

Fiscal Estimate Narratives

DATCP 4/27/2017

LRB Number	17-0840/4	Introduction Number	AB-0147	Estimate Type	Original
Description Industrial hemp, granting rule-making authority, and making an appropriation					

Assumptions Used in Arriving at Fiscal Estimate

The 2014 Farm Bill law permitted industrial hemp research programs for the first time, and as a result thirty states have passed industrial hemp research laws in the last three years. However, because all federal controlled substance laws must be met for industrial hemp production, and since state laws do not supersede federal controlled substance laws, only a few states currently have an active industrial hemp program with licensed growers. Colorado has the most mature industrial hemp program in the United States; in 2014, the state had 131 registrants requesting to grow 1,800 acres and 253,000 sq. feet of industrial hemp; by 2016, the number of registrants had increased to 312 growing industrial hemp on 8,988 registered acres and 1.36 million registered sq. feet. Kentucky, Minnesota, and Hawaii also have active industrial hemp programs started within the last two years, with Washington, Oregon, Tennessee and Maine developing programs rapidly. Other states, like Michigan, have limited their programs to university research or have authorizing legislation but no real program.

Canada also has allowed for the legal production of industrial hemp for several years. Canada had 340 licensed growers with 239,000 acres in 2011. Manitoba and Ontario, similar in size to Wisconsin when combined, had 92 growers growing approximately 12,200 acres of industrial hemp in 2011. Minnesota estimated it might be able to produce half that amount, or 6,113 acres annually from 100 growers and 250 sites. Since Wisconsin historically has had successful hemp farms, this fiscal estimate assumes that Wisconsin's production would be similar to Minnesota's estimate. However, very few hemp farms are yet active in Minnesota's program and there is no real way to estimate the number of license applications or number of acres of industrial hemp that would be grown in Wisconsin if this bill is passed. States like Colorado and Kentucky have found their industrial hemp research programs show strong growth from year to year if promoted aggressively. Other states, like Washington, continue to be stymied by federal DEA regulations. In short, if the number of growers and acreage is similar to that estimated by Minnesota, revenue generated from the proposed legislation would range between \$15,000 and \$100,000.

States with existing hemp programs report that developing their industrial hemp program has been extremely complex and time and resource intensive, even with small production. The complexity of the program results from Cannabis being a federally regulated plant requiring DEA permits; the program must ensure cultivated plants and seeds are below specified THC levels, and there are a whole range of other issues related to pesticide labeling, seed availability and labeling, sampling, transportation, harvesting and processing. Administrative rules, program procedures, outreach, and laboratory methods are needed for a program of any size. Other states required at least 1 FTE program manager to establish the infrastructure of the program, laboratory equipment, and additional staff ongoing for program management, licensing, inspections and lab analysis.

Laboratory/Sampling Assumption

The bill allows for sample analysis at independent accredited laboratories, however, we assume an industrial hemp program will require sampling and laboratory analysis at DATCP's regulatory laboratory for two reasons: 1) no independent laboratories in Wisconsin can provide this analysis at this time and hemp cannot be transported across state lines and 2) the department needs its regulatory laboratory to be able to analyze samples taken for compliance purposes. It is probable that independent laboratories will provide analytical services in the future if the research programs are successful and the industrial hemp sector expands enough to generate a sufficient number of samples to make it profitable for them to provide this service.

Laboratory analysis is needed to test hemp seeds and plants and determine that total THC is below the maximum allowable limit for industrial hemp. New laboratory equipment, methods, consumable supplies, and staff will be necessary to administer this program. The laboratory equipment required for this testing is Gas Chromatography-Mass Spectrometry (GC-MS), which is a widely used and proven method, as well as being the method referenced in the United Nations Office on Drugs and Crime's Manual used by national

drug analysis laboratories. This equipment costs about \$180,000, with method development about \$35,000. In addition, because industrial hemp is still regulated at the federal level, samples cannot be transported by public or private courier, but would have to be hand-delivered, which is an additional sampling expense. Kentucky has attempted to manage the transportation concerns by requiring growers use certified seed, which results in plants below 0.3% THC. This bill allows for the development of a certified seed program, but does not require its use.

If samples exceed 0.3% THC, it is marijuana, not industrial hemp. In those cases, there may be additional costs associated with laboratory disposal of the samples and plants. The laboratory would have to assume the plants have a THC content over 0.3%, and would also need secure sample and document storage at a cost of about \$22,000. Annual laboratory/sampling expenses include consumable sampling supplies of \$30,000, equipment maintenance of \$30,000 and a laboratory chemist at \$87,000. A part-time inspector is also needed at an annual cost of \$50,000. Based on all of these factors and other states' experiences, sample costs could range from \$200 to \$2000 each. States have reduced sampling expenses to the lower end of the range through batch analysis.

In addition to authorizing the use of independent laboratories, this bill also allows for the department to create a registry of persons who are trained to sample and transport hemp. Several states require growers to pay all inspection and sampling expenses as a "fee for service", and this bill would allow the department to train and register private sector "samplers and transporters." We assume that the private sector will not provide these services during the research program due to the small size and scope of the program. However, even in a mature program, providing sampling, transportation, and analysis on a fee for service basis does not eliminate the start-up costs or the costs of any regulatory inspections or sampling and analysis.

