



Illinois Agricultural Legislative Roundtable

2020 Ag Legislative Day

Legislative Briefing

March 3, 2020

**Illinois State Capitol
Springfield, Illinois**

LIVESTOCK/ANIMALS

TRAVELING EXOTIC ANIMAL ACT BAN - SB 2546 (Sen. Holmes)

SB 2546 states that a person commits unlawful use of an animal when he or she knowingly allows for the participation of certain animals in a traveling animal act, such as a carnival or petting zoo. SB 2546 applies to exotic animals that include bear, cougars, elephant, hippopotamus, leopard, lions, non-human primates, or tigers. Unlawful use of an animal in a traveling animal act would be a Class A misdemeanor. **SB 2546 is assigned to the Senate Agriculture Committee.**

LIVESTOCK WASTE MANAGEMENT PLANS – SB 2998 (Sen. Koehler)

Livestock farms with less than 1,000 animal units shall be required to prepare and maintain a waste management plan. The bill also mandates that livestock farms over 5,000 animal units to file its waste management plan with the Illinois Environmental Protection Agency in addition to the Department of Agriculture as required now. If a farm is issued a second notice for not filing a waste management plan, the Department shall issue an operational cease and desist order until compliance is attained. **The bill has been moved to the Senate Agriculture subcommittee on Special Issues.**

LIVESTOCK WASTE APPLICATION – PHOSPHORUS – SB 3156 (Sen. Koehler)

The bill would reduce the level of phosphorus that can be present in livestock waste applied to land in Illinois. The average test result for soil phosphorus would have to be 70 pounds per acre from the current 300 pounds per acre, a 77% reduction. **SB 3156 is in the Senate Agriculture subcommittee on Special Issues.**

DAIRY PERMIT FEES – SB 2754 (Sen. Koehler)

The bill allows the Illinois Department of Public Health to set various dairy permit fees by administrative rule, rather than having to pass a bill through the General Assembly. Essentially, the bill would make it easier for each administration to adjust these permit fees. **SB 2754 is in the Senate Agriculture Committee.**

COUNTY ZONING ANIMAL HUSBANDRY – HB 4574 (Rep. Edly-Allen)

HB 4574 provides that in certain instances, counties may impose regulations, require permits, or eliminate uses or existing buildings or structures on parcels of land. The bill specifically applies to parcels of land that are less than 20 acres, currently being used for animal husbandry (other than equine activity), and located within or adjacent to residential zoning districts in counties with a population in excess of 675,000. This bill effectively allows counties to exclude all animal agriculture outside of equine activities on any agriculturally zoned land parcel with less than 20 acres. **HB 4574 is in Counties and Townships Committee.**

CAT & DOG LEGAL RIGHTS & REPRESENTATION – HB 5530 (Rep. Kalish)

This bill allows an animal to be treated as if it has the legal rights of a person with legal representation in front of the court system. The Department of Agriculture shall list pro bono attorneys and law students who may serve as special legal advocates for cats and dogs. **HB 5530 is assigned to the House Rules committee.**

ENVIRONMENT

CARBON STORAGE ACT – HB 4370 (Rep. Bennett)

HB 4370 creates allows carbon emitting companies to store carbon in pore space underground. The goal is to set up an eco-friendlier alternative to emitting carbon in the air and potentially set up Illinois industries for tax credits on the federal level. The bill encompasses amalgamation (similar to eminent domain) guidelines. **HB 4370 is assigned to Energy and Environment Committee.**

ENVIRONMENTAL JUSTICE - HB 4606 (Rep. Mah)

Creates an environmental justice program to ensure enhanced public outreach procedures for permitting actions that affect areas of environmental justice concern. Requires the Environmental Protection Agency adopt rules within one year of the amendatory Act's effective date that implement the program and are consistent with the findings presented. **HB 4606 is assigned to the House Rules committee.**

ANHYDROUS AMMONIA TRAINING – HB 5172 (Rep. Mason)

