

1.1 ..... moves to amend H.F. No. 600, the second engrossment, as follows:

1.2 Page 17, line 26, before "CanGrow" insert "and" and delete the second ", and"

1.3 Page 17, line 27, delete "CanLearn"

1.4 Page 103, line 32, delete "plus four percent"

1.5 Page 104, line 11, delete "may be paid out of the interest earned on loans" and insert  
1.6 "are eligible program expenses the commissioner may agree to pay under the grant  
1.7 agreement"

1.8 Page 107, line 2, delete "plus four percent"

1.9 Page 107, line 13, delete "may be paid out of the interest earned on loans" and insert  
1.10 "are eligible program expenses the commissioner may agree to pay under the grant  
1.11 agreement"

1.12 Page 107, line 19, delete "January 15" and insert "February 1"

1.13 Page 107, line 29, delete "February 15" and insert "March 1" and delete "February 15"  
1.14 and insert "March 1"

1.15 Page 142, delete line 22 and insert:

1.16 "(1) is impaired from cannabis;"

1.17 Page 144, delete section 16 and insert:

1.18 "Sec. 16. Minnesota Statutes 2020, section 181.953, is amended to read:

1.19 **181.953 RELIABILITY AND FAIRNESS SAFEGUARDS.**

1.20 Subdivision 1. **Use of licensed, accredited, or certified laboratory required.** (a) An  
1.21 employer who requests or requires an employee or job applicant to undergo drug or alcohol

2.1 testing or cannabis testing shall use the services of a testing laboratory that meets one of  
2.2 the following criteria for drug testing:

2.3 (1) is certified by the National Institute on Drug Abuse as meeting the mandatory  
2.4 guidelines published at 53 Federal Register 11970 to 11989, April 11, 1988;

2.5 (2) is accredited by the College of American Pathologists, 325 Waukegan Road,  
2.6 Northfield, Illinois, 60093-2750, under the forensic urine drug testing laboratory program;  
2.7 or

2.8 (3) is licensed to test for drugs by the state of New York, Department of Health, under  
2.9 Public Health Law, article 5, title V, and rules adopted under that law.

2.10 (b) For alcohol testing, the laboratory must either be:

2.11 (1) licensed to test for drugs and alcohol by the state of New York, Department of Health,  
2.12 under Public Health Law, article 5, title V, and the rules adopted under that law; or

2.13 (2) accredited by the College of American Pathologists, 325 Waukegan Road, Northfield,  
2.14 Illinois, 60093-2750, in the laboratory accreditation program.

2.15 **Subd. 3. Laboratory testing, reporting, and sample retention requirements.** A testing  
2.16 laboratory that is not certified by the National Institute on Drug Abuse according to  
2.17 subdivision 1 shall follow the chain-of-custody procedures prescribed for employers in  
2.18 subdivision 5. A testing laboratory shall conduct a confirmatory test on all samples that  
2.19 produced a positive test result on an initial screening test. A laboratory shall disclose to the  
2.20 employer a written test result report for each sample tested within three working days after  
2.21 a negative test result on an initial screening test or, when the initial screening test produced  
2.22 a positive test result, within three working days after a confirmatory test. A test report must  
2.23 indicate the drugs, alcohol, ~~or~~ drug or alcohol metabolites, or cannabis or cannabis  
2.24 metabolites tested for and whether the test produced negative or positive test results. A  
2.25 laboratory shall retain and properly store for at least six months all samples that produced  
2.26 a positive test result.

2.27 **Subd. 4. Prohibitions on employers.** An employer may not conduct drug or alcohol  
2.28 testing or cannabis testing of its own employees and job applicants using a testing laboratory  
2.29 owned and operated by the employer; except that, one agency of the state may test the  
2.30 employees of another agency of the state. Except as provided in subdivision 9, an employer  
2.31 may not request or require an employee or job applicant to contribute to, or pay the cost of,  
2.32 drug or alcohol testing or cannabis testing under sections 181.950 to 181.954.

3.1 Subd. 5. **Employer chain-of-custody procedures.** An employer shall establish its own  
3.2 reliable chain-of-custody procedures to ensure proper record keeping, handling, labeling,  
3.3 and identification of the samples to be tested. The procedures must require the following:

3.4 (1) possession of a sample must be traceable to the employee from whom the sample is  
3.5 collected, from the time the sample is collected through the time the sample is delivered to  
3.6 the laboratory;

3.7 (2) the sample must always be in the possession of, must always be in view of, or must  
3.8 be placed in a secured area by a person authorized to handle the sample;

3.9 (3) a sample must be accompanied by a written chain-of-custody record; and

3.10 (4) individuals relinquishing or accepting possession of the sample must record the time  
3.11 the possession of the sample was transferred and must sign and date the chain-of-custody  
3.12 record at the time of transfer.