Information Technology Assumption

A new industrial hemp program creates a new license type. A new licensing program will have to be developed either in the existing IT system used by the agency, the new system being developed by the agency, or an alternative system. There will be initial one-time costs for IT development which is indeterminate at this time. Annual system maintenance is included in the supplies and services costs listed below.

Background Check Assumption

Background checks for growers would be administered manually and recorded in DATCP systems or on paper. Criminal background checks from the Wisconsin Department of Justice cost \$12 per request.

Programmatic Assumption

An industrial hemp program will require rule development, licensing, administration and compliance checks (inspections and sampling) beyond typical licensing programs because of the federal regulations. Experience from other states and Canada demonstrate that the complexity of the hemp regulations requires a dedicated program coordinator, part-time inspection staff, and a part-time licensing associate. An additional chemist also is required as these new program activities will exceed current laboratory staff capacity.

Position	Salary	Total Salary	Fringe	S&S	Total
PPDS Senior	\$22.47	\$46,737.60	\$21,807.76	\$18,460.00	\$87,005.36
Chemist Senior	\$22.47	\$46,737.60	\$21,807.76	\$18,460.00	\$87,005.36
PPDS Senior-50%	\$22.47	\$23,368.80	\$10,903.88	\$15,703.00	\$49,975.68
LPPA - 50%	\$15.41	\$16,027.44	\$7,478.40	\$15,703.00	\$39,208.84
TOTAL	\$132,871.44	\$61,997.80	\$68,326.00	\$263,195.24	

Long-Range Fiscal Implications

Startup funds of \$324,000 for a program manager and laboratory equipment are required for initial program development in year 1. These costs include about \$87,000 for 1 FTE program manager, \$180,000 for a Single Quad Gas Chromatography lab equipment, \$35,000 for Initial Lab supplies and Method Validation, \$22,000 for a Dedicated Freezer, Refrigerator and Security Control, and an Anchored Document Cabinet. There will also be IT Development costs, which are indeterminate at this time.

Long term considerations are highly dependent on the economic success and sustainability of industrial

hemp. Experience from other states shows that industrial hemp programs often start with just a few initial growers. Therefore, it is unlikely fees will cover program expenses for several years. However, long-term, a fee structure must be structured to cover program costs and build a reserve sufficient to cover yearly fluctuations in revenue and expenses.

This budget assumes approximately \$194,900 in ongoing salary and fringe, \$68,300 in ongoing staffing supplies and services, and consumable lab supplies and equipment maintenance of \$60,000 annually, for a total of about \$323,200 ongoing. This assumes that the department is responsible for all program administration, licensing, inspections, sampling, and analysis costs.

Assuming annual hemp production of 6,000 acres, 100 growers and an annual ongoing cost of \$323,200 year, then the proposed annual license fee of \$150 per grower or \$5 per acre (whichever is higher up to a maximum of \$1000 per registrant)—which would generate revenue ranging from \$15,000 to \$100,000—would be inadequate to cover program costs. The license fee would need to be significantly higher—or additional types of fees charged—to cover ongoing program costs.

Colorado, Minnesota, Hawaii, Kentucky and Washington require a much higher application fee (typically \$400-\$500 per registrant), an additional per field fee, an inspection fee that covers the inspector's time and mileage (typically \$35/hr plus mileage), and the full cost of sampling analysis. The application fee is charged regardless of whether or not any fields are eventually registered.

Some inspection and sampling costs could be covered by growers on a fee for service basis at the time the services are provided. However, these fees cannot fully cover costs until the program reaches maturity. Regulatory laboratory staff and equipment must be available regardless of the size of the program. In summary, the industrial hemp research program will require multiple years of start-up funds to staff and develop the program both prior to any growers participating and before the program is mature enough to either fully fund the program through license fees and fees for service or spur private sector interest in providing sampling, transportation and laboratory services.

Fiscal Estimate Worksheet - 2017 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

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Description Industrial hemp, granting rule-making authority, and making an appropriation	
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect): One time Costs = \$237,000 + IT development Single Quad Gas Chromatography lab equipment = \$180,000 Initial Lab supplies and Method Validation = \$35,000 Dedicated Freezer, Refrigerator and Security Control = \$19,000 Anchored Document Cabinet = \$3000 IT Development = Indeterminate	
II. Annualized Costs:	Annualized Fiscal Impact on funds from:
	Increased Costs Decreased Costs
A. State Costs by Category	
State Operations - Salaries and Fringes	\$194,900
(FTE Position Changes)	
State Operations - Other Costs	128,300
Local Assistance	
Aids to Individuals or Organizations	
TOTAL State Costs by Category	\$323,200
B. State Costs by Source of Funds	
GPR	
FED	
PRO/PRS (20.115 (7) (gc))	323,200
SEG/SEG-S	
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	
	Increased Rev
	Decreased Rev
GPR Taxes	\$
GPR Earned	
FED	
PRO/PRS (20.115)	30,000
SEG/SEG-S	
TOTAL State Revenues	\$30,000
NET ANNUALIZED FISCAL IMPACT	
	<u>State</u>
	<u>Local</u>
NET CHANGE IN COSTS	\$323,200
NET CHANGE IN REVENUE	\$30,000
Agency/Prepared By	Authorized Signature
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	Date
	4/27/2017