The bill would require farmers to complete an anhydrous ammonia training program, developed by the Department of Agriculture, before using anhydrous ammonia. **HB 5172 is in the House Rules Committee.**

PESTICIDE APPLICATION NEAR SCHOOLS – SB 2932 (Sen. Morrison)

The bill would prohibit the application of restricted use pesticides within 500 feet of school property, during normal school hours. **SB 2932 is in the Senate Agriculture Committee.**

PESTICIDE PENALTIES – SB 2507 (Sen. Holmes) & HB 4971 (Rep. Harper)

SB 2507 nearly doubles the monetary penalties assessed under the Illinois Pesticide Act and ties the penalty dollar amounts to the Consumer Price Index. It also lowers the threshold for when these monetary penalties are imposed. **SB 2507 is in the Senate Agriculture Committee and HB 4971 is in the House Rules committee.**

ADDITIONAL PESTICIDE APPLICATOR REGULATIONS - SB 2943 (Sen. Fowler)–

This bill creates additional hurdles and liability for pesticide applicators. Under the bill, a pesticide applicator would have to notify a beekeeper if a pesticide is applied within three miles of the beekeeper's colony registered with IDOA. This requirement would be added under the Environmental Protection Act; penalties for violating the Act include (1) a civil penalty of not to exceed \$50,000 for the violation and (2) an additional civil penalty of not to exceed \$10,000 for each day during which the violation continues. **SB 2943 is assigned to the Senate Agriculture committee.**

WETLAND LICENSURE REQUIREMENTS - SB 3447 (Sen. Fine)

This legislation seeks to create a web of regulations in an already confusing landscape. The bill weaves together county, state and federal authority over wetlands. While we recognize the value wetlands have in the environment, private landowners should not bear the cost of protecting wetlands as is required with the licenses and fees required in this bill. **SB 3447 is in the Senate Assignments committee.**

NUTRIENT LOSS REDUCTION STRATEGY (NLRS) FUNDING – SB 3462 (Sen. Villivalam)

The bill would more than double funding for the Partners for Conservation programs. Programs that would be earmarked for substantial funding under the bill include, NLRS, as well as Soil,

Water, and Conservation Districts. However, the source of revenue for these programs is the General Revenue Fund. Considering the State's projected budget deficit, as well as other budgetary pressures, it is unlikely that this legislation will be passed. **SB 3462 is in the Senate Appropriations II Committee.**

POLYSTYRENE FOAM BAN – HB 5169 (Rep. Gong-Gershowitz)/SB 3677 (Sen. Fine)

The bill bans the sale or distribution of disposable prepared food serviceware (e.g. bowl, plate, lid, etc) that are composed of polystyrene foam at any store, farm stand, or seasonal business in the State. As drafted, the bill would also ban the sale or use of foam egg cartons and foam trays used for packaged meat. **HB 5169 has been assigned to the House Energy and Environment Committee; SB 3677 is still in Senate Committee on Assignments.**

SINGLE USE PLASTIC – STATE PROCUREMENT – SB 3764 (Sen. Morrison)

SB 3764 prohibits State agencies and departments from procuring single-use disposable foodware for use at any State park, natural areas, or for use at the Illinois State Fair. And, the bill states that after 2022, no vendor contracted through the State may provide customers with single-use plastic disposable foodware at any site located at a State park, a natural area, or at the Illinois State Fair. An exception is made in the bill for single-use plastic straws needed to service medically vulnerable persons. The bill also requires preference to be given to qualified bidders on State contracts who will fulfill a contract through the use of compostable or recyclable foodware, so long as the bid is not more than 5 percent greater than the cost of products that are single-use plastic. **SB 3764 is still in Senate Committee on Assignments.**

NEONICOTINOID BAN ON STATE LAND – HB 4381 (Rep. Villa)

