

Revised

Consolidated Fiscal Note

2021-2022 Legislative Session

HF600 - 6E - Legalize Cannabis

Chief Author: **Ryan Winkler**
 Committee: **Commerce Finance and Policy**
 Date Completed: **5/5/2021 7:38:32 AM**
 Lead Agency: **Cannabis Management Board**
 Other Agencies:
 Administration Dept Administrative Hearings
 Agriculture Dept Cannabis Expungement Board
 Commerce Dept Corrections Dept
 Education Department Employment and Economic Dvlpmt
 Health Dept Human Services Dept
 Labor and Industry Dept MN.IT Services
 Natural Resources Dept Office of Higher Education
 Pollution Control Agency Prof Educator Licensing Std Bd
 Public Defense Board Public Safety Dept
 Revenue Dept Sentencing Guidelines Comm
 Supreme Court

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue	X	
Information Technology	X	
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Dollars in Thousands					
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	-	-	-
Agriculture Dept					
General Fund	-	912	1,736	1,447	1,178
Agriculture Fund	-	39	1,025	784	412
Cannabis Expungement Board					
General Fund	-	921	844	844	844
Cannabis Management Board					
General Fund	-	8,167	8,515	12,826	25,699
State Government Special Rev	-	-	-	-	-
Restrict Misc. Special Revenue	-	-	-	-	-
Commerce Dept					
General Fund	-	63	230	452	626
Corrections Dept					
General Fund	-	(177)	(345)	(407)	(458)
Education Department					
General Fund	-	36	29	29	29
Employment and Economic Dvlpmt					
General Fund	-	6,229	5,002	58	58
Health Dept					
General Fund	-	9,949	8,454	8,298	8,353
State Government Special Rev	-	1,799	(1,962)	(1,962)	(1,962)
Human Services Dept					
General Fund	-	899	838	838	838

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State Cost (Savings)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
<i>Dollars in Thousands</i>					
Labor and Industry Dept					
General Fund	-	121	121	121	121
MN.IT Services					
Other Misc. Special Revenue	-	-	-	-	-
MN.IT Services	-	-	-	-	-
Natural Resources Dept					
General Fund	-	299	-	-	-
Office of Higher Education					
General Fund	-	500	500	500	500
Pollution Control Agency					
General Fund	-	518	495	64	-
Public Safety Dept					
General Fund	-	3,013	2,486	2,486	2,486
Trunk Highway	-	3,621	1,443	1,443	1,443
Revenue Dept					
General Fund	-	4,393	(10,107)	(60,387)	(92,691)
Outdoor Heritage Fund	-	-	(99)	(495)	(726)
Arts and Cultural Heritage Fund	-	-	(59)	(296)	(435)
Clean Water Fund	-	-	(99)	(495)	(726)
Parks And Trails Fund	-	-	(43)	(214)	(313)
Supreme Court					
General Fund	-	545	545	-	-
State Total					
Administrative Hearings	-	-	-	-	-
General Fund	-	36,388	19,343	(32,831)	(52,417)
Agriculture Fund	-	39	1,025	784	412
State Government Special Rev	-	1,799	(1,962)	(1,962)	(1,962)
Restrict Misc. Special Revenue	-	-	-	-	-
Other Misc. Special Revenue	-	-	-	-	-
MN.IT Services	-	-	-	-	-
Trunk Highway	-	3,621	1,443	1,443	1,443
Outdoor Heritage Fund	-	-	(99)	(495)	(726)
Arts and Cultural Heritage Fund	-	-	(59)	(296)	(435)
Clean Water Fund	-	-	(99)	(495)	(726)
Parks And Trails Fund	-	-	(43)	(214)	(313)
Total	-	41,847	19,549	(34,066)	(54,724)
Biennial Total			61,396		(88,790)

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	-	-	-
Agriculture Dept					
General Fund	-	2	12.4	10.5	8.5
Agriculture Fund	-	-	8.84	11.78	11.78
Cannabis Expungement Board					

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Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	8	8	8	8
Cannabis Management Board					
General Fund	-	16.34	32.6	38.72	38.72
State Government Special Rev	-	14.53	14.53	14.53	14.53
Restrict Misc. Special Revenue	-	-	-	-	-
Commerce Dept					
General Fund	-	.5	1.5	3.25	5.25
Corrections Dept					
General Fund	-	(2)	(3.8)	(4.5)	(5.1)
Education Department					
General Fund	-	.25	.2	.2	.2
Employment and Economic Dvlpmt					
General Fund	-	2.75	1.26	.5	.5
Health Dept					
General Fund	-	15	14.29	14.04	14.04
State Government Special Rev	-	-	(14.53)	(14.53)	(14.53)
Human Services Dept					
General Fund	-	14	14	14	14
Labor and Industry Dept					
General Fund	-	1	1	1	1
MN.IT Services					
Other Misc. Special Revenue	-	-	-	-	-
MN.IT Services	-	14	14	14	14
Natural Resources Dept					
General Fund	-	-	-	-	-
Office of Higher Education					
General Fund	-	.35	.35	.35	.35
Pollution Control Agency					
General Fund	-	4	3.5	.5	-
Public Safety Dept					
General Fund	-	9	9	9	9
Trunk Highway	-	10	10	10	10
Revenue Dept					
General Fund	-	25.03	29.59	29.76	28.89
Outdoor Heritage Fund	-	-	-	-	-
Arts and Cultural Heritage Fund	-	-	-	-	-
Clean Water Fund	-	-	-	-	-
Parks And Trails Fund	-	-	-	-	-
Supreme Court					
General Fund	-	2.5	2.5	-	-
Total	-	137.25	159.23	161.1	159.13

