the end of April. One concern that keeps arising when discussing relaxing current activity restrictions is the possibility for future stay-at-home orders to be issued if there is a resurgence in new COVID-19 cases. Beyond staying at home to comply with orders issued by various levels of government, there is likely to be an ongoing disruption to any events that draw large crowds because some of the public will still not feel safe participating. Parents may be unwilling to send or accompany their children to the State Fair in 2020

Direct appropriations to support 4H and FFA only recently occurred, although the State Fair Authority was already subsidizing the programs through general operations appropriations. Beginning in FY 2014-15, the General Assembly has provided \$300,000 General Fund to directly fund 4H and FFA programs at the state fair. This funding was augmented in FY 2015-16 with an additional appropriation of \$300,000 from the Marijuana Tax Cash Fund. Since FY 2015-16, appropriations for the 4H and FFA line item have remained in the base budget as continuation funding.

The State Fair has a central place in both programs, serving as an educational experience for participants as well as a showcase for their projects. There are approximately 8,000 4-H entries from across the state each year and prior to direct appropriations the Fair spent an average of \$340,000 providing lodging in the dormitories located on the fairgrounds, free stall spaces for show livestock, event MCs, and judges and awards for competitions. 4H and FFA state fair participants pay a nominal entry fee that helps defray a very small proportion of costs, but the programs do not generate any other revenue so the majority of the expense is absorbed by the State Fair.

Because providing 4H and FFA participants with a venue to exhibit the work they completed is such a crucial relationship between the current generation of agriculture producers and the next, JBC staff believes an ongoing reduction to the appropriation for these programs would hinder its ability to serve youth from across Colorado when fears of public gathering wane or as a vaccine becomes widely available. **Therefore, JBC staff is recommending only a one-time reduction to this appropriation for FY 2020-21. The recommendation is to remove \$125,000 General Fund and**

\$150,000 cash funds from the Marijuana Tax Cash Fund appropriated to 4H and FFA. Staff is not recommending changes to FY 2019-20 because the majority of those appropriations are expended during the state fair, which has already occurred for the current fiscal year.

→ REMOVE GENERAL FUND FOR R5 NEW FTE FOR PACFA

JBC ACTION AS OF 3/16/20: JBC staff recommended and the Committee approved an increase of \$142,971 total funds and 0.8 FTE, including \$65,921 General Fund and \$77,050 cash funds from the Pet and Animal Care Facility Fund for FY 2020-21 to implement educational licensing requirements and testing to improve compliance with the program rules.

RECOMMENDATION: Staff recommends the Committee remove the General Fund component of R5 Pet animal care facilities licensing requirements, which is \$65,921 General Fund and the 0.8 FTE that was primarily funded with the General Fund. Staff does not recommend any changes to the cash fund appropriation, leaving the program the opportunity to implement some education component if staff resources are available.

ANALYSIS:

Key Considerations: New proposal for FY 2020-21, but the program was enacted in 1994. Not funding staff to administer an education and testing requirement does not alleviate licensees from the burden of complying with all program rules and statutes.

Additional Background: Since 1995, the Colorado Department of Agriculture has administered the Pet Animal Care and Facilities Act (PACFA). The program licenses and inspects nearly 2,000 pet animal care facilities including pet breeders, rescues, and grooming facilities. PACFA oversight ensures pet care facilities meet standards for physical facilities, sanitation, ventilation, lighting, heating, cooling, humidity, spatial and enclosure requirements, nutrition, humane care, medical treatment, methods of operation and record keeping.

Recently in other program areas, the Department has observed success in reducing direct intervention required to be taken by its inspectors to correct observed noncompliance by requiring a knowledge-based assessment for applicants and a continuing education requirement. In recent years, PACFA inspectors noted that many of the noncompliance issues that arise were attributable to licensees lack or outdated understanding of program requirements.

JBC staff finds this effort to be one worth pursuing because each failed inspection requires at least one follow up inspection. The Department's request included \$94,691 General Fund for 1.0 FTE at the Administrator V level to oversee development of the educational requirements and procedures; JBC staff previously recommended and the Committee approved an increase of \$65,921 General Fund an 0.8 FTE. While the Program is predominantly cash funded, it is unlikely the Pet Animal Care facility revenue to refinance this new FTE from fees paid by licensees. All fine revenue is deposited in the General Fund and accounts for about \$10,000 annually. Fees for licensees were increased effective October 30, 2019 and range from \$225 to \$600. **Therefore, JBC staff recommends the Committee remove \$65,921 General Fund and 0.8 FTE.**

One expected outcome if the Department can implement new requirements within existing staff resources is a reduction to the number of subsequent visits to facilities after a failed inspection. In a typical year, developing a new education requirement for the program is likely not (something it could absorb within existing resources. Given the uncertainty of the upcoming year, **JBC staff is recommending no change to the cash fund appropriation of \$77,050 recommended and approved prior to March 16, 2019.** This will allow the Department to pursue acquiring the testing and training software and developing educational content *if* reduced patronage of licensees such as grooming or boarding facilities reduces the inspection workload. On the other hand, if the Program's workload increases and staff do not have time to develop it, the appropriation would revert to the cash fund.

