19.0890.03000

FISCAL NOTE

Requested by Legislative Council
02/04/2019

Amendment to: Engrossed SB 2210

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues		$30,000		$50,000		$60,000
Expenditures						
Appropriations						

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The bill changes the total number of plants for a manufacturing facility from a maximum of 1,000 to allow a facility to grow an amount of marijuana sufficient to meet the qualifying patient population demands. The bill would allow for the use of additional structures at a manufacturing facility.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 2 of the bill establishes a certification fee of $10,000 for every 500 plants in excess of 1,000 plants a manufacturing facility possesses. Section 3 includes language that this Act is to be an emergency measure.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Using $10,000 for each additional 500 plants over 1,000 in a manufacturing facility, we would project an additional 1,500 plants by the end of the 2017-19 biennium resulting in $30,000 of additional revenue. We are projecting the number of plants over 1,000 in a manufacturing facility would total 2,500 in the 2019-21 biennium resulting in $50,000 of additional revenue in 2019-2021. For the 2021-2023 biennium, the total additional plants over 1,000 is anticipated to be 3,000 ($60,000 of additional revenue). The certification fees are deposited into the medical marijuana fund established under NDCC Section 19-24.1-40.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The additional costs associated with implementing this bill are estimated to be minimal.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Brenda M. Weisz

Agency: Department of Health

Telephone: 701-328-4542

Date Prepared: 02/05/2019

19.0890.02000

FISCAL NOTE

Requested by Legislative Council
01/12/2019

Bill/Resolution No.: SB 2210

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues		$30,000		$40,000		$40,000
Expenditures						
Appropriations						

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The bill changes the total number of plants for a manufacturing facility from a maximum of 1,000 to 3,000 if the manufacturing facility reached the 1,000 plant limit by January 16, 2019. Also, the bill would allow for the use of additional structures at a manufacturing facility.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 2 of the bill requires administrative rules to be modified requiring manufacturing facilities to pay an additional certification fee not to exceed $10,000 for every 500 plants in excess of 1,000. Section 3 includes language that this Act is to be an emergency measure.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Using $10,000 for each additional 500 plants over 1,000, we would project an additional 1,500 plants by the end of the 2017-19 biennium resulting in $30,000 of additional revenue. We are projecting the maximum 3,000 plants would be reached in the 2019-21 biennium resulting in $40,000 of additional revenue in 2019-2021 and future biennia. The certification fees are deposited into the medical marijuana fund established under NDCC Section 19-24.1-40.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The additional costs associated with implementing this bill are estimated to be minimal.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Brenda M. Weisz

Agency: Department of Health

Telephone: 701-328-4542

Date Prepared: 01/17/2019

2019 SENATE AGRICULTURE COMMITTEE

SB 2210

2019 SENATE STANDING COMMITTEE MINUTES

Agriculture Committee
Roosevelt Park Room, State Capitol

SB 2210
1/24/2019
31360

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Dan Johnston II

Explanation or reason for introduction of bill/resolution:

Relating to medical marijuana manufacturing facilities; and to declare an Emergency.

Minutes: 2 attachments

Chairman Luick: Opened hearing on SB 2210.

Senator Klein: Introduced SB 2210. I would like to give some background on how we ended up here with a marijuana bill. The COO of the growing facility here in Bismarck, North Dakota and myself are both from Pheasenden. I have known Casey for many years. We spoke about an issue that was coming up and posing a bit of a problem. There has been some concern about when the dispensaries open that we will not have enough product on the market. The sponsorship of the bill includes most of the leadership members. If you look at the back page, currently they are restricted to 1000 plants, and this will allow them to go up 3000 plants. They will have to pay an additional amount up to $10,000 as they go up in the plant totals. It is an emergency measure. We allowed for two growing facilities in North Dakota. One is in Bismarck and the other is in Fargo. The one in Fargo is still being built. When you look at the front page, we are authorizing additional structures within 500 feet. It is my understanding that our current facility has a building right next door, and to grow the additional plants, they will have to utilize that building. The problem is that it has another address and under the current law it has to be licensed under a single address. That is the reason for the changes in lines 17-22. There are experts that can answer additional questions.

(4:55) Casey Neumann, COO, Pure Dakota: See Attachment #1 for testimony in support of SB 2210.

(8:10) Vice Chair Myrdal: In regard to the 500 feet, are we putting this in for just one facility or do you plan to expand to plants further away? Are we going to need to change that in 2 years?

Casey Neumann: Our building is roughly 135 feet away. It is a 20,000 sq. ft. facility that we originally purchased for this reason. If we would have known that this issue was going to occur the way that it did, we certainly would have tried some readdressing and rezoning. We

still may be able to do that and be able use the same address. This would just make life for us in the city of Bismarck a little easier. We have no plans for further facilities.

Chairman Luick: You are talking about another 2000 plants. I am hoping that is the vegetative type.

Casey Neumann: Yes.

Senator Hogan: Will there be any zoning issues, or will you need permits to expand?

Casey Neumann: There would be no zoning issues whatsoever.

Senator Hogan: Because of the way you are zoned right now?

Casey Neumann: Correct. Moreover, and we are much more than 1000ft from the school.