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

This fiscal note has been revised to correct for a typographical error in the MDE General Fund expenditures from FY22 - FY25. This correction did impact the overall Cost (Savings) table of the fiscal note. The Cannabis Management Board fiscal note was also revised for a typographical error in the Expenditure and/or Revenue table. This correction did not impact the

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overall Cost (Savings) table.

LBO Signature: Carlos Guereca **Date:** 5/5/2021 7:38:32 AM
Phone: 651-2846541 **Email:** carlos.guereca@lbo.leg.mn

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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2	Biennium			Biennium	
Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	-	-	-
Agriculture Dept					
General Fund	-	912	1,736	1,447	1,178
Agriculture Fund	-	39	1,025	784	412
Cannabis Expungement Board					
General Fund	-	921	844	844	844
Cannabis Management Board					
General Fund	-	8,167	8,515	12,826	25,699
State Government Special Rev	-	-	-	-	-
Restrict Misc. Special Revenue	-	-	-	-	-
Commerce Dept					
General Fund	-	63	230	452	626
Corrections Dept					
General Fund	-	(177)	(345)	(407)	(458)
Education Department					
General Fund	-	36	29	29	29
Employment and Economic Dvlpmt					
General Fund	-	6,229	5,002	58	58
Health Dept					
General Fund	-	9,949	8,454	8,298	8,353
State Government Special Rev	-	1,799	(1,962)	(1,962)	(1,962)
Human Services Dept					
General Fund	-	899	838	838	838
Labor and Industry Dept					
General Fund	-	121	121	121	121
MN.IT Services	-	-	-	-	-
Other Misc. Special Revenue	-	-	-	-	-
MN.IT Services	-	-	-	-	-
Natural Resources Dept					
General Fund	-	299	-	-	-
Office of Higher Education					
General Fund	-	500	500	500	500
Pollution Control Agency					
General Fund	-	518	495	64	-
Public Safety Dept					
General Fund	-	3,013	2,486	2,486	2,486
Trunk Highway	-	3,621	1,443	1,443	1,443
Revenue Dept					
General Fund	-	4,393	(10,107)	(60,387)	(92,691)
Outdoor Heritage Fund	-	-	(99)	(495)	(726)
Arts and Cultural Heritage Fund	-	-	(59)	(296)	(435)

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State Cost (Savings) = 1-2	Biennium			Biennium	
Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Clean Water Fund	-	-	(99)	(495)	(726)
Parks And Trails Fund	-	-	(43)	(214)	(313)
Supreme Court					
General Fund	-	545	545	-	-
Total	-	41,847	19,549	(34,066)	(54,724)
Biennial Total			61,396		(88,790)
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	11	278	184	151
Agriculture Dept					
General Fund	-	912	1,736	1,447	1,178
Agriculture Fund					
Expenditures	-	39	1,223	1,631	1,631
Absorbed Costs	-	-	(57)	(77)	(77)
Cannabis Expungement Board					
General Fund	-	921	844	844	844
Cannabis Management Board					
General Fund					
Expenditures	-	8,881	9,369	9,675	9,669
Transfers Out	-	-	-	4,260	17,004
State Government Special Rev	-	1,799	1,962	1,962	1,962
Restrict Misc. Special Revenue	-	-	-	4,260	17,004
Commerce Dept					
General Fund	-	63	230	452	626
Corrections Dept					
General Fund	-	(177)	(345)	(407)	(458)
Education Department					
General Fund	-	36	29	29	29
Employment and Economic Dvlpmt					
General Fund	-	6,229	5,002	58	58
Health Dept					
General Fund					
Expenditures	-	9,235	8,454	8,298	8,353
Transfers Out	-	714	-	-	-
State Government Special Rev					
Expenditures	-	-	(1,962)	(1,962)	(1,962)
Transfers Out	-	1,799	-	-	-
Human Services Dept					
General Fund	-	899	838	838	838
Labor and Industry Dept					
General Fund	-	121	121	121	121
MN.IT Services					
Other Misc. Special Revenue	-	4,601	3,498	3,498	3,498
MN.IT Services	-	193	237	237	237
Natural Resources Dept					
General Fund	-	299	-	-	-