HB 4381 aims to ban the use of neonicotinoid pesticides on any public land owned or maintained by the state. The bill also gives IDOA the authority to classify pesticides as restricted use pesticides, and it would make any pesticide that contains certain neonicotinoids a restricted use pesticide. Under the bill, these pesticides could still be used in very limited circumstances, such as structural pest control. **HB 4381 is still in the House Rules Committee.**

CHLORPYRIFOS BAN – HB 5608 (Rep. Moylan)

The bill directs the Illinois Environmental Protection Agency to adopt rules banning all use of the pesticide chlorpyrifos. **HB 5608 is still in Rules Committee.**

TAX ISSUES

MID-RANGE ETHANOL – SB 1817 (Sen. Bennett)

Provides that the tax imposed on mid-range ethanol blends applies to (i) 80% of the proceeds of sales made on or after July 1, 2019 and on or before December 31, 2023 and (ii) 100% of the proceeds of sales made thereafter. Creates "mid-range ethanol blend" of not less than 20% but less than 51% denatured ethanol. **SB 1817 is assigned to the Senate Assignments committee.**

ESTATE TAXES – HB 4017 (Rep. Murphy), HB 4321 (Rep. MCombie), & 4348 (Rep. Bennett)

HB 4017, 4321 and 4348 tie the state estate tax to the federal exemption levels. **HB 4017 is assigned to the House Revenue & Finance committee. HB 4321 & 4348 are in the House Rules committee.**

Transportation

MANDATORY GAS PUMP ATTENDANT - HB 4571 (Rep. Lilly)

All gas at a filling station must be pumped by an attendant employed by the gas station. **This bill has been tabled and will not be considered further this session.**

IDOT MOWING ALONG HIGHWAYS – HB 5110 (Rep. Villa)

IDOT will not mow more than 15 feet of right-of-way beyond the edge of a roadway. They can make adjustments if the lack of mowing causes sight issues and to prevent the spread of invasive plants species. **HB 5110 is in the House Rules committee.**

SMALL TRAILER FEE CUT - HB 4096 (Rep. Stuart), 4302 (Rep. Skillicorn), 4931 (Rep. Welter), and 5306 (Rep. Bryant)

Reduces the flat weight trailer fee from \$118 to \$18 on trailers of \$3,000 or less. **HB 4096 is assigned to the House Revenue Subcommittee Sales, Amusements & Other Taxes. HB 4302, 4931, and 5306 are in the House Rules committee.**

OTHER**AGRICULTURAL TOURISM LIMITED LIABILITY – HB 4315 (Rep. Harper)/SB 2765 (Sen. Bennett)**

These bills limit the liability of agritourism operations. Under the bill, an agritourism operator would not be liable for injury or death of a participant resulting from the inherent risks of agritourism activities if the agritourism operator posts the required warning notice. Nothing prevents or limits the liability of an agritourism operator if the agritourism operator: (1) commits an act or omission that constitutes willful or wanton disregard for the safety of the participant; or (2) has actual knowledge or reasonably should know of an unusual dangerous condition on the land, facilities, or equipment used in the activity or the dangerous propensity of a particular animal used in such an activity, does not make the danger known to the participant. **HB 4315 is assigned to Judiciary Civil Committee. SB 2765 is assigned to Judiciary Committee.**

RIGHT TO GARDEN – HB 4704 (Rep. Harper)

HB 4704 would allow the state or local government to regulate gardens unless the regulation would have the effect of prohibiting gardening. The bill only applies when the garden is on an individual's private property and the garden is for personal use only. **HB 4704 is assigned to Cities and Villages Committee.**

FLOOD CONTROL RULE WAIVER – SB 3716 (Sen. Schimpf)

SB 3716 provides that the Illinois Department of Natural Resources (IDNR) shall waive its rules requiring the submission of a U.S. Army Corps of Engineers (ACE) study for levee modification permits for levee and drainage districts located in counties covered under the Governor's disaster proclamation related to disastrous flooding during the summer of 2019. The bill provides that in the absence of a written objection from the U.S. ACE or the submission of a study by the IDNR showing adverse impact, all permit requests that comply with all statutory requirements shall be approved. **SB 3716 is in the Senate Committee on Assignments.**