Senator Hogan: How many plants does it take to make something usable? We have 80 people registered now, and you have 1000 plants. Tell me about that process.

Casey Neumann: There is really a simple derivative to that. I do not know the exact answer to that because of the different sizes of plants etc. We should be in good shape for today but in looking forward the popularity of it has become more common and people are gravitating to the medical marijuana more than they have in the past. I think we will have a lot more patients than we originally intended.

Senator Osland: Is this bill exactly what you would like to see?

Casey Neumann: Yes.

Senator Larsen: If there are 80 cards available, could those people be served today if they were all from the Bismarck area?

Casey Neumann: Yes. Three weeks from now when the dispensaries are open, they will. We have harvested twice, and have weights of approximately 300 lbs. wet, and about 75 lbs. dry.

Senator Larsen: I believe there are two grow facilities in Minnesota. Are you tracking them and their progress as well? Or do they have more now?

Casey Neumann: To my knowledge they still have 2 grow facilities. Their program is laid out differently than ours. The medical questions to receive a registry certificate are much different, and the program as a whole is quite different, so it is difficult to compare to Minnesota. Currently our system most closely matches Delaware or Ohio.

Senator Klein: What do you do after the harvest? How do you determine what is good weed and what is bad weed? What the THC level is etc.

Casey Neumann: First, we have the most stringent testing that there is in the US under medical marijuana. Those test are performed by Dakota Testing Lab. The medical marijuana program and the division medical marijuana has themselves hired Keystone Laboratories Inc.; which is the most accredited lab there has been to do those tests. So every patient will know the potency of every product. There are quite a few different processes to distillation. Typically, most of us in this room think of years ago and dry leaves and flowers. That is a portion of it. There are different types, different strains. There is high CBD and high THC marijuana, and derivatives in between. Those are used for different psychiatric reasons, as well as for reasons like depression and PTSD. The extraction process is quite a process and it is very extensive. That process starts out typically with an ethanol extraction process, and then that goes through an oven of sorts, and then it becomes distilled. It is extremely concentrated in some cases, but it is also very contaminant free. There are many different products that can be made from it. We plan to have the full myriad that we are allowed underneath state law, which would be some dried leaves and flowers, but also weighted heavily toward those patients that could have epilepsy etc. Each product is tailored toward the need.

Vice Chair Myrdal: If a person here votes for this, are we authorizing the growth of more plants for a need that you foresee but are not sure of? Basically, I am voting for growing more of it, and it may or may not be a need. If the need that you foresee does not occur, tell me about the storage process?

Casey Neumann: In calibrating this, I really do feel we are going to need the additional plants. We are at the 1,000 plant limit already, and we are just entering the beginning stages. Many of the other state shave thousands of plants more than we do. But, in the event we need 1,800 plants; supply and demand should take care of itself. We cannot afford to manufacture and store it, although we can store it typically up to six months. A lot of the extraction processes allow us to store those products for up to a year. That can work to our benefit. Then we would typically slow down manufacturing of those products.

Senator Larsen: Do all of your product have to stay in state?

Casey Neumann: Yes. We have seed to sale tracking, as well as any waste is tracked.

(19:43) Jason Wahl, Director, Division of Medical Marijuana, North Dakota Department of Health: See Attachment #2 for testimony in support of SB 2210.

(21:21) Senator Larsen: Is this a yearly renewal fee?

Jason Wahl: The fee is related to a registration fee that is to be payable every two years.

Senator Klein: The concern with the January 16th issue, is that a competition concern? That we would be handcuffing the other facility. Is that what you are suggesting?

Jason Wahl: If the 3,000 plant limit is going to be available, we would like it to be available for all manufacturing facilities.

Senator Klein: When will the second facility be online?

Jason Wahl: The second facility is located in Fargo, and they are currently growing.

Chairman Luick: In the headline of this bill, it says "Relating to medical marijuana manufacturing facilities", "facilities" being plural. So would that cover it?

Jason Wahl: I think the tittle would cover it, but the specific date of January 16th, I can tell you that only one manufacturing facility is going to meet that requirement.

Vice Chair Myrdal: So we are tripling the medical marijuana output from each facility, correct?

Jason Wahl: This bill, as it is currently written, would increase the number of plants up to 3,000 at only one facility.

Vice Chair Myrdal: Do you see any potential for abuse upon increasing the output?

Jason Wahl: I personally do not believe potential for abuse to be one of the risks associated with the bill. More than likely, one of the risks associated with the bill and what most people would be concerned with is the monitoring of that many additional plants. This is a very high-risk inventory obviously, so it is very susceptible to abuse and theft. From our standpoint, the processes and what we have put into place, as far as the framework for the program, we believe is very strong. The facility here in Bismarck has done a very good job of following all the requirements, and their controls are to the point that if they were to go from 1,000 to 3,000 plants, it is really just a number. It would not have a significant increase to the program in regards to diversion or theft. The risk is there whether it is 1000 or 3000.

Senator Klein: Do you know how we got to 1,000? I know last session a lot of effort was put into developing the legislation to make the initiated measure become law. Could it have been 3,000 to start with? As a company, I think you would not make more product than you could sell because there would be no cost benefit to that.