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State Cost (Savings) = 1-2	Biennium			Biennium	
Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Office of Higher Education					
General Fund	-	500	500	500	500
Pollution Control Agency					
General Fund	-	518	495	64	-
Public Safety Dept					
General Fund	-	3,013	2,486	2,486	2,486
Trunk Highway	-	3,621	1,443	1,443	1,443
Revenue Dept					
General Fund	-	4,393	4,093	4,113	4,009
Outdoor Heritage Fund	-	-	-	-	-
Arts and Cultural Heritage Fund	-	-	-	-	-
Clean Water Fund	-	-	-	-	-
Parks And Trails Fund	-	-	-	-	-
Supreme Court					
General Fund	-	545	545	-	-
Total	-	49,165	41,019	43,954	69,144
Biennial Total			90,184		113,098
2 - Revenues, Transfers In*					
Administrative Hearings					
Administrative Hearings	-	11	278	184	151
Agriculture Dept					
General Fund	-	-	-	-	-
Agriculture Fund	-	-	141	770	1,142
Cannabis Expungement Board					
General Fund	-	-	-	-	-
Cannabis Management Board					
General Fund					
Revenues	-	-	854	1,109	974
Transfers In	-	714	-	-	-
State Government Special Rev					
Revenues	-	-	1,962	1,962	1,962
Transfers In	-	1,799	-	-	-
Restrict Misc. Special Revenue					
Revenues	-	-	-	-	-
Transfers In	-	-	-	4,260	17,004
Commerce Dept					
General Fund	-	-	-	-	-
Corrections Dept					
General Fund	-	-	-	-	-
Education Department					
General Fund	-	-	-	-	-
Employment and Economic Dvlpmt					
General Fund	-	-	-	-	-
Health Dept					
General Fund	-	-	-	-	-
State Government Special Rev	-	-	-	-	-

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State Cost (Savings) = 1-2	Biennium			Biennium	
Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Human Services Dept					
General Fund	-	-	-	-	-
Labor and Industry Dept					
General Fund	-	-	-	-	-
MN.IT Services	-	-	-	-	-
Other Misc. Special Revenue	-	4,601	3,498	3,498	3,498
MN.IT Services	-	193	237	237	237
Natural Resources Dept					
General Fund	-	-	-	-	-
Office of Higher Education					
General Fund	-	-	-	-	-
Pollution Control Agency					
General Fund	-	-	-	-	-
Public Safety Dept					
General Fund	-	-	-	-	-
Trunk Highway	-	-	-	-	-
Revenue Dept					
General Fund	-	-	14,200	64,500	96,700
Outdoor Heritage Fund	-	-	99	495	726
Arts and Cultural Heritage Fund	-	-	59	296	435
Clean Water Fund	-	-	99	495	726
Parks And Trails Fund	-	-	43	214	313
Supreme Court					
General Fund	-	-	-	-	-
Total	-	7,318	21,470	78,020	123,868
Biennial Total			28,788		201,888

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Fiscal Note

2021-2022 Legislative Session

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Chief Author: **Ryan Winkler**
 Committee: **Commerce Finance and Policy**
 Date Completed: **5/5/2021 7:38:32 AM**
 Agency: **Cannabis Management Board**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium	
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024
General Fund	-	8,167	8,515	12,826	25,699
State Government Special Rev	-	-	-	-	-
Restrict Misc. Special Revenue	-	-	-	-	-
Total	-	8,167	8,515	12,826	25,699
Biennial Total			16,682		38,525

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	16.34	32.6	38.72	38.72
State Government Special Rev	-	14.53	14.53	14.53	14.53
Restrict Misc. Special Revenue	-	-	-	-	-
Total	-	30.87	47.13	53.25	53.25

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

The Cannabis Management Board fiscal note was revised for a typographical error in the Expenditure and/or Revenue table. This correction did not impact the overall Cost (Savings) table.

LBO Signature: Carlos Guereca **Date:** 5/5/2021 7:36:48 AM
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State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	8,167	8,515	12,826	25,699	
State Government Special Rev	-	-	-	-	-	-
Restrict Misc. Special Revenue	-	-	-	-	-	-
Total	-	8,167	8,515	12,826	25,699	
	Biennial Total		16,682		38,525	
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund						
Expenditures	-	8,881	9,369	9,675	9,669	
Transfers Out	-	-	-	4,260	17,004	
State Government Special Rev	-	1,799	1,962	1,962	1,962	
Restrict Misc. Special Revenue	-	-	-	4,260	17,004	
Total	-	10,680	11,331	20,157	45,639	
	Biennial Total		22,011		65,796	
2 - Revenues, Transfers In*						
General Fund						
Revenues	-	-	854	1,109	974	
Transfers In	-	714	-	-	-	
State Government Special Rev						
Revenues	-	-	1,962	1,962	1,962	
Transfers In	-	1,799	-	-	-	
Restrict Misc. Special Revenue						
Revenues	-	-	-	-	-	
Transfers In	-	-	-	4,260	17,004	
Total	-	2,513	2,816	7,331	19,940	
	Biennial Total		5,329		27,271	

Bill Description

The fiscal note response for the Cannabis Management Board (CMB) is limited to provisions of the bill located in Article 1 and Article 7 in the sixth engrossment

Article 1 establishes the regulation of adult-use cannabis in Minnesota.

Section 1 includes definitions, but specifically establishes the Office of Medical Cannabis as a division within the CMB that operates the medical cannabis program. Article 7, Section 23, clause B transfers the authority of the Office of Medical Cannabis from the Minnesota Department of Health (MDH) to CMB.

Section 2 establishes that the CMB is responsible for making rules, establishing policy, and regulating medical and adult-use cannabis market. The CMB will meet monthly and appoint an executive director that serves at the pleasure of the board. There is a requirement in this section that establishes an office of social equity within the CMB. This office is responsible for administering grants, acting as an ombudsperson for the board, and will report to the board on the status of grants, complaints, and social equity in the cannabis industry.