IDNR RULES – FLOODPLAIN – SJR 60 (Sen. Koehler)

The bill directs IDNR to maintain existing regulations that address levee construction and maintenance. Further, HJR 60 directs IDNR to conduct a study of the State's floodplains, determine meaningful trends that impact floodplains, and to make recommendations to the

General Assembly as to how Illinois can better integrate floodplain programs to promote development and restoration activities that protect public safety. **SJR 60 is assigned to Environment and Conservation Committee.**

HAZARDOUS MATERIALS WORKFORCE – SB 1407 (Sen. Hastings/Rep. Walsh)

The proposed bill mandates hiring requirements for construction work performed at privately-owned petroleum refineries, petrochemical facilities, and ethanol plants in Illinois. Specifically, the bill requires all construction and maintenance work undertaken at these facilities to be done by union labor, imposes prevailing wage requirements on these workers, and mandates a certain percentage of workers to have completed apprenticeship training. **SB 1407 passed the Senate last May and is ready for a final vote in the House.**

AG EDUCATION – SB 3692 (Sen. Bennett)

This bill makes changes the makeup of the committee that advises the Illinois State Board of Education on vocational agricultural education. The bill keeps the committee at 13 members appointed by the governor. But, rather than having six members from the Illinois Leadership Council for Agricultural Education (ILCAE) the bill would have three members from ILCAE and up to three members who are agriculturalists with ag business experience recommended by ILCAE. The bill keeps the member make-up of the rest of the committee mostly the same except it provides flexibility to add additional members in most of the categories. **SB 3692 is still in the Senate Committee on Assignments.**

LEAF BLOWER BAN – SB 3313 (Sen. Fine)

SB 3313 would ban the sale and operation of gas-powered leaf blowers starting in 2022. The bill defines a gas-powered leaf blower as a two-stroke or four-stroke engine using gasoline or a gasoline and oil blend as fuel. A violation under the bill would be subject to a \$500 penalty. **SB 3313 is still in Senate Committee on Assignments.**

FLOOD INSURANCE - HB 4137 (Rep. Morgan)

Allows insurance companies to offer alternative private flood insurance. This could provide additional coverage options for landowners. **The bill is assigned to the House Insurance committee.**

IN VEHICLE ANIMAL RESCUE By FIREFIGHTERS & PARAMEDICS - HB 4213 (Rep. Murphy)

Allows firefighters and paramedics who are allowed, after making a reasonable effort to locate the owner or person responsible for the animal, to break into a motor vehicle there is probable cause to believe that the animal's health or safety is at risk. **HB 4213 is assigned to the House Agriculture & Conservation committee.**

HUNTING DOGS ON ALL PROPERTY – HB 5544 (Rep. Davidsmeyer)

Makes it legal to hunt dogs on another person's land or water without permission. **HB 5544 is in the House Rules committee.**

GOVERNOR'S 2020 PROPOSED BUDGET OVERVIEW

The Governor's overall budget calls for \$84.5 billion made up of General Revenue Funds (GRF), special and dedicated funds, and federal funding. \$42.1 billion of the overall budget comes from

General Revenue funds which receives a bulk of its revenues from the state income tax, state sales taxes, and other key taxes. That represents an approximate 3.8% increase in GRF funding.

Given the source of revenue for GRF, the General Assembly imposes strict controls over the expenditure of these funds, which is why these expenditures are the most debated issue in the legislature regarding the State budget. In this proposed budget, the two top GRF portions are education at 28.0% and pensions at 21.1%. The other program areas that receive GRF are healthcare at 19.3%, human services at 17.7%, government services at 8.7%, public safety at 4.7%, economic development at 0.3%, and environment and culture at 0.2%.