Jason Wahl: Yes, would be my short answer to that. I was told that the 1,000 plant limit was created by the State Department of Health. I cannot answer why they settled on 1,000. I can tell you that when I first start I thought 1,000 plants was a lot, for a medical program it is really not. When I have talked to other states and mentioned that we have a 1000 plant limit, they stated that it would be the first thing that we need to change under our program.

Chairman Luick: Right now in the farming world we are planting corn anywhere from 34-36,000 plants per acre, so if you look at that in proportion to covering the entire state with two facilities and those two acres of plants, that does sound like much to me.

Senator Hogan: So you are asking us to delete on line 11 "that reaches the limit of 1,000 plants before January 16th", is that the amendment that you would like?

Jason Wahl: We certainly understand it is a legislative decision in regards to opposing the one portion of the bill, but that is the line.

Senator Hogan: I just wanted to make sure I am clear about what you specifically wanted.

Jason Wahl: If that were to stay in, we would have a manufacturing facility with 3,000, and one with 1,000. I would say that the discussion already has started about additional manufacturing facilities. The law requires us to have evidence to support that there needs to be an increase. Without any data it is hard for us to justify to the legislature and the public that it is needed. We are in a position right now if this bill were not passed, that we would foresee product shortages and then we would try to get a manufacturing facility established, but be would be behind for a significant amount of time until an additional facility can get up and running.

Senator Hogan: So if we keep this lower limit we end up with multiple facilities, whereas if increase the limit we might remain with two?

Jason Wahl: Correct. There are peaks and valleys on supply and demand. In Minnesota the law it allows the two facilities to grow to meet demand. They can have whatever number of plants that they would need to be able to fill the supply portion of the program. This bill would be very similar. It comes down to business 101. If the demand is not there, they are not going to grow just to grow. It is expensive.

Vice Chair Myrdal: Why are we putting a number on it at all? We are talking about the marketplace. Of course they are not going to be unwise and have loss. Why are we not following with Minnesota?

Jason Wahl: If the legislature determined that they wanted to go that route, we would support that provision as well. To make you feel better, in looking at Delaware as an example, they had a small plant limit initially and then they immediately got that changed and their limit is very similar in regards to growing to meet demand as determined by the department.

Senator Larsen: The wisdom of the department was used by gathering the data sources that we have with the insurance people that we have. When we see that only 80 people have applied, I think we were pretty accurate in the determination of the growing limit. We are doing this correctly and we are taking the right steps. It is frustrating when I hear that we are not going fast enough. We are putting the analytics into this and doing it the right way. I kind of like the idea of having them do the 3,000 so that the state gets a little money to keep the reins on this. Do you agree that would be a good thing to do?

Jason Wahl: I do not believe the department would oppose similar language to Delaware. If it related to a fee structure. We would be happy to come up with some similar language. We can work with the fee structure and make it work very well. Legal might have some concerns about going back and forth between those ranges.

Senator Klein: If we are hitting them up $10,000 every 500 plants – they are a business and they will determine what is needed. I would sense that we would change it to 3,000, and then we may be back next session to change it to what you have suggested in regard to Delaware.

Jason Wahl: To me it is an industry. If they have too much product, they are going to see it and will have to adjust. The data will show them where they need to adjust. Delaware has

product shortages even with that language. They have added additional facilities. While there are 80 cards issued, it is not to be unexpected for a program like this to start off slow. Once the dispensary opens, there will be a spike and it will continue to grow. Delaware is adding approximately 700 patients a month to the program. They are around 6400 patients now.

Chairman Klein: Are we going to see a rivalry develop between the two facilities? Will one be able to undercut the other? Who decides who supplies what dispensary? We are talking about a business concept and you know how that works.

Jason Wahl: We will be involved in discussions and monitor in regards to manufacturing facilities providing their supply to dispensaries. As part of this program, and the legislature setting that 2 and 8, manufacturing facilities are to be providing products to all dispensaries across the state. Dispensaries will have to talk and work out pricing and distribution. That potential competition would be good for the program, because in theory that should help with pricing concerns and bringing it down.

Senator Hogan: Can you begin to see where this will be five years from now?

Jason Wahl: I cannot. Other states have suggested that we will see more than what our estimates are in regard to patient populations in the next couple of years.

Senator Hogan: You have issued how many cards so far?

Jason Wahl: We are around 80.

Senator Hogan: How many applications have you had?

Jason Wahl: We are over 180 applications submitted, and it could be slightly more. Some are waiting for payment, and some are waiting for the healthcare provider to complete the written certification form.

(42:08) Chris Nulden, Citizen of North Dakota: Testified in support of the bill. I believe the need is obvious. If our program gets up and running, they are going to need more plants. I do not have an exact number. That will be predicted as the patients rise and fall. I know it was mentioned a few times that at some level these numbers are scary. Understand that they are arbitrary at some level. It is mentioned that they are looking at getting 40,000 sq. ft. of space and for an indoor grow, I believe that you could use the square footage, and you don't have go by a plant count. It would be easier at some level. One of the extraction methods mentioned had to do with ethanol extraction, and it is very safe. It sterilizes pretty much everything. You are left with a very concentrated amount of a product. When patient are using this to treat their cancer for example, an ounce can make 2 to 4 grams of the medicine, and they generally just use a tiny piece of it several times a day. There are many conditions that this is proven to help with, and that is definitely fact. There is tons of evidence to suggest that. Some are mental disorders. There is PTSD. There are numerous bills coming through the House right now on this subject. In general, I agree with the intent of this bill. The manufacturing facilities are going to need more plants. If we get a functioning system that is working for the people of North Dakota, we definitely will need more plants. I just don't think this is enough.