Section 3 establish the Cannabis Advisory Council (CAC), which is chaired by the executive director of the CMB and has 29 statutory members.

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Section 4 requires the CMB to conduct and submit four reports: 1) a study to determine the expected size and growth of the regulated cannabis industry including an estimate of demand for cannabis; 2) a study to determine the size of the illicit cannabis market, the sources of illicit cannabis in the state, and the location of citations and arrests made for cannabis offenses; and 3) a study on impaired driving to determine the number of accidents involving drivers who admitted or tested positive for cannabis use. Preliminary reports are due by January 15, 2022. Final Reports are due by January 15, 2023. Furthermore, the board shall submit an annual report to the legislature by January 15, 2022 and each year thereafter that includes funding requirements for possible programming and various other general status of the cannabis industry in Minnesota. The board is also required to conduct a fourth study on the state's mental health and substance use disorder systems to understand the rates at which individuals access these systems. The report, due in FY26, will have off-table costs that are unable to be estimated at this time.

Section 5 requires that the board contract with an outside vendor for a statewide monitoring system for integrated cannabis tracking, inventory, and verification to track all cannabis products from seed to immature plant until disposal or sale to a patient or customer. MN.IT is required to consult with the CMB in entering into a managed services contract for the statewide monitoring system.

Section 6 establishes the CMB's authority to approve and not approve cannabis products subject to specific characteristics.

Section 7 requires the board to establish by rule the appropriate environmental standards (water, energy, and solid waste) for cannabis business.

Section 8 further regulates the personal adult use of cannabis, including possession and transportation of cannabis and cannabis products, as well as home cultivation standards. It further establishes penalties for violations of this section the board may levy on individuals.

Sections 9-11 establishes 10 licensure types issued by CMB and requires that the CMB may only charge an application fee authorized under section 342.15.

Section 12 maintains local control over the prohibition of possession, transportation, or use of cannabis authorize in article 1. CMB shall work with local units of government to develop model ordinances for cannabis business operations. Local units and CMB must partner to ensure compliance and establishment of new applicants in the local jurisdiction meet the CMB and local unit's standards.

Section 13-39 establishes the licensure requirements and authority granted to the CMB. Included in this authority is the ability to inspect premises and suspend or revoke licenses that violate the requirements of licensees established by the CMB. Requirements specific to the 10 licensure types established in sec. 9 are detailed here.

Section 40-44 impact the Office of Medical Cannabis, a division of CMB These sections outline the requirements for the patient registry program, distribution of medical cannabis, reporting requirements, qualifying medical conditions, and duties of health care practitioners and patients enrolled in the program.

Section 45 establishes a task force on medical cannabis therapeutic research, requiring the CMB to provide administrative and technical support. The task force is required to hold hearings to evaluate the impact of the use of medical cannabis and will submit a report every odd-numbered year with a complete impact assessment to the chairs and ranking minority members of legislative committees with jurisdiction over HHS, public safety, judiciary, and civil law. The task force does not expire.

Sections 46 and 47 provide limitations and protections for medical cannabis program participants. Section 48 imposes criminal penalties on health care practitioners for violations of this section. Section 49 and 50 include data practice requirements and clinical trial data requirements for grant recipients under this section respectively.

Section 51 requires and establishes testing requirements subject to procedures and standards established by the CMB as well as MDH. No laboratory testing authorized.

Section 52-54 regulate the packaging, labeling, and advertisement of cannabis businesses and products.

Section 55 defines social equity applicants.

Section 56 establishes the CanRenew grant program to award grants to eligible organizations for investments in

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communities where long-term residents are eligible to be social equity applicants.

Section 57 establishes a substance use disorder treatment and prevention grant account within the special revenue fund. The bill does not appropriate money for the account, but establishes what percent of the money should go to what specific grantees.

Section 58 creates the Substance Use Disorder Advisory Council to establish and implement a statewide substance use disorder prevention and treatment plan related to cannabis use. The appointed 17-member council shall report to the legislature on grant and funding recommendations annually by March 1st beginning March 1, 2024.

Section 59 establishes the lawful and unlawful activities of those working within the cannabis industry under the CMB.

Section 60 establishes the rights of civil actions which can be brought against a person legally within the cannabis industry for illegally selling cannabis or cannabis products to an underage individual. Establishes defense against civil actions, subrogation of denied claims, and common law tort claims against an individual who gives cannabis or cannabis products to an underage person.

Section 61 requires the Commissioner of Human Services to convene the Substance Use Disorder Advisory Council created in Section 57 by October 1, 2022.

Article 7 contains various miscellaneous provisions related to cannabis.

Sections 2 and 3 classify data submitted to the CMB and the Cannabis Expungement Board.

Section 4 requires the commissioner of education to identify model programs that can be used to educate middle school and high school students on the health effects of cannabis use.

Section 5 requires the commissioner of health to research cannabis use trends in the state and issue a public report by January 1, 2023 and every two years thereafter.

Section 6 requires the commissioner of health to conduct education programs for youth, pregnant and breastfeeding women, and home visiting programs.