The budget also reflects an increase in the number of state employees. The budget includes an increase of 1,646 employees authorized over last year to a total of 57,137. The actual number of employees in FY 2019 was 50,477 and the authorized number in the current fiscal year is 55,491.

Pension Overview

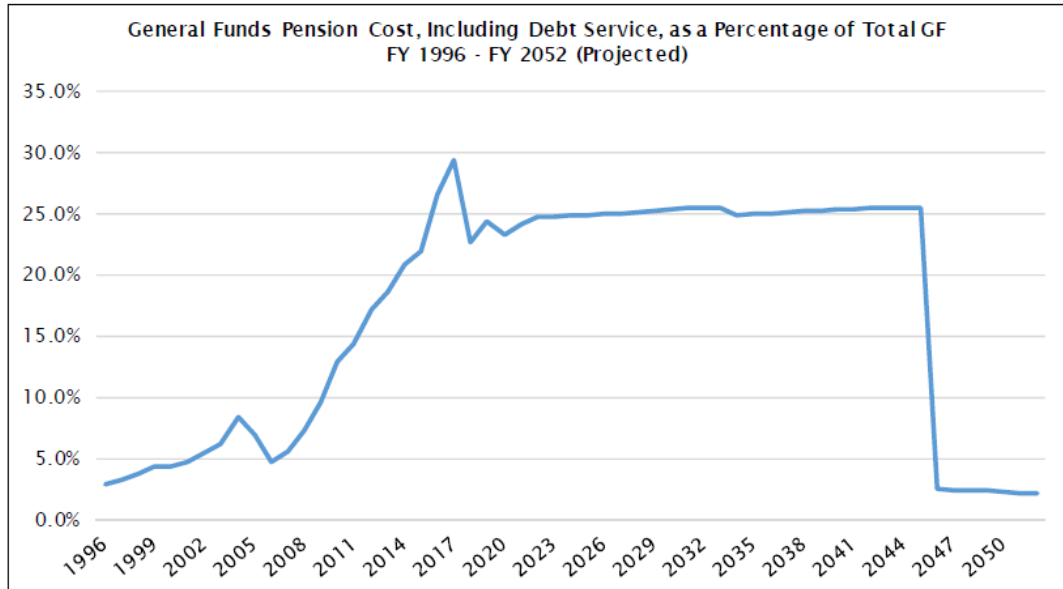
Illinois pension liabilities continue to drive the increase in State spending. This is not a new problem. For about a century, lawmakers and governors from both parties have enjoyed pension holidays or inadequate payments into the State's pension systems. This has resulted in unfunded pension liabilities of about \$130 billion.

Under current law, the required pension payment will increase from \$8.1 billion in FY 2020 to \$8.6 billion in FY 2021, a \$500 million increase.

The required increase is the result of a state law passed in 1995 and signed by Governor Jim Edgar. This law set forth a pension payment plan commonly referred to as the "pension ramp". The pension ramp was supposed to reduce Illinois' then \$20 billion pension liability over 50 years and eventually achieve 90% funded status in 2045. However, now 25 years into the plan, Illinois' pensions are only funded at about 40%.

Under the pension ramp, the required payments were deliberately low for the first 15 years and then, starting in 2010 and for the next 35 years, the State's payments would be calculated to ensure the State reached its 90% funded target.

The pension ramp, combined with a couple economic recessions, resulted in pension payments dramatically increasing since 2010. Today, over 20% of State's General Revenue fund every year goes to these payments, as summarized in the table below. Further, to remain in compliance with the pension ramp law, the pension payments will continue to increase every year for the next several years. In the next decade these payments are projected to eventually level out and then remain flat.



Source for data through 2045: Illinois State Retirement Systems report, CGFA April 2019.⁶ FY 2020 through FY 2045 projections of State pension contributions come from the Retirement System Actuaries from 2018 valuations. Projections beyond FY 2045 were estimated by the Governor's Office of Management and Budget. Does not include proposed additional contribution of \$200 million per year.