(48:25) Chairman Luick: Closed hearing on SB 2210.

Vice Chair Myrdal: This is an extremely difficult issue for me, because I voted no on the measure. I am deeply concerned about abuse. Not because of the medical officials, or the health department. I think they are doing a fabulous job, but I am concerned about abuse of this issue. I do think that we don't need to sit here session after session and regulate something that the business itself naturally will regulate. They are not going to go bankrupt but making poor decision. I am always loathed to put a number to anything because things change. It is difficult for me to vote yes on anything that has to do with cannabis.

Senator Hogan: The balance between the freedom of business to work, versus the monitoring. Because this is so new to North Dakota, I would really like us to keep the 3,000 plant in this biennium and then consider it once we have more experience. Until we get some experience we cannot know for sure. In two years we can look at it, and take it off at that point. The other piece of this whole marijuana issues is that I think we need to have interim monitoring of all of the piece of medical marijuana. There are so many moving parts to it.

Senator Klein: I think it is in there. I think the legislation we passed the last session provides for all of that interim monitoring. When I visit with the growers, the health department is up there constantly. They are under such strict guidelines, and they are monitoring every step of the way. That is why I asked the question about when they send it to Fargo to work on it. It all has to be monitored. The concern was that if you are creating a gummy bear for a child, you have to know exactly what the THC levels are.

Senator Hogan: I am not concerned about the health department. I am thinking about the policy side of the legislature so that we don't get these bills dropped in if we had in fact been monitoring the policy side through an interim process. I totally agree that the health department has done a good job on the monitoring.

Senator Klein: I will say that this was not taken lightly, and my bill was probably the only bill where the sponsor sat down with a department to make sure that this was all good. There was concern that there would be a lack of product. There have been accusations that the legislature is dragging their feet and making it more difficult. We have to have enough product and we don't want those complaints. I believe that the health department will determine that 3,000 is probably enough, but they will then say if they are running short. I was told out in the hall that the facility in Fargo is a very small growing facility and there is going to be some concerns for them to be able to put out enough product. I am on the fence on this. I like the idea of not coming back, but never the less, if we do this we don't want this to cause the issue that we have once again dragged our feet. I am thinking in the long run the department will regulate it and the market will determine whether or not they will want to spent another $10,000 to grow 500 more plants. To me, I thought that was a lot of money. That is for the permit and not annually.

Vice Chair Myrdal: It is interesting to me as we sat in the Judiciary Committee and listened to in depth testimony about self-growing that there are 70,000 people in North Dakota needing this. I greatly failed to judge that. I struggle with whether or not I am expanding something that I consciously object to. I would not vote to expand gambling etc. I lean toward

the idea of leaving it to the market so that we are not constantly legislating over and over again. Let's see what the health department can do. I struggle with saying yes to this whole thing.

Senator Klein: I am trying to get a feel of where the committee is at. I am going to have to take this back and chat with the leaders on this. One way or another we do have to remove the January language. I voted for it because the citizens voted for it. I will visit with them.

Chairman Luick: I feel that the way that the language is coming to us I am comfortable with it. **Adjourned the committee discussion on SB 2210.**

2019 SENATE STANDING COMMITTEE MINUTES

Agriculture Committee
Roosevelt Park Room, State Capitol

SB 2210
2/1/2019
Job # 31942 (0:00 – 6:04)

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Carie Winings

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 19-24.1-17 and 19-24.1-24 of the North Dakota Century Code, relating to medical marijuana manufacturing facilities; and to declare an emergency.

Minutes: No Attachments

Chairman Luick: Opened SB 2210 for committee discussion.

Senator Klein: In the discussion on SB 2210, we were looking at going from 1,000 to 3,000 plants. There was some discussion from Jason in the Health Department that said that the Delaware language suggesting "marijuana sufficient to meet the qualifying patient population demands". We had a little glitch in the original bill. They had to pay the $10,000 for every 100 plants. They caught that and we have that corrected, so for every 500 plants in excess of 1000 they are going to need to spend $10,000. As you recall, that is basically the main jest of our discussion about the plant limitations and the feeling amongst the department that it will provide then the flexibility they need to have as much ground. I think that way both of the two growing facilities in the state will have that flexibility and we won't have to wait for a 3rd facility to be open to grow another 1000 plants. I know it philosophically is difficult. I didn't vote for this when it was on the ballot, however, it has passed and I know there is concern amongst voters that believe that if we roll this out and we don't have enough product on the shelf, there is going to be once again blame placed on the legislature. And blame then would suggest that recreational would more popular. In regard to authorizing the additional structures within 500 feet, that afternoon the city of Bismarck gave them the same address that they needed. I said that we would leave it and that it doesn't hurt anything. These guys have been playing by the North Dakota rules. It is a North Dakota company hiring North Dakotans and those in Fargo is a multinational company that is buying licenses around the country and sitting on them waiting for something to happen.