Sections 7-20 provide limitations on cannabis testing of employees, testing requirements, and testing exceptions. These sections allow employers to create a cannabis policy, provides limitations on employee discharge or discipline for cannabis use, adds cannabis related language to collective bargaining.

Sections 21-23 creates cannabis related exceptions for drug convictions.

Section 24 defines cannabis use as a nuisance in certain circumstances.

Section 25 transfers Minnesota Statutes, sections 152.22-152.37, and the authority to adopt rules regarding medical cannabis from the commissioner of health to the CMB and the Office of Medical Cannabis.

Section 26 continues the task force on medical cannabis therapeutic research which was established under prior statute.

Section 27 repeals various rules and statutes.

Assumptions

License Assumptions

The CMB license assumptions are based on a comparison of the State of Oregon's marijuana license application statistics from a 2018-2019 legislative report. The estimate takes the US Census population for Oregon and Minnesota, then assumes the number of applications the CMB will receive is proportionately similar to that of the State of Oregon. Assuming an 18-month ramp up period with an August 1st, 2021 effective date for article 1, the CMB expects to begin issuing licenses in the beginning of CY23, halfway through FY23. Based on data reported by the State of Oregon, it is assumed that CMB will manage a base level of approximately 2700 total licenses/year beginning in FY26.

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	FY22	FY23	FY24	FY25
Total Active Licenses	0	300	1620	2400

Assuming per the bill that the CMB is authorized to charge a one-time application fee not to exceed \$250, the CMB could assume revenue spread during the ramp up period of at least \$675,000. This is based on an understanding of the total projected base active licenses of 2700 multiplied by \$250. Based on the assumed number of active licenses above, this revenue will be spread across FY23 through FY26 in the following way:

	FY22	FY23	FY24	FY25	FY26
Application Revenue	0	75,000	330,000	195,000	75,000

This revenue may be undercounted as the CMB makes no assumptions as to how many applications will be denied but still pay the \$250 application fee. It is assumed that this fee would be deposited into the general fund.

Technical comments: while applying a 1.2 inflator to account for differences in population, the State of Oregon only tracks and reports on 6 known license types: laboratory, processor, producer, retailer, wholesaler, and researcher. The CMB would be responsible for licensing the following additional types: transporter, microbusiness, event organizer, delivery service, and medical. This bill does not address nor give the CMB the authority to certify and inspect laboratories. Since there is no authority to certify laboratories, the CMB assumes that MDH will undertake that function. There are unknown costs associated with this process.

Inspection and Enforcement Assumptions

Based on the Department of Agriculture's experience inspecting hemp production, it is assumed that 8-10 FTE inspectors would be needed to inspect 500 production-type licenses/year. Assuming a base level of approximately 1000 production-type licenses/year based on similar licensure types regulated by the State of Oregon, the CMB will employ 20 FTE inspectors to manage the enforcement of licensure requirements for the production-type licenses. Based on the Department of Public Safety's experience inspecting retail liquor store locations, it is assumed that 2.5 FTE inspectors will be needed to inspect 1250 retail-type licenses/year. For the remaining licensure types, the CMB assumes that 2 FTE will be needed to inspect the remaining projected licenses: transporter, microbusiness, event organizer, delivery service, and medical.

MNIT Assumptions

Assumes the acquisition of a vendor provided *Seed to Sale* statewide monitoring and licensing/credentialing system. The estimate assumes that it is "legal" for the vendor to operate a system where they collect revenue based on transaction fees.

Further assumes changes to the current registry system for medical cannabis to meet requirements of HF600. Assumes an interagency agreement with MNIT and MDH to maintain current level of service. Current medical registry system is planning to be replaced and it is assumed that the assets transferred to CMB from MDH would cover this upgrade.

Assumes the development and hosting of web design and content management for the CMB operations. Also assumes a 5 agent call center to manage customer service of the seed to sale and medical cannabis registry systems.

Ongoing IT support is needed to manage the day-to-day operations of the board. Staffing plan reflects on-boarding state employees in PM and BA roles for the two major initiative projects (Seed to Sale, Licensing and Credentialing) followed by a transition to operational status, anticipating high demand for reporting, plus a need for general system consolidation planning and execution in the out years. The MN.IT fiscal reflects the MN.IT staff complement of 14 FTE. The CMB note reflects the CMB budgets burden to employ this staff at their agency.

Operations Staffing Assumptions

The main staffing assumptions of the board are based on the composition of other health licensing boards. The board will need to employ 1 executive director, 1 attorney, 24.5 FTE Inspectors, 1 FTE Administrator to manage the work of the board and reporting requirements, 4 HR/Accounting Staff, 4 Communications staff, and 1 FTE Grant Administrator for the

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management of CanRenew. It is assumed that 25% of the FTE inspectors will start in FY22, 75% in FY23, and 100% will be on-boarded by FY2024. It is also assumed that half of the HR/Accounting and Communications staff will be hired in FY22 and the full complement will be hired by FY23.

The bill also creates two divisions within the CMB: Office of Medical Cannabis (OMC) and Office of Social Equity (OSE). The OMC is transferred directly to the CMB from MDH and will maintain its current level of staffing and funding. The OSE will require 2 FTE state program administrator to fulfill its responsibilities as outlined in the bill description.

