

FISCAL NOTE

(Return original and 14 copies)

Resolution No.:

Amendment to:

Eng. HB 1428

Requested by Legislative Council

Date of Request:

4-13-99

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 the responsibility of the Bureau of Criminal Investigation, because the bureau is 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 the North Dakota Bureau of Criminal Investigation to contract with local law enforcement personnel in order to collect samples in the industrial hemp fields at least three times per year, provide a detailed analysis of those samples, and report suspected illegal activities when samples are higher than the three-tenths of one percent to the Bureau of Criminal Investigation for further investigation.

Agents of the Bureau of Criminal Investigation will be required to provide training to all individuals who contract to perform the monitoring activities, and will also be required to investigate any suspected illegal activity reported as a result of the monitoring activities. We anticipate that the training and investigative activities could result in the need for overtime and/or additional staff in the future. We will closely monitor

all training, monitoring, and investigative activities during the 1999-2001 biennium in order to estimate future costs.

Directly impacting the effort 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 following costs are for contractual services to be provided by local law enforcement personnel. It is estimated that there may be approximately 100 growers/licenses throughout the state in the first growing season, the year 2000, and approximately 120 in the second growing season. Each of these industrial hemp operations would be sampled and tested three times each year. Biennial monitoring activity for the 1999-2001 biennium is expected to occur, therefore, only in the last eighteen months of the biennium. Approximately five hours is estimated at each of the growers for a total of 2400 hours in the 1999-2001 biennium, and 3000 hours in the 2001-2003 biennium. Hourly rates are estimated to be approximately \$25, requiring \$60,000 in the 1999-2001 biennium, and \$74,000 in the following biennium. (Note that the number of growers has been estimated to increase to 130 in 2002, and 140 in 2003.)

Revenue from fees charged to licenses is set at \$5 per acre, and average acreage per grower is expected to be about 50 acres. Given an anticipated 100 growers in 2000, and 120 in 2001, the 1999-2001 biennium revenues are projected at \$55,000. The 2001-2003 biennium revenues are projected to be \$67,500.

The following charts detail the anticipated revenues and expenditures related to monitoring industrial hemp fields for the 1999-2001 and 2001-2003 bienniums.

1999-2001

Revenue

	Year	# Farmers	Average Acreage	Price/Acre	Revenue Per Year	
1)	1999	0	0	\$5	\$0	
	2000	100	50	\$5	\$25,000	
2)	2001	120	50	\$5	\$30,000	
					\$55,000	1999-2001 Income

Expenditures

	Year	# Farmers	# Visits Per Growing Season	Average Hours Per Visit	Total Inspection Hours	Contract Rate Per Hour	Cost to Contract for Inspection
1)	1999	0	0	5	0	\$25	\$0
	2000	100	3	5	1500	\$25	\$37,500
3)	2001	120	1.5	5	900	\$25	\$22,500
					2400		\$60,000

1) We do not anticipate licensing, growing, or inspection activity during the 1999 growing season.

2) Revenue received during 1999-01 biennium will include the entire 2001 growing season.

3) Expenditures incurred during 2001 are estimated at 1/2 the annual total, as the remaining expenditures will be incurred during the 2001-2003 biennium.

2001-2003

Revenue

	Year	# Farmers	Average Acreage	Price/Acre	Revenue Per Year	
1)	2001	120	50	\$0	\$0	
	2002	130	50	\$5	\$32,500	
	2003	140	50	\$5	\$35,000	
					\$67,500	2001-2003 Income

Expenditures

	Year	# Farmers	# Visits Per Growing Season	Average Hours Per Visit	Total Inspection Hours	Contract Rate Per Hour	Cost to Contract for Inspection
2)	2001	120	1.5	5	900	\$25	\$22,500
	2002	130	3	5	1950	\$25	\$48,750
3)	2003	140	1.5	5	1050	\$25	\$26,250
					3000		\$75,000

- 1) Revenue for 2001 licenses will have been received during the 1999-2001 biennium
- 2) Expenditures incurred during 2001 are estimated at 1/2 the annual total, as the remaining expenditures will be incurred during the 1999-2001 biennium.
- 3) Expenditures incurred during 2003 are estimated at 1/2 the annual total, as the remaining expenditures will be incurred during the 2003-2005 biennium.

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 therefore 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.

It is estimated that a one-eighth Identification Technician position will be required to process an estimated 200 - 220 records checks 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:

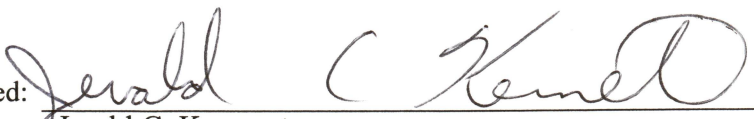
	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	-0-	-0-	\$ 4,400	\$55,000	\$ 5,400	\$67,500
Expenditures	-0-	-0-	\$ 14,612	\$60,000	\$15,196	\$75,000

3. 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: \$ 74,612
(Indicate the portion of this amount included in the 1999-2001 executive budget: \$0.00)
- c. For the 2001-03 biennium: \$ 90,196

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: 
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 Date Prepared: 4-14-99