Senator Klein: Moved Amendment 19.0890.02002.

Senator Hogan: Seconded.

Senator Luick: Is there any discussion?

Vice Chair Myrdal: I think this makes it a better bill, and it meets the needs better for the industry. I still personally have a problem. Last session, on the floor of the Senate, came out of Human Services and we fixed the measure that the people voted on, which was disastrous in how it was made, I ended up voting against it. This is a form of expansion to me of this business, and so I will support the amendment but I will vote against the bill because I conscientiously have to.

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.

Motion Carried.

Senator Klein: Moved a Do Pass As Amended on SB 2210.

Senator Hogan: Seconded.

A Roll Call Vote Was Taken: 5 yeas, 1 nay, 0 absent.

Motion Carried.

Senator Klein will carry the bill.

19.0890.02002
Title.03000

Prepared by the Legislative Council staff for
Senator Klein
January 25, 2019

1/31/19

PROPOSED AMENDMENTS TO SENATE BILL NO. 2210

Page 2, line 4, remove "1."

Page 2, line 4, overstrike "The health council shall adopt rules establishing the maximum amount of plants of the"

Page 2, overstrike lines 5 through 10

Page 2, remove lines 11 through 15

Page 2, line 16, replace "department an additional certification fee, not to exceed" with:

"1. A manufacturing facility shall grow an amount of marijuana sufficient to meet the qualifying patient population demands. For every five hundred plants in excess of one thousand plants a manufacturing facility possesses, the manufacturing facility shall pay the department an additional certification fee of"

Page 2, line 19, after "2." insert "A dispensary may not possess more than three thousand five hundred ounces [99.22 kilograms] of usable marijuana at any time, regardless of formulation.

3."

Page 2, line 19, after "The" insert "health council shall adopt"

Page 2, line 19, overstrike "may" and insert immediately thereafter "to"

Page 2, line 21, remove "subject to the"

Page 2, line 22, replace "limit on the total number of plants a manufacturing facility may possess" with "counted in a manufacturing facility possession amount"

Renumber accordingly

Date: 01/25/2019
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO.: SB 2210

Senate Agriculture Committee

☐ Subcommittee

Amendment LC# or Description: 19.0890.02002

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Klein Seconded By Hogan

Senators	Yes	No	Senators	Yes	No
Chairman Luick	X		Senator Hogan	X	
Vice Chair Myrdal	X				
Senator Klein	X				
Senator Larsen	X				
Senator Osland	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 01/25/2019
Roll Call Vote #: 2

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO.: SB 2210

Senate Agriculture Committee

☐ Subcommittee

Amendment LC# or Description: 19.0890.02002

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Klein Seconded By Hogan

Senators	Yes	No	Senators	Yes	No
Chairman Luick	X		Senator Hogan	X	
Vice Chair Myrdal		X			
Senator Klein	X				
Senator Larsen	X				
Senator Osland	X				

Total (Yes) 5 No 1

Absent 0

Floor Assignment Klein

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2210: Agriculture Committee (Sen. Luick, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2210 was placed on the Sixth order on the calendar.

Page 2, line 4, remove "1."

Page 2, line 4, overstrike "The health council shall adopt rules establishing the maximum amount of plants of the"

Page 2, overstrike lines 5 through 10

Page 2, remove lines 11 through 15

Page 2, line 16, replace "department an additional certification fee, not to exceed" with:

"1. A manufacturing facility shall grow an amount of marijuana sufficient to meet the qualifying patient population demands. For every five hundred plants in excess of one thousand plants a manufacturing facility possesses, the manufacturing facility shall pay the department an additional certification fee of"

Page 2, line 19, after "2." insert "A dispensary may not possess more than three thousand five hundred ounces [99.22 kilograms] of usable marijuana at any time, regardless of formulation.

3."

Page 2, line 19, after "The" insert "health council shall adopt"

Page 2, line 19, overstrike "may" and insert immediately thereafter "to"

Page 2, line 21, remove "subject to the"

Page 2, line 22, replace "limit on the total number of plants a manufacturing facility may possess" with "counted in a manufacturing facility possession amount"

Renumber accordingly

2019 HOUSE HUMAN SERVICES

SB 2210

2019 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

SB 2210
3/12/2019
33544

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Nicole Klaman by Caitlin Fleck

Explanation or reason for introduction of bill/resolution:

Relating to medical marijuana manufacturing facilities; and to declare an emergency.

Minutes: A,B,C

Chairman Weisz: Opened the hearing on **SB 2210**.

Senator Klein: This bill was a result of discussion from getting into the session early, and people had concerns that we weren't doing anything to get this up and going. There is also concern that there is only 1 manufacturing facility. The original bill said that we can only grow 1000 plants at our facilities. I will start reading on page 2 for the difference in language. On page one, there is some language that suggests that there would be a need for another building, and the building is on a different address and they would need to go through the whole process again to obtain the licensure. Since then, the city of Bismarck has decided that all their buildings are on one address. **(see attachment A)**

Chairman Weisz: You are increasing the number of plants, but are still limiting the amount of marijuana that can be delivered, was there talk about increasing that number as well?