Effective Aug 1, 2021, MDH's Office of Medical Cannabis will be a division of the CMB. This involves a transfer of 14.75 FTE and a base level of funding of \$2,742,000 annually. Of this funding, \$779,000 is from the general fund and \$1,962,000 is from the State Government Special Revenue Fund.

The bill directs the CMB to create a new grant program. The bill does not appropriate any money for the grant program so there is no way to estimate how much it would cost to administer the program. Assuming the CMB operates the CanGrow Grants similar to the MDA's AGRI grant program, CMB would need no less than 6.5% of the amount available for the grants for administration. For example, a \$1 million grant fund would require \$65,000 to administer. This amount is not included on the fiscal note table since there is no appropriation amount. The CMB assume that there will be 1 FTE dedicated to manage the grant funding.

The language includes a provision that would give the CMB the power to petition the district court in a county wherein a violation occurs requiring the detention and embargo of the product until the relevant parties have complied with the rules adopted in the chapter and the embargo is released. It is assumed that the Attorney General's Office will supply legal services to the CMB to meet this requirement.

Furthermore, the language provides the CMB board the ability to enter into an agreement with MDA to analyze and examine samples found to be potential violations in this chapter. There is an unknown cost at this time due to the inability to project meaningfully the amount of violations the CMB will refer to MDA for analysis.

Substance Use Disorder Treatment and Prevention Grant Account:

\$4M is transferred from the general fund in FY24 and \$16M is transferred in FY25 to the substance use disorder treatment and prevention grant account. Using the CanGrow Grant administrative cost projection (6.5%), it is assumed that there will be a \$260,000 administrative costs attributable to the grant program in FY24 and \$1.04M in FY25.

Rulemaking/OAH Assumptions

Based on OAH assumptions, the CMB will engage in expedited rulemaking (small), dispensing practice rulemaking (large), and cannabis handler rulemaking (medium) efforts. In addition, the CMB will receive approximately 36 appeals per year for license holder revocation proceedings and approximately 4 may go to hearing requiring Administrative Law Judge time.

Board Meeting Assumptions

Assume that the CMB will meet biweekly for the first 18 months (ramp up period) and then monthly ongoing/as needed. 9 members will be eligible for the \$55/day compensation.

Advisory Council Meeting Assumptions

Assume that the Advisory council will meet monthly; 21 of the 29 non executive branch members will be eligible for the \$55/day compensation.

Expenditure and/or Revenue Formula

Board MNIT Costs (000)	FY22	FY23	FY24	FY25	Total FTE
Seed to Sale	1380	542	542	542	
Cannabis Licensing and Credentialing	1988	784	784	784	
OMC Legacy System Upgrades	340	275	275	275	
Web Services	270	190	190	190	

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Call Center Services	470	460	460	460	5
IT Staff Support	153	1247	1247	1247	9
*Staff FTE cost absorbed in projected work above					
Total Board IT Costs	4601	3498	3498	3498	
Board Ops Salary & Fringe (000)	FY22	FY23	FY24	FY25	Total FTE
Executive Director	165	165	165	165	1
Attorney	136	136	136	136	1
HR/Accounting Staff/Contract	176	352	352	352	4
Comms Staff	164	328	328	328	4
Inspectors	570	1710	2280	2280	24.5
Board Administrator	125	125	125	125	1
Grant Administrator	91	91	91	91	1
OMC GF Total	715	780	780	780	14.75
OSE Total	218	218	218	218	2
Total Operations Staffing	2360	3905	4475	4475	
Board Ops Non-Salary Costs (000)	FY22	FY23	FY24	FY25	-
Lease	881	1000	1000	1000	
Workstation Build Out	480				
Communications (cell phone)	11	25	26	26	
Equipment Start Up	50				
One Time IT Set Up Costs	68	16	6	0	
Travel		110	147	147	
Ongoing IT Costs (desktop support - PC/phone; network costs)	194	250.94	272.4	272.4	
Ongoing Supply/Maintenance Costs	80	80	80	80	
Total Non Operations Costs	1763	1482	1532	1526	-
Board Rulemaking/Hearings/OAH Costs (000)	FY22	FY23	FY24	FY25	
Art 1, sec 2, subd. 8 (large)	133				
Art 1, sec 42, subd. 2 (large)		310			
Art 1, sec 16, subd 2b hearings (ongoing)		151	151	151	
Total Board Rulemaking/Hearings/OAH Costs	133	461	151	151	-
CMB Meetings Costs (000)	FY22	FY23	FY24	FY25	-
Total CMB Meetings Costs	10	9	5	5	-
Advisory Council Meetings Costs (000)	FY22	FY23	FY24	FY25	-
Total Advisory Council Meetings Costs	14	14	14	14	-
TOTAL CMB GF COSTS	8881	9369	9675	9669	
OMC GF Revenue	714	780	780	780	
OMC SGSR Expenditures	1799	1962	1962	1962	
OMC SGSR Revenue	1799	1962	1962	1962	
License Revenue	0	75	330	195	
Net CMB Costs	8167	8514	8565	8694	
General Fund FTE	30.34	46.60	52.72	52.72	
SGSR FTE	14.53	14.53	14.53	14.53	
Total FTE	44.87	61.125	67.25	67.25	

Substance Use Disorder Grant Administration			
	FY24	FY25	

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Transfer Out (GF)	4,000	16,000	
Transfer In (SR)	4,000	16,000	
Administration Costs	260	1,004	
Total	4,260	17,004	

Long-Term Fiscal Considerations

This fiscal note assumes significant events occurring off the fiscal note table. Assuming an 18-month ramp up period, the ongoing sustained licensure activity of 2700 licenses active licenses/year will not occur until FY26.