Revenue anticipated to be credited to the Pet Animal Care Facilities Fund in FY 2020-21 likely will not fund the full appropriation recommended because projections based on the September forecast

→ REMOVE GF SB19-158 PACFA SECOND YEAR COSTS

JBC ACTION AS OF 3/16/20: The JBC approved an increase of \$25,869 General Fund and 0.4 FTE to reflect anticipated second-year costs associated with reauthorizing the Pet Animal Care Facilities Act through the sunset process as enacted by S.B. 19-158.

RECOMMENDATION: Staff recommends the Committee remove \$25,869 General Fund and 0.4 FTE related to the second-year costs of implementing the Program's sunset bill.

Analysis:

Key Considerations: No immediate health, life, or safety impact.

Additional Background: See the additional background from the previous item for more details about the Pet Animal Care Facilities Program. Given the uncertainty of how the pandemic will affect the Program's workload, it is not necessarily prudent to add funding for additional FTE at this time.

The main difference between this annualization for second-year costs and the previous item is that the increase of \$25,869 General Fund and 0.4 FTE is not likely to actually increase the number of staff at the Department. To account for the lead time for hiring FTE, the bill funded 0.8 FTE for each new staff included in the bill for a total of 1.6 FTE. Staff anticipates that if this funding is removed the Department will internally reprioritize the Agriculture Commissioner's allocation of the Agriculture Management Fund.

JBC staff believes that the impact to the program by taking the staff recommendation is low risk but acknowledges it also comes with a low reward. When combined with the other recommended PACFA removal, it would provide \$91,790 General Fund which could be allocated to other programs and would avoid increasing FTE estimates included in the Long Bill by 1.2 FTE.

→ REMOVE MARIJUANA TAX CASH FUND FOR R4 SUSTAINABLE MARIJUANA STUDY

JBC ACTION AS OF 3/16/20: The Department requested \$94,655 cash funds and 1.0 FTE from the Marijuana Tax Cash Fund to create a centralized office to coordinate various competing sustainable

marijuana certifications. JBC staff recommended and the Committee approved an increase of \$65,885 and 0.8 FTE from the marijuana Tax Cash Fund.

RECOMMENDATION: Staff recommends the Committee remove \$65,885 cash funds appropriated from the Marijuana Tax Cash Fund to perform a study regarding sustainable marijuana.

ANALYSIS:

Key Considerations: New proposal for FY 2020-21 and there is no immediate health, life, or safety impact.

Additional Background: The idea of sustainable marijuana has likely been around longer than the sale of marijuana products was regulated by the state. The simplest way to think about what sustainable marijuana describes is the standard would be applied in a similar fashion as the USDA certified organic label. The label communicates to consumers that the product was grown under the USDA guidelines and typically carries a premium over non-certified organic products. Since marijuana continues to remain a controlled substance under federal law, the organic certification program or even the “organic” name prohibits marijuana products from being certified.

This proposal would bring in a new staff member to coordinate with stakeholders and the public to serve as a central point of contact for all agencies or private organizations seeking to develop, acquire, or purchase sustainable marijuana products. Staff recommended approving a portion of the requested funding because information gathered could inform future decisions for funding if Colorado acts to lead on sustainable marijuana certification.

Staff continues to believe that while there is a desire from purchasers of cannabis products for a certification like sustainable marijuana, developing such a certification would be more properly undertaken by industry actors. Furthermore, the state’s primary responsibility for regulating medical and adult-use marijuana is to prevent black market diversions, ensure legal plants and products are tracked so illegal grows cannot be hidden in plain sight, and to ensure that pesticides and other treatment applied are safe for human consumption regardless of the delivery method used. A state-administered sustainable marijuana certification would stray from administrative oversight of a highly regulated industry into becoming a quasi-marketing partner.

JBC staff recommends the Committee remove the \$65,885 cash fund appropriation from the Marijuana Tax Cash Fund to study sustainable marijuana certification.