Senator Klein: There was really no discussion on that, but I'm sure others can answer that question.

Kent Blickensderfer, KPB Consulting, LLC: I'm here to introduce the peer operating officer.

5.47 Casey Neumann, Chief Operating Officer for Pure Dakota: (see attachment B)

Rep Westlind: What is the approximate output for each plant?

Mr. Neumann: Each plant producers 2.7 pounds of marijuana. Wet weight would be about 25% of that, so about ¾ of a pound would be usable.

Chairman Weisz: Are you maxing out at your 1000 plants now?

Mr. Neumann: Yes.

Rep Skroch: One of the complaints that I have received is that the type of product that they can access right now is the dry leaves and smoke able forms, is there a plant in place to have other forms that don't have to be vaped or smoked?

Mr. Neumann: Currently there are a couple of items that we have tested and should be able to consume in a couple days.

Rep Skroch: In your skills of manufacturing these products, where do you receive your training?

Mr. Neumann: The training that we receive, we have a double PhD Chemist that has trained our folks. We have one gentleman that has had 5 years of experience, we also have the Dakota Testing lab and they have done a great job that things are safe and that the potencies are accurate.

Rep Rohr: Is there a shelf life on these products?

Mr. Neumann: Yes. One year is typical on an extraction product and dry leaves and flowers would be 6 months.

Rep Skroch: What happens when they are outdated?

Mr. Neumann: We would receive those back if that would be the case. We don't see that happening though, we have been out of product within the first week. That is the reason why we don't want to produce more than we can sell.

Rep Skroch: Can you remanufacture these products?

Mr. Neumann: What we do in that situation is that it is rendered unusable. We would take that and burry it at the landfill.

Rep Westlind: What is the length of time from planting to harvest?

Mr. Neumann: About 17 weeks.

14.37 Jason Wahl, Director of the Division of Medical Marijuana within the Department of Human Services: (see attachment C)

Chairman Weisz: I assume under this bill, the manufacturing facility would be able to move that limit up and down at will?

Mr. Wahl: Correct. Our understanding is that if they went over 500 plants, they would pay the $10,000, but if they were under that limit, then they would have to pay that amount.

Chairman Weisz: The renewal is annual?

Mr. Wahl: Every 2 years.

Rep Porter: In the per plant, are they harvested once and then discarded?

Mr. Wahl: There is a cloning process that a facility can do instead of starting from a seed. That is taken from a mother plant. At this point under the current method, once a plant is harvested, it is removed and hung to dry.

Rep Porter: In the harvesting process when the plant is but, the leaves are a usable product, where is the oil extracted?

Mr. Wahl: The oil is coming right from that dried leaves and flowers. Using the stems for products is a little cost prohibited. When that plant is harvested, it is weighed, and then again once is has been dried and extracted. We weigh the disposal and then also the leaves and flowers. This allows us to see a relation to what we use and what we dispose.

Rep Porter: Is there next phase a blending process?

Mr. Wahl: It would depend on the product that they want to make, the extraction method used, and then the formulation that want to do once that product has been tested. They can use different methods of extraction, but it would be tested before mixing it.

Rep Anderson: Is there any idea what the demand for product would be?

Mr. Wahl: That is the million dollar question, in relation to population amounts and then the demands of the patients.

Chairman Weisz: How many cards have we issued?

Mr. Wahl: Over 160 cards are issued, and over 150 application have been done.

Rep Tveit: Any concerns with dumpster divers?

Mr. Wahl: I used to be, but not anymore. Under the current process that we have and the agreement that we have with the landfill, that is not a concern for the program anymore.

Meeting closed.

2019 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

SB 2210
3/18/2019
33900

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Nicole Klaman by Donna Whetham

Explanation or reason for introduction of bill/resolution:

Relating to medical marijuana manufacturing facilities; and to declare an emergency.

Minutes:

Chairman Weisz: Opened the hearing on SB 2210.

Rep. Westlind: I move for a Do Pass on SB 2210.

Rep. Dobervich: Seconded.

Chairman Weisz: Any further discussion?

Rep. Devlin: I had a question on the fee, so on every 500 plants they will get another $10,000 certification fee. Doesn't that sound excessive?

Chairman Weisz: I actually would have thought that except for the manufacturers seem to have no trouble with this. They didn't even raise the issue.

Rep. Westlind: I did some math on what a thousand plants could lead to about $14 million in income for the dispensary. So I don't think the $10,000 per 500 plants is an issue.

Rep. Devlin: When I saw how many millions of dollars the growers in Minnesota had lost in this last year or two. It isn't a high profit deal it just looks good on paper.

Rep. M. Ruby: I think this is a lot of money for a start-up and I get that it is in addition to the 1000 plants that they currently have. This is a lot of money to get started.

Chairman Weisz: They are already licensed to do the 1000 so the only reason they would request the additional 500 is that they assume they have the demand.

Rep. M. Ruby: Remember Casey Neumann's testimony was that they were nervous about when they started the actual manufacturing process for a particular product and then demand picked up for something else, the lag time within that demand would be so great that there

may be no turning back. They had to pick based on when the plant was harvested. I think it is more of a response and a cushion to the acceptable ways of distribution and as we have expanded into other forms. I would see where they would need that flexibility if they see an increased demand on a particular product line.

