

FISCAL NOTE

(Return original and 14 copies)

Resolution No.:

Amendment to:

HB 1428

Requested by Legislative Council

Date of Request:

2-10-99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

Narrative:

House Bill 1428 allows for planting, manufacturing, possessing, selling, and buying of industrial hemp, or cannabis sativa, which has a tetrahydrocannabinol (THC) content of no more than three-tenths of one percent. At this time, federal law does not allow for the production of industrial hemp; however, HCR 3038 is being considered which will urge the federal government to allow for production of industrial hemp nationwide. Because this could occur at any time, now or in the next biennium, we feel it is imperative that the following resources be in place to address the issues involving the production of industrial hemp in North Dakota.

Enforcement Issues

At the present time, cannabis in any form is illegal to manufacture, possess, or distribute in North Dakota. During the course of an investigation or arrest, law enforcement officers field test suspected substances to determine identity, with follow-up analysis performed by the state laboratory to confirm the field results. The fact that the substance is determined to be cannabis is all that is required to know that the substance is illegal. No further investigation, testing, or analysis is required to establish this fact. If farmers are allowed to grow industrial hemp, the task of verifying that the crop is below the three-tenths THC content will be this agency's responsibility because we are required by state law to enforce the Controlled Substances Act.

On the illegal side, defendants will quickly learn to claim that any illegal marijuana they manufacture, sell, or possess qualifies as industrial hemp because it has a THC content of less than three-tenths of one percent, and law enforcement will bear the responsibility to prove otherwise. It will be necessary to broaden the scope of investigations to include quantitative analysis of all marijuana cannabis samples to prove that the marijuana has more than the three-tenths of one percent THC. Without additional resources, prosecution will be delayed because investigations and analysis will not be completed in a timely manner.

A number of law enforcement activities will be necessary to ensure that the problems associated with industrial hemp do not outweigh the benefits to our citizens. This fiscal note provides for two special agents to be assigned to the North Dakota Bureau of Criminal Investigation. The agents will be assigned to eastern and western North Dakota in order to 1) collect samples in the industrial hemp fields at least three times per year and provide a detailed analysis of those samples, and 2) investigate suspected illegal activities when samples are higher than the three-tenths of one percent. This could include seizing equipment and additional court time for prosecution.

Directly impacting our agency's ability to effectively monitor, investigate, and prosecute these activities will be the state crime laboratory's ability to respond to the increased samples and quantitative analysis which will be required. Quantitative analysis is time-consuming and expensive, and is rarely required at this time since all cannabis is presently illegal. We recommend that the ND Department of Health be consulted regarding the potential costs which will likely result from this increased activity.

The costs listed below are for the salary, operating, and equipment needs of two special agents to be assigned to the narcotics section of the North Dakota Bureau of Criminal Investigation. These positions will allow us to monitor industrial hemp fields and provide investigative assistance to local law enforcement. Operating costs include travel, telecommunications, rent, vehicle maintenance, duty weapons, and vests; and equipment costs include a vehicle, computer, digital voice protected radio, DVP portable radio, and 35 mm camera and lenses for each agent. It is anticipated that equipment and operating costs will be less in the 2001-03 biennium, as some items will be replaced with trade-in value or will not need replacement.

	1999-01	2001-03
Salaries	151,768	160,874
Operating	54,300	52,000
Equipment	61,800	38,000
Total	\$ 267,868	250,874

Criminal History Record Checks

Any increase in the number of statewide and nationwide non-criminal justice records checks requested of the Bureau of Criminal Investigation will require additional staff resources and additional space to accommodate increased personnel. The FBI requires that non-criminal justice records checks originating in North Dakota be processed by the North Dakota BCI, and considerable BCI staff resources are required to act in this capacity.

The number of non-criminal justice request for criminal records checks has increase from 152 in 1987 to 6,280 in 1998. And, in this period of time, there has been no increase in the size of the criminal records staff.

The ability to enter fingerprint card data, and the subsequent disposition date from prosecutors, in a timely manner, has a direct and crucial effect on the accuracy and completeness of the data that is released as criminal record information both in the state and through the FBI. If we have it sitting in a backlog, the FBI doesn't have it, and therefor their records are not complete.

With the current staffing level, we cannot keep up with incoming information. Any additional work such as would be created by this bill will require additional staff resources and additional space to accommodate increased personnel. An identification technician position is included in the Governor's budget to address the backlog of fingerprint cards, but additional staff resources would be necessary if this bill is passed and involved BCI staff as described above.

The performance of state criminal history record checks for individuals seeking a license to grow industrial hemp, in addition to the national FBI check, will utilize the one-eighth identification technician position requested above.

It is estimated that a one-eighth Identification Technician position will be required to process an estimated 200 records checks per year in the coming biennium for individuals who are the subject of this bill. There will, however, as a result of the \$20 fee charged by the state, be revenues which are paid to the general fund.

The following is estimated to support an additional one-eighth position for the next biennium to process statewide and nationwide criminal records checks requests:

	1999-01	2001-03
Salary	8,448	8,786
Benefits	3,259	3,389
Operating	2,905	3,021
Total	\$ 14,612	\$ 15,196

Operating expenses include a share of computer equipment, training, and additional office space, in addition to a share of support services.

Note: Other bills which have the effect of increasing the need for criminal record staff resources in the BCI include SB 2058, SB 2171, and HB 1081.

2. **State** fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	-0-	-0-	\$ 8,000	-0-	8,000	-0-
Expenditures	-0-	-0-	\$ 282,480	-0-	\$ 266,070	-0-

What, if any, is the effect of this measure on the budget for your agency or department:

- a. For rest of 1997-99 biennium: None
(Indicate the portion of this amount included in the 1999-2001 executive budget: \$0.00)
- b. For the 1999-2001 biennium: \$ 282,480
(Indicate the portion of this amount included in the 1999-2001 executive budget: \$0.00)
- c. For the 2001-03 biennium: \$ 266,070

4. **County, city, and school district** fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

Signed: Jerald C. Kemmet
 Typed Name: Jerald C. Kemmet
 Department: Office of Attorney General, BCI
 Phone Number: 328-5500
 Date Prepared: 2-11-99