SUMMARY OF RECOMMENDATIONS REQUIRING STATUTORY CHANGE

INCREASE AVAILABLE GENERAL FUND - STATUTORY CHANGE REQUIRED			
FY 2020-21 REVENUE	NET GF IMPACT	OTHER FUNDS	TOTAL FUNDS
Transfer Marijuana Tax Cash Fund to General Fund from:			
Remove half appropriated to 4H and FFA at the state fair	\$150,000	(\$150,000)	\$0
Remove MTCF for R4 Sustainable marijuana study	65,885	(65,885)	0
Total	\$215,885	(\$215,885)	\$0

→ TRANSFER MARIJUANA TAX CASH FUND TO GENERAL FUND FOR TWO REDUCTIONS

JBC ACTION AS OF 3/16/20: The Committee did not consider whether to reduce appropriations in the Department of Agriculture from the Marijuana Tax Cash Fund (MTCF) and therefore did not consider where to allocate any savings. If the Committee removes some MTCF appropriations it could choose to utilize those savings to balance other appropriations from the Marijuana Tax Cash Fund or to augment other MTCF supported programs. Alternatively, the Committee could transfer some or all of the funding to the General Fund.

RECOMMENDATION: Staff recommends the Committee include any reductions to appropriations from the Marijuana Tax Cash Fund it approves for the Department of Agriculture to assist in balancing FY 2020-21 MTCF appropriations statewide. Once the balancing is complete, the Committee could sponsor legislation to transfer any remaining funds to the General Fund. JBC staff defers to the JBC staff assigned to coordinating the Marijuana Tax Cash Fund appropriations (*Mr. Craig Harper*) for the timing of the transfer. Adopting this recommendation will direct JBC staff to work with the MTCF coordinator to ensure any possible MTCF transfers are identified.

Analysis:

Key Considerations: No further considerations are identified because policy considerations related to this potential transfer are discussed in the issues above. See descriptions for “Remove half appropriated to 4H and FFA at the state fair” and “Remove MTCF for R4 Sustainable marijuana study” for more information.

SUMMARY OF OTHER RECOMMENDATIONS AND OPTIONS IF DEEPER CUTS ARE REQUIRED

10.0-20.0 PERCENT REDUCTION SCENARIOS

Staff recommends that the Committee consider the following options based on a scenario in which General Fund appropriations and transfers must be reduced by 10.0-20.0 percent (or revenue increased by an equivalent amount) in FY 2020-21.

BUDGET BALANCING OPTIONS FOR DEEPER CUT					
FY 2020-21 EXPENSE	BILL? Y/N	NET GF IMPACT	OTHER FUNDS	TOTAL FUNDS	FTE
Remove current year funding for FY 2019-20 R2 Marketing for CO Agriculture	N	(300,000)	0	(300,000)	0.0
Reduce General Fund appropriations for Agricultural Services	N	(\$499,912)	0	(\$499,912)	0.0

➔ REMOVE CURRENT YEAR FUNDING FOR FY 2019-20 R2 MARKETING FOR CO AGRICULTURE

JBC ACTION AS OF 3/16/20: In FY 2019-20, the General Assembly appropriated \$300,000 General Fund to provide Colorado agricultural producers with tools and opportunities to meet international buyers and sellers to increase the size of the marketplace for Colorado businesses. For FY 2020-21, \$300,000 General Fund was included in the base appropriation for the Agricultural Markets Division.

RECOMMENDATION/OPTION: Remove \$300,000 from the Program Costs line item for the Agricultural Markets Division.

ANALYSIS:

Key Considerations: No immediate health, life, or safety impact and funding added in FY 2019-20.

Additional Background: In light of the trade war between China and the United States, for FY 2019-20 the Department requested additional General Fund to provide a variety of educational and product exposure opportunities to Colorado agricultural producers. Funding supported both international and domestic marketing efforts and the following are some examples.

- Internationally
 - attend and subsidize attendance costs at international trade shows for buyers and sellers and
 - host in-bound trade teams and coordinate out-bound trade missions.
- Domestically
 - advertise in traditional and emerging media, which will also support a refresh of the Colorado Proud brand,
 - perform public relations, and
 - sponsor events and partner with event hosts.

The funding added in FY 2019-20 and included in the base for FY 2020-21 does not directly support expenditures for any FTE, so removing this funding will not eliminate any positions of state employees. Reducing the marketing subsidy for Colorado agriculture producers is not likely to result in any threats to health, life, or safety. Finally, FY 2020-21 is only the second year that increased funding for this program has been requested and therefore it is unlikely that non-state entities are dependent upon expenditures related to marketing Colorado agricultural products.