Chairman Weisz: During last session it was pointed out that you can have single plants worth $4,000 multiply that by 500 and you have $2million worth of plants so the $10,000 becomes a pretty minor cost for the manufacturer.

Rep. Westlind: If you go up to the 1500 plants it is about $120,000 and it is about $80 a plant and that is probably the least cost they have in raising marijuana.

Chairman Weisz: Any further discussion? Seeing none.

Roll call vote taken: Yes: 11 No: 3 Absent: 0. Motion carries on a SB 2210.

Rep. Westlind: Will carry the bill.

Hearing closed.

Date: 3/18/2019
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2210

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Westlind Seconded By Rep. Dobervich

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman	X		Gretchen Dobervich	X	
Karen M. Rohr – Vice Chairman	X		Mary Schneider	X	
Dick Anderson	X				
Chuck Damschen		X			
Bill Devlin		X			
Clayton Fegley	X				
Dwight Kiefert	X				
Todd Porter	X				
Matthew Ruby	X				
Bill Tveit		X			
Greg Westlind	X				
Kathy Skroch	X				

Total (Yes) 11 No 3

Absent 0

Floor Assignment Rep. Westlind

If the vote is on an amendment, briefly indicate intent:

Motion carries.

REPORT OF STANDING COMMITTEE

SB 2210: Human Services Committee (Rep. Weisz, Chairman) recommends **DO PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2210 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

SB 2210

SB2210
1-24-19
#1 Pg 1

Testimony of Casey Neumann on Senate Bill 2210
Thursday, January 24, 2019
Senate Agriculture Committee
Larry Luick, Chairman

Good morning Chairman Luick and committee members, my name is Casey Neumann and I am the Chief Operating Officer for Pure Dakota located in Bismarck. I'm here today to ask for your support of SB2210. Our company was started by Dave Meyer, a North Dakota rancher from Flasher who truly believes that we should promote North Dakota first when making all decisions.

Pure Dakota is a medical marijuana manufacturing facility where medical marijuana is grown, extracted and packaged. A medical manufacturing facility is relatively rare in other states but the concept is much more manageable than a simple cultivation. The manufacturing process allows the plants to be grown where the extraction process takes place and ultimately where the final product is packaged. This combination creates a process that is easier to manage and regulate than a cultivation where only 1 of 3 steps are in performed in-house. During our entire construction phase all of our contractors have been employed by North Dakota companies. Our total construction costs since August 1, 2018 exceeded $10 million and we are not finished. We have 9 full time employees and expect to have a total of approximately 23 employees upon completion.

In section one, SB2210 allows the department to authorize growers to use additional buildings within 500 of the approved location, unless the department finds that there use would jeopardize public health or safety. They also may not be within 1000 feet of a school.

In section 2, we are seeking authority for an additional 2,000 plants to help assist with the demand issues other states have experienced. Over the last 3 years every state that adopted a medical marijuana program has experienced supply issues and

some of these states are still having issues with supply and demand. Some of these shortages are believed to have contributed to increasing the popularity of the recreational programs in the same states. These additional 2000 plants are a vital component to making the medical marijuana program a success.

Some may say that the North Dakota Medical Marijuana program has taken too long to roll-out. Hopefully we all can work together to ensure that we don't experience a negative supply and demand issue that would be difficult to change without another legislative session in 2 years. The additional plants are in the best interest of the program and North Dakota patients. Supply and demand should take care of each other if given the opportunity.

Finally, the bill has an emergency clause so that we may begin expanded growing operations immediately upon passage and signing of this bill. Please give SB2210 a do pass recommendation and help us meet the demands of medical marijuana patients across the state. Thank you for your time and I would be happy to answer questions.

1-24-19 #2 Pg 1

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Senate Bill 2210
Agriculture Committee
January 24, 2019

Good morning Chair Luick and members of the Agriculture Committee. My name is Jason Wahl, the Director of the Division of Medical Marijuana within the Department of Health. I am here to support, with the exception of one portion, and provide information on Senate Bill 2210 related to an increase of the maximum number of plants a manufacturing facility may possess under the Medical Marijuana chapter of state law.

Senate Bill 2210 would allow a manufacturing facility that had reached 1,000 marijuana plants before January 16, 2019 to possess up to an additional 2,000 plants. While the Department of Health is in favor of increasing the plant limit of a manufacturing facility, we would oppose the limitation regarding the January 16, 2019 date in order to be eligible to possess 3,000 plants in a facility. All registered manufacturing facilities should be eligible to have the same maximum number of plants.

There are a number of reasons why increasing the plant limit will be beneficial for the Medical Marijuana Program. Product shortages have impacted Medical Marijuana Programs in other states. Risks associated with potential marijuana product shortages can be reduced with the increased plant limit. Also, an increased plant limit will provide manufacturing facilities the ability to increase product types, flexibility to grow a variety of strains, and the ability to adapt to changes in patient populations and demands. With the

1-24-19
SB2210
#2 Pg2

current plant limit, one potential lost harvest could severely impact product availability.

This concludes my testimony. I am happy to answer any questions you may have.