The report on the state's mental health and substance use disorder systems is due in FY26 and will have unknown off-table costs occurring in FY26 to meet the minimum requirements of HF600.

Local Fiscal Impact

References/Sources

Department of Administration Fiscal Note Addendum

Department of Agriculture Fiscal Note Staff

State of Oregon Cannabis Legislative Reports

MDH CBTO, MN.IT

Agency Contact: Joe Harney

Agency Fiscal Note Coordinator Signature: Joe Harney

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Fiscal Note

2021-2022 Legislative Session

HF600 - 6E - Legalize Cannabis

Chief Author: **Ryan Winkler**
 Committee: **Commerce Finance and Policy**
 Date Completed: **5/5/2021 7:38:32 AM**
 Agency: **Administration Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Joe Harney **Date:** 5/4/2021 4:27:44 PM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2 Dollars in Thousands	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-
Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Total	-	-	-	-	-
Biennial Total			-		-
2 - Revenues, Transfers In*					
Total	-	-	-	-	-
Biennial Total			-		-

Bill Description

Article 6, section 5 of the bill established the Cannabis Expungement Board that is comprised of the chief justice of the supreme court or their designee, the attorney general or their designee, one public defender, the commissioner of one state agency, and one public member with experience as an advocate for victim's rights.

The board is established with the following powers and duties:

1. Obtain and review records related to conviction of possession of a controlled substance.
2. Determine whether a person committed an act involving cannabis which would be of a lesser offense or no longer a crime after August 1, 2021.
3. Determine whether a person's records should be expunged or if the person should be resentenced to a lesser offense.
4. Notify the judicial branch of the individual's eligibility for expungement or resentencing.

The Bureau of Criminal Apprehension is required to identify convictions and sentences that qualify for review by the Cannabis Expungement Board.

The Cannabis Expungement Board has free access to records and may issue subpoenas if necessary.

The board is required to meet monthly and whenever it takes formal action on a review of conviction or stay of adjudication. All meetings are open to the public under chapter 13D.

Crime victims and law enforcement agencies may submit oral or written statements providing recommendation on whether or not a conviction should be expunged or resentenced to a lesser offense.

The board must follow appropriate protocols for the treatment of not public data and assign an anonymous, unique identifier to each victim of a crime and person whose conviction or stay of adjudication it reviews.

In making determinations the board must consider the nature and severity of the crime, the total amount of marijuana or tetrahydrocannabinols possessed, whether it involved a dangerous weapon, the infliction of bodily harm, the intent to cause fear in another, if expungement or lesser offense increases the risk or dangers to persons or society, aggravating or mitigating factors, statements from victims and law enforcement, whether or not firearm rights should be reinstated if expungement or reduction in sentence is granted, implications for background studies/checks, and other factors deemed relevant by the board.

The board must provide notification and specific information to the judicial branch of any conviction or stay of adjudication that qualifies for an order of expungement or resentencing. They must also make a reasonable and good faith effort to notify the individual. The judicial branch must issue orders as specified.

A technical note on the bill: The ability to identify cases or persons eligible for review may exist in separate systems and/or

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may not be accessible to any of the entities responsible for identifying those eligible. BCA may have some of the data, the courts may have other data, and the Cannabis Expungement Board (CEB) may need to develop methodologies with BCA and/or the courts to identify eligible cases/persons. There also may be information needed that is only maintained by local government, including county attorney's offices.