3.13 Subd. 6. **Rights of employees and job applicants.** (a) Before requesting an employee  
3.14 or job applicant to undergo drug or alcohol testing or requesting cannabis testing, an employer  
3.15 shall provide the employee or job applicant with a form, developed by the employer, on  
3.16 which to acknowledge that the employee or job applicant has seen the employer's drug and  
3.17 alcohol testing or cannabis testing policy.

3.18 (b) If an employee or job applicant tests positive for drug use or cannabis use, the  
3.19 employee must be given written notice of the right to explain the positive test and the  
3.20 employer may request that the employee or job applicant indicate any over-the-counter or  
3.21 prescription medication that the individual is currently taking or has recently taken and any  
3.22 other information relevant to the reliability of, or explanation for, a positive test result.

3.23 (c) Within three working days after notice of a positive test result on a confirmatory test,  
3.24 the employee or job applicant may submit information to the employer, in addition to any  
3.25 information already submitted under paragraph (b), to explain that result, or may request a  
3.26 confirmatory retest of the original sample at the employee's or job applicant's own expense  
3.27 as provided under subdivision 9.

3.28 Subd. 7. **Notice of test results.** Within three working days after receipt of a test result  
3.29 report from the testing laboratory, an employer shall inform in writing an employee or job  
3.30 applicant who has undergone drug or alcohol testing or cannabis testing of (1) a negative  
3.31 test result on an initial screening test or of a negative or positive test result on a confirmatory  
3.32 test and (2) the right provided in subdivision 8. In the case of a positive test result on a  
3.33 confirmatory test, the employer shall also, at the time of this notice, inform the employee

4.1 or job applicant in writing of the rights provided in subdivisions 6, paragraph (b), 9, and  
4.2 either subdivision 10 or 11, whichever applies.

4.3 Subd. 8. **Right to test result report.** An employee or job applicant has the right to  
4.4 request and receive from the employer a copy of the test result report on any drug or alcohol  
4.5 test or cannabis test.

4.6 Subd. 9. **Confirmatory retests.** An employee or job applicant may request a confirmatory  
4.7 retest of the original sample at the employee's or job applicant's own expense after notice  
4.8 of a positive test result on a confirmatory test. Within five working days after notice of the  
4.9 confirmatory test result, the employee or job applicant shall notify the employer in writing  
4.10 of the employee's or job applicant's intention to obtain a confirmatory retest. Within three  
4.11 working days after receipt of the notice, the employer shall notify the original testing  
4.12 laboratory that the employee or job applicant has requested the laboratory to conduct the  
4.13 confirmatory retest or transfer the sample to another laboratory licensed under subdivision  
4.14 1 to conduct the confirmatory retest. The original testing laboratory shall ensure that the  
4.15 chain-of-custody procedures in subdivision 3 are followed during transfer of the sample to  
4.16 the other laboratory. The confirmatory retest must use the same drug or alcohol or cannabis  
4.17 testing threshold detection levels as used in the original confirmatory test. If the confirmatory  
4.18 retest does not confirm the original positive test result, no adverse personnel action based  
4.19 on the original confirmatory test may be taken against the employee or job applicant.

4.20 Subd. 10. **Limitations on employee discharge, discipline, or discrimination.** (a) An  
4.21 employer may not discharge, discipline, discriminate against, or request or require  
4.22 rehabilitation of an employee on the basis of a positive test result from an initial screening  
4.23 test that has not been verified by a confirmatory test.

4.24 (b) In addition to the limitation under paragraph (a), an employer may not discharge an  
4.25 employee for whom a positive test result on a confirmatory test was the first such result for  
4.26 the employee on a drug or alcohol test or cannabis test requested by the employer unless  
4.27 the following conditions have been met:

4.28 (1) the employer has first given the employee an opportunity to participate in, at the  
4.29 employee's own expense or pursuant to coverage under an employee benefit plan, either a  
4.30 drug ~~or~~, alcohol, or cannabis counseling or rehabilitation program, whichever is more  
4.31 appropriate, as determined by the employer after consultation with a certified chemical use  
4.32 counselor or a physician trained in the diagnosis and treatment of chemical dependency;  
4.33 and

5.1 (2) the employee has either refused to participate in the counseling or rehabilitation  
5.2 program or has failed to successfully complete the program, as evidenced by withdrawal  
5.3 from the program before its completion or by a positive test result on a confirmatory test  
5.4 after completion of the program.