Only the general funds portion of the regular pension appropriation plus general funds transfers for pension bond debt service is shown here. General funds revenue projections are provided by CGFA's revenue staff. Approximately 65 percent of SERS' total annual appropriation is assumed to come from general funds in projected fiscal years while the rest comes from other state funds not shown here.

For FY 2020 through FY 2052, SERS is assumed to receive an appropriation from other state funds in the same amount that SERS is expected to receive from other state funds in FY 2019 although SERS' historical appropriation from other state funds varies from year to year. FY 2003, 2010, and FY 2011 state contribution amounts do not reflect the pension bond/note proceeds.

The General Assembly has taken several steps to try to address the State's growing obligations.

In 2010, the General Assembly passed a pension reform law that dramatically cut pension benefits for all new public employees beginning January 1, 2011.

In 2013, the General Assembly again passed pension reform measures. This time the legislature made benefit and funding changes to all existing public employees. This would have further reduced pension liabilities. However, Illinois's Constitution has an ironclad pension provision that declares pensions are, "...an enforceable contractual relationship, the benefits of which shall not be diminished or impaired". The law was declared unconstitutional by the Illinois Supreme Court because it had the effect of reducing existing member benefits. The changes never went into effect.

Even if the State passed a constitutional amendment to remove the pension protection clause from the Illinois Constitution, it would not solve Illinois' pension problem or release the State from its obligations due to the U.S. Constitution. Article 1 Section 10 of the U.S. Constitution states, "no state shall pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts..." and the U.S. Supreme Court has held that government contracts are federally enforceable.

What this means: Despite recent efforts from legislators, the State's pension payments will continue to increase and remain high for multiple decades. This payment schedule will not change due to protections set forth in both the Illinois and the U.S. Constitutions; with such protections having been upheld by the both the Illinois and U.S. Supreme Courts. When looking for ways to curb state spending, lawmakers are blocked from cutting pensions.

Progressive Tax Overview

The Governor's FY 2021 budget assumes \$1.435 billion in revenues garnered if the voters approve the Progressive Income Tax Constitutional Amendment in November. If approved the tax brackets and tax rates created in law would go into effect on January 1, 2021. However, in the event the Constitutional Amendment should not pass, the governor has indicated he would halt a \$50 million dollar rainy day fund transfer and would no longer pay an additional \$100 million into the pension systems (on top of the required payment). Additionally, he outlined areas that he proposes should be cut to offset the loss in projected revenue. The programs and amounts are as follows:

Reserve Action	Amount (\$ millions)
Reserve Proposed 5% Increase for University Operations	\$ 55.6
Reserve Proposed 5% increase for Community College Operating Grants	\$ 14.9
Reserve Proposed Increase in Funding for School District Mandated Categorical Lines	\$ 40.3
Reserve a Portion of Proposed School District Evidence-Based Funding Increase	\$ 150.0
Reserve Proposed First Year of Supplemental Funds for College Illinois!	\$ 27.0
Reserve Half Year of School Maintenance Capital Program	\$ 20.0
Subtotal, Education	\$ 307.8
Reserve Proposed FY21 Medicaid Provider Rate Increases	\$ 42.0
Reserve Portion of FY21 Contribution for State Employee Group Insurance Costs	\$ 400.0
Reserve Proposed FY21 Rate Increase for Department on Aging Community Care Program	\$ 40.0
Subtotal, Healthcare/Human Services	\$ 482.0
Reserve Costs for Proposed May 2021 State Police Cadet Class	\$ 3.5
Subtotal, Public Safety	\$ 3.5
Implement State Agency Targeted Hiring Freeze Beginning December 1, 2020	\$ 75.0
Reserve Proposed FY21 Awards for Open Space Land Acquisition and Development Grants	\$ 29.8
Reserve 5% of Income Tax Revenue Sharing with Local Governments	\$ 73.0
Reserve 5% of Sales Tax Revenue Sharing with Local Governments	\$ 25.0
Reserve Road Fund to Cover Additional Amounts for Transit Costs	\$ 100.0
Reserve Payment of Corporate Income Tax Refunds	\$ 300.0
Subtotal, State and Local Government	\$ 602.8
Total	\$ 1,396.1

BUDGET LINE ITEMS FOR AGRICULTURE

Below are the appropriations for the last two fiscal years and the proposed budget appropriations for FY 2021 for the Illinois Department of Agriculture and several of the agricultural grant programs.