→ REDUCE GENERAL FUND APPROPRIATIONS FOR AGRICULTURAL SERVICES

JBC ACTION AS OF 3/16/20: Programs housed in the Agricultural Services support much of the licensing and inspection duties assigned to the Department of Agriculture. While many of the programs have a fee-revenue source to support its operations, many also receive General Fund support as well. For FY 2020-21, the Committee approved about \$5.0 million General Fund total.

RECOMMENDATION/OPTION: Reduce General Fund appropriations by ten percent, or \$499,912, for Agricultural Services. JBC staff requests permission to work with Department staff to determine which programs can accommodate budget reductions without impacting the health, life, or safety of producers, consumers, and animals.

ANALYSIS:

Key Considerations: No immediate health, life, or safety impact. Spreads a cut broadly across a several program areas, reducing the need for cuts to critical state services in other agencies. Does not affect vulnerable populations.

Additional Background: The Agricultural Services budget group houses numerous of the Department's regulatory programs. Programs in Agricultural Services with General Fund appropriations are divided among the following line items:

ANIMAL INDUSTRY DIVISION—CURRENT GENERAL FUND APPROPRIATION \$1.8 MILLION

Appropriations for this line item reflects resources devoted to animal health and livestock disease control. The Division is primarily responsible for establishing and maintaining an animal identification system that allows for quick and accurate livestock traceability; testing for disease in dairy and feedlot cattle, poultry, swine, and other livestock; licensing pet animal care facilities around the State; and working in partnership with local governments on rodent and predator control efforts and investigations surrounding animal cruelty or neglect. In addition, this appropriation accommodates operating expenses from the Rocky Mountain Regional Animal Health Laboratory, supporting the vaccination of heifer calves against brucellosis, the testing of livestock for brucellosis, and the identification and disposal of livestock confirmed to have brucellosis.

PLANT INDUSTRY DIVISION—CURRENT GENERAL FUND APPROPRIATION \$0.4 MILLION

Appropriations for this line item provide resources dedicated to preserving the environment, protecting consumers, and ensuring the integrity of Colorado agriculture. Programs housed here certify and regulate chemigation and pesticide application; inspection and licensing of nurseries forage and seed distribution to ensure no exotic or other harmful species are introduced to Colorado; and inspect and certify produce, seed, and other plant commodities scheduled for export through the phytosanitary program.

INSPECTION AND CONSUMER SERVICES DIVISION—CURRENT GENERAL FUND APPROPRIATION \$1.2 MILLION

This appropriation reflects resources intended to protect consumers, promote equity in the marketplace, and preserve both animal and human health and safety. Programs intended to achieve these mission statements include efforts of regulating animal feed, fertilizer, compost, etc. with the assistance of the Division's biochemistry laboratory; providing licensing and bonding, and inspect and audit, dealers and buyers that purchase and store agriculture products; inspect meat processing facilities; review and validate proper packaging and labeling for numerous commodities; and ensure integrity for weight and measurement standards with the assistance of the Division's metrology laboratory. The Division also regulates and inspects home food service providers and ensures proper care and handling practices for eggs.

CONSERVATION SERVICES DIVISION—CURRENT GENERAL FUND APPROPRIATION \$0.9 MILLION

This appropriation includes resources for the Department to collaborate with public and private landowners across Colorado to enhance the stewardship of natural resources related to agricultural practices and lands. Four programs allow the Department to administer efforts: groundwater protection, biological pest control, noxious weed management, and finally Colorado State Conservation Board partnership programs.

APPROPRIATION TO THE NOXIOUS WEED MANAGEMENT FUND—CURRENT GENERAL FUND APPROPRIATION \$0.7 MILLION

This General Fund appropriation is transferred into the Noxious Weed Management Fund and reappropriated to the Conservation Services Division line item for noxious weed management grants.

JBC staff targeted the Agricultural Services budget group for generalized cuts due to myriad oversight in this section. The variety gives JBC staff and Department staff flexibility to ensure that appropriation reductions do not impact programs where reduced services may impact consumer safety. It also allows for the identification of General Fund appropriations that may be refinanced with cash fund revenue. JBC staff will work with Department of Agriculture staff once they have had a chance to review this document.

If more significant budget cuts are required to balance the FY 2020-21 budget, **JBC staff recommends reducing the total appropriation for the Agricultural Services budget group by \$499,912, which is 10 percent of the total appropriation approved as of March 16, 2020.**