5.5 (c) Notwithstanding paragraph (a), an employer may temporarily suspend the tested  
5.6 employee or transfer that employee to another position at the same rate of pay pending the  
5.7 outcome of the confirmatory test and, if requested, the confirmatory retest, provided the  
5.8 employer believes that it is reasonably necessary to protect the health or safety of the  
5.9 employee, coemployees, or the public. An employee who has been suspended without pay  
5.10 must be reinstated with back pay if the outcome of the confirmatory test or requested  
5.11 confirmatory retest is negative.

5.12 (d) An employer may not discharge, discipline, discriminate against, or request or require  
5.13 rehabilitation of an employee on the basis of medical history information revealed to the  
5.14 employer pursuant to subdivision 6 unless the employee was under an affirmative duty to  
5.15 provide the information before, upon, or after hire.

5.16 (e) An employee must be given access to information in the employee's personnel file  
5.17 relating to positive test result reports and other information acquired in the drug and alcohol  
5.18 testing or cannabis testing process and conclusions drawn from and actions taken based on  
5.19 the reports or other acquired information.

5.20 Subd. 10a. **Additional limitations for cannabis.** An employer may discipline, discharge,  
5.21 or take other adverse personnel action against an employee for cannabis use, possession,  
5.22 impairment, sale, or transfer while an employee is working, on the employer's premises, or  
5.23 operating the employer's vehicle, machinery, or equipment as follows:

5.24 (1) if an employee is impaired from cannabis;

5.25 (2) if cannabis testing requested or required pursuant to section 181.951, subdivision 8,  
5.26 paragraphs (d) and (e), verifies the presence of cannabis following a confirmatory test;

5.27 (3) as provided in the employer's written work rules for cannabis and cannabis testing,  
5.28 provided that the rules are in writing and contained in a written policy that contains the  
5.29 minimum information required by section 181.952; or

5.30 (4) as otherwise authorized under state or federal law.

5.31 **Subd. 11. Limitation on withdrawal of job offer.** If a job applicant has received a job  
5.32 offer made contingent on the applicant passing drug and alcohol testing, the employer may

6.1 not withdraw the offer based on a positive test result from an initial screening test that has  
6.2 not been verified by a confirmatory test.

6.3 Sec. 17. Minnesota Statutes 2020, section 181.954, is amended to read:

6.4 **181.954 PRIVACY, CONFIDENTIALITY, AND PRIVILEGE SAFEGUARDS.**

6.5 Subdivision 1. **Privacy limitations.** A laboratory may only disclose to the employer test  
6.6 result data regarding the presence or absence of drugs, alcohol, cannabis, or their metabolites  
6.7 in a sample tested.

6.8 Subd. 2. **Confidentiality limitations.** Test result reports and other information acquired  
6.9 in the drug or alcohol testing or cannabis testing process are, with respect to private sector  
6.10 employees and job applicants, private and confidential information, and, with respect to  
6.11 public sector employees and job applicants, private data on individuals as that phrase is  
6.12 defined in chapter 13, and may not be disclosed by an employer or laboratory to another  
6.13 employer or to a third-party individual, governmental agency, or private organization without  
6.14 the written consent of the employee or job applicant tested.

6.15 Subd. 3. **Exceptions to privacy and confidentiality disclosure**  
6.16 **limitations.** Notwithstanding subdivisions 1 and 2, evidence of a positive test result on a  
6.17 confirmatory test may be: (1) used in an arbitration proceeding pursuant to a collective  
6.18 bargaining agreement, an administrative hearing under chapter 43A or other applicable state  
6.19 or local law, or a judicial proceeding, provided that information is relevant to the hearing  
6.20 or proceeding; (2) disclosed to any federal agency or other unit of the United States  
6.21 government as required under federal law, regulation, or order, or in accordance with  
6.22 compliance requirements of a federal government contract; and (3) disclosed to a substance  
6.23 abuse treatment facility for the purpose of evaluation or treatment of the employee.

6.24 Subd. 4. **Privilege.** Positive test results from an employer drug or alcohol testing or  
6.25 cannabis testing program may not be used as evidence in a criminal action against the  
6.26 employee or job applicant tested."

6.27 Page 172, after line 11, insert:

6.28 "Subd. 9. **Department of Employment and Economic Development.** \$7,400,000 in  
6.29 fiscal year 2022 and \$3,700,000 in fiscal year 2023 are appropriated from the general fund  
6.30 to the commissioner of employment and economic development for the CanStartup,  
6.31 CanNavigate, and CanTrain programs. Of these amounts, up to three percent may be used  
6.32 for administrative expenses."

6.33 Renumber the sections in sequence and correct the internal references

7.1 Amend the title accordingly