(In \$ Thousands)	FY 2019 Actual Expenditure	FY 2020 Enacted Appropriation	FY 2020 Estimated Expenditures	FY 2021 Proposed Budget
General Funds	\$40,142,000	\$44,603,000	\$41,613,000	\$47,918,000
Other State Funds	\$42,287,000	\$55,088,000	\$48,153,000	\$58,048,000
Federal Funds	\$9,640,000	\$13,716,000	\$9,994,000	\$13,407,000
Total Expenditures	\$92,070,000	\$113,406,000	\$99,760,000	\$119,372,000

The Illinois Department of Agriculture’s budget is similar to the previous and current years budgets. The Governor’s detailed budget proposal is very straight forward, it lays out in the budget the “protection and promotion of the state’s agricultural and natural resources” while maintaining “effective regulation and continued funding the Illinois State Fair in Springfield and the Du Quoin State Fair.”

One item that has been deleted from the overall budget is \$100,000 to the Southern Illinois University Center for Rural Health to provide mental health and support services for farmers. This program was added in the final budget approved last May, but was not included in this year’s budget request.

A second major change in the proposed FY 2021 budget is that General Revenue funding will not be earmarked for the Department through transfers into the Ag Premium and Fair and Exposition Funds. Instead, funding will be directly appropriated from the General Revenue Fund for these specific purposes.

The following are major agricultural related budget line items and their proposed levels for the FY 2021 budget:

Line Item	FY 2019 Actual Expenditure	FY 2020 Enacted Appropriation	FY 2020 Estimated Expenditure	FY 2021 Proposed Budget
Cover Crop	-	\$300,000	\$300,000	\$600,000
Cook County Extension	\$2,449,200	\$2,449,200	\$2,449,200	\$2,449,200
State Cooperative Extension Service Trust Fund	\$10,944,700	\$10,994,700	\$10,994,700	\$10,994,700
Ag Extension - 4-H	\$786,400	\$786,400	\$786,400	\$786,400
SWCD Cost Share	\$4,500,000	\$3,000,000	\$3,000,000	\$3,000,000
SWCD District Operations	\$3,000,000	\$4,500,000	\$4,500,000	\$4,500,000
Co. Fair and Exposition Authorities	\$900,000	\$900,000	\$900,000	\$900,000
Co. Fair Rehabilitation	\$1,301,000	\$1,301,000	\$1,301,000	\$1,301,000

Co. Fair & Agriculture Societies	\$1,798,600	\$1,798,600	\$1,798,600	\$1,798,600
Viticulture/Enologist	\$150,000	\$150,000	\$150,000	\$150,000
Administration of the Pesticide Act	\$5,993.7	\$7,150,900	\$6,327,000	\$7,400,000
Pesticide Control Act	\$626,300	\$650,900	\$650,900	\$670,000
Animal Disease Labs Act	\$13,600	40,000	16,000	\$40,000
Livestock Management Facilities Act Administration	\$50,000	\$50,000	\$50,000	\$50,000
Agricultural Education	\$4,946,000	\$5,000,000	\$5,000,000	\$5,000,000
Food Safety Modernization Initiative	\$14,400	\$200,000	\$140,000	\$200,000

The proposed budget will also see an increase in the number of employees at the Department to a total of 404 employees authorized. The current employee approved headcount for the Department is 338. The largest portion of those new employees, 44, will be in the Medical Plants department which administers the cannabis programs. The second largest increase will be in the Computer Services department with 6 new employees.