SB 2210
3/12/19
A

19.0890.03000

FIRST ENGROSSMENT

Sixty-sixth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2210

Introduced by

Senators Klein, Heckaman, Wardner

Representatives Boschee, Louser, Pollert

A BILL for an Act to amend and reenact sections 19-24.1-17 and 19-24.1-24 of the North Dakota Century Code, relating to medical marijuana manufacturing facilities; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-24.1-17 of the North Dakota Century Code is amended and reenacted as follows:

19-24.1-17. Compassion centers - Registration certificates nontransferable - Notification of changes.

1. A registration certificate authorizing operation of a compassion center may not be transferred to another person. Unless a compassion center applies for and receives an amended registration certificate authorizing operation of a compassion center, the registration certificate is void if there is a change in ownership of the compassion center, there is a change in the authorized physical location of the compassion center, or if the compassion center discontinues operation.
2. A compassion center shall provide the department a written notice of any change described under this section at least sixty calendar days before the proposed effective date of the change. The department shall authorize the use of additional structures located within five hundred feet [152.40 meters] of the location described in the original application, unless the department makes an affirmative finding the use of additional structures would jeopardize public health or safety or would result in the compassion center being within one thousand feet [304.80 meters] of a property line of a pre-existing public or private school. The department may waive all or part of the required advance notice to address emergent or emergency situations.

SECTION 2. AMENDMENT. Section 19-24.1-24 of the North Dakota Century Code is amended and reenacted as follows:

19-24.1-24. Compassion centers - Cannabis plants.

~~The health council shall adopt rules establishing the maximum amount of plants of the genus cannabis and the amount of marijuana and usable marijuana a compassion center may possess. Except as otherwise provided under this section, the rules may not allow a manufacturing facility to possess more than one thousand plants, regardless of the stage of growth, and may not allow a dispensary to possess more than three thousand five hundred ounces [99.22 kilograms] of usable marijuana at any time, regardless of formulation.~~

1. A manufacturing facility shall grow an amount of marijuana sufficient to meet the qualifying patient population demands. For every five hundred plants in excess of one thousand plants a manufacturing facility possesses, the manufacturing facility shall pay the department an additional certification fee of ten thousand dollars. This fee is due at the time of increase and again at renewal of the compassion center registration certificate under section 19-24.1-16.
2. A dispensary may not possess more than three thousand five hundred ounces [99.22 kilograms] of usable marijuana at any time, regardless of formulation.
3. The health council shall adopt rules ~~may~~to allow a manufacturing facility to possess no more than an additional fifty plants for the exclusive purpose of department-authorized research and development related to production and processing. These plants are not counted in a manufacturing facility possession amount and are not subject to an additional fee.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

SB2210
3/12/19
B

Testimony of Casey Neumann
Senate Bill 2210
Tuesday, March 12, 2019
Human Services Committee
Representative Robin Weisz, Chairman

Chairman Weisz and committee members, my name is Casey Neumann and I am the Chief Operating Officer for Pure Dakota located in Bismarck. I'm here today to ask for your support of SB2210.

Pure Dakota is a medical marijuana manufacturing facility where medical marijuana is grown, extracted and packaged. A medical manufacturing facility is relatively rare in other states but the concept is much more manageable than a simple cultivation.

Our facility allows plants to be grown in the same facility where all three phases of manufacturing are completed. This combination is easier to manage and regulate than just cultivation alone.

During construction, all of our contractors have been employed by North Dakota companies. We have 9 full time employees and expect to have a total of 23 upon completion.

SB 2210 allows basic economics to govern the supply of medical marijuana produced by each of 2 licensed cultivation facilities. In researching emerging markets, the most common complaint of medical marijuana programs is the lack of a steady supply. Hopefully we can work together to ensure that we don't experience a negative supply and demand issue which would be difficult to manage without additional legislation.

Additional plants are in the best interest of the program and patients. The bill also has an emergency clause so we may expand growing immediately upon bill passage and signing.

Please give SB2210 a do pass recommendation and help us meet the demands of patients across the state. Thank you for your time and I would be happy to answer any questions.

SB2210
3/12/19
C

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Senate Bill 2210
Human Services Committee
March 12, 2019

Good morning Chair Weisz and members of the Human Services Committee. My name is Jason Wahl, the Director of the Division of Medical Marijuana within the Department of Health. I am here to support and provide information on Senate Bill 2210 related to a change on the number of plants a manufacturing facility may possess under the Medical Marijuana chapter of state law.

Senate Bill 2210 would eliminate the 1,000 plant limit for a manufacturing facility. The bill would allow a manufacturing facility to grow an amount sufficient to meet the qualifying patient demand. For every 500 plants in excess of 1,000, a manufacturing facility would pay an additional certification fee of $10,000. The Department of Health is in favor of these changes.

There are a number of reasons why the changes in Senate Bill 2210 will be beneficial for the Medical Marijuana Program. Product shortages have impacted Medical Marijuana Programs in other states. Risks associated with potential marijuana product shortages can be reduced by allowing manufacturing facilities to grow to meet demand. Manufacturing facilities would have the ability to increase product types, flexibility to grow a variety of strains, and the ability to adapt to changes in patient populations and demands. With the current plant limit, one potential lost harvest could severely impact product availability.

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C

This concludes my testimony. I am happy to answer any questions you may have.