Assumptions

1. It is assumed that the Cannabis Expungement Board is required to review the cases indicated in Article 5, Section 6.
2. The bill does not specify how the Cannabis Expungement Board is staffed or the nature under which administrative support is provided to the board. This fiscal note is provided to demonstrate an estimated level of staffing and operational costs that would be necessary to support the work of the Cannabis Expungement Board.
3. Information from the judicial branch indicates that it is not possible to estimate the number of convictions and stays of adjudication that will qualify for consideration of expungement or resentencing by the Cannabis Expungement Board which makes it difficult to estimate the level of staffing that the board will need. There also is not a defined timeline within the bill by which all convictions and stays of adjudication must be reviewed.
4. The bill requires the board to meet a minimum of once monthly to review convictions and stays of adjudication. It is assumed the first meeting will occur in August 2021.
5. It is estimated that the Cannabis Expungement Board will need a minimum of eight staff initially to collect information on convictions and stays of adjudication that involved a controlled substance, research and prepare information for consideration by the board, arrange for victim and law enforcement recommendations to the board, ensure the protection of private data, submit board decisions to the judicial branch, and advise individuals of board decisions. The eight FTE is assuming a minimum of 109,356 cases to review. It should be noted that the Department of Public Safety (DPS) was only able to identify 109,356 cases and that there are likely more cases that need to be identified. Please refer to DPS's fiscal note for more information.
6. The staff will be comprised of one manager at a level 18M within the managerial plan, six state program administrator principles at a level 14L in the MAPE plan and one legal secretary at a 67L in the AFSME plan. Salary is at the midpoint for each position with benefits estimated at 30 percent.
7. The manager will be responsible for overall management of the staff and work associated with the CEB. The state program administrator principle staff will need to perform legal work reviewing data and providing recommendations to the CEB at monthly meetings, and the legal secretary will be responsible for logistics associated with the monthly CEB meetings and the tracking and transmission of data. Because there is no current way to identify the number of case or individuals who will be eligible for review, it is difficult to determine whether or not this level of staffing is sufficient.
8. Leased space, equipment, office build out, supplies, accounting and human resources services will be necessary to support the overall operations of the board staff.
9. The board will meet monthly, within the Capitol complex, to review all prior convictions and stays of adjudication. The meetings will begin in August 2021 and continue until all prior convictions or stays of adjudication have been reviewed.
10. There will be a point at which all reviews will have occurred and the board no longer needs to meet at a monthly frequency and the staffing levels may no longer be necessary. For the purpose of this fiscal note, it is assumed that the level of cases is such that the board would need to continue to meet on a monthly basis beyond FY25, which is the last year carried in the fiscal note table. Given the unknown total cases to be reviewed, and the uncertainty of average time it takes to review a case, it is unknown how long the CEB will need to meet.
11. The board consists of two public members who may be eligible for expense reimbursement. Expense reimbursement is estimated to be \$85 round trip mileage (152 round trip mile average), \$36 meal reimbursement and \$150 in hotel costs for the two members per meeting.
12. The chief justice, attorney general, and agency commissioner would have expenses covered by their agencies.
13. The board will need to purchase a case tracking software program to document decisions, protect private data, and manage unique identifier requirements. It is assumed this will be an off-the-shelf product with human resources like security provisions. It is assumed each of the five CEB staff people will need an annual license for the software.

Expenditure and/or Revenue Formula

	FTE	FY22	FY23	FY24	FY25
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Manager 18M Managerial Plan	1	\$129	\$129	\$129	\$129
State Program Administrator Principle 14L MAPE	1	\$92	\$92	\$92	\$92
State Program Administrator Principle 14L MAPE	1	\$92	\$92	\$92	\$92
State Program Administrator Principle 14L MAPE	1	\$92	\$92	\$92	\$92
State Program Administrator Principle 14L MAPE	1	\$92	\$92	\$92	\$92
State Program Administrator Principle 14L MAPE	1	\$92	\$92	\$92	\$92
State Program Administrator Principle 14L MAPE	1	\$92	\$92	\$92	\$92
Legal Secretary 67L AFSME	1	\$68	\$68	\$68	\$68
Office Space/Lease		\$55	\$55	\$55	\$55
Office Build Out		\$38			
Equipment		\$26	\$1	\$1	\$1
Supplies		\$15	\$1	\$1	\$1
Account/Human Resources Services		\$2	\$2	\$2	\$2
Case Tracking System		\$30	\$30	\$30	\$30
Public Member Expense Reimbursement		\$6	\$6	\$6	\$6
Total	8	\$921	\$844	\$844	\$844

Long-Term Fiscal Considerations

As stated in the assumptions, the work of the board is not able to be fully estimated without additional information on the number of convictions or stays of adjudication that would need to be reviewed. It is unknown whether or not the costs estimated would be ongoing or how they might change once the number of convictions and stays of adjudication are known.

Local Fiscal Impact

Determining the eligibility for expungement may require accessing case files maintained by county attorney’s offices. This may require the county attorney’s office to identify records and/or cases eligible for expungement and then provide those files to the Cannabis Expungement Board. The number of cases is unknown and therefore the local impact cannot be determined.

References/Sources

- Supreme Court Fiscal Note
- DPS, BCA Fiscal Note
- Michelle Weber, Legislative Coordinating Commission
- Christian Larson, Legislative Budget Office
- Maren Bardal, Legislative Budget Office

Agency Contact:

Revised

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Fiscal Note

2021-2022 Legislative Session

HF600 - 6E - Legalize Cannabis

Chief Author: **Ryan Winkler**
 Committee: **Commerce Finance and Policy**
 Date Completed: **5/5/2021 7:38:32 AM**
 Agency: **Administrative Hearings**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		
		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Administrative Hearings	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Administrative Hearings	-	-	-	-	-
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Joe Harney **Date:** 5/3/2021 8:54:51 AM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
Administrative Hearings	-	-	-	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Administrative Hearings	-	11	278	184	151	
Total		-	11	278	184	151
Biennial Total				289		335
2 - Revenues, Transfers In*						
Administrative Hearings	-	11	278	184	151	
Total		-	11	278	184	151
Biennial Total				289		335

Bill Description

HF600-3E is legislation intended to be codified as new chapter 342 to establish the Cannabis Management Board (Board) and advisory councils to oversee regulation of adult-use cannabis and cannabis products. It allows the Board oversight to suspend or revoke a cannabis business's license.

The legislation also authorizes the Board, the Department of Agriculture (MDA), and the Department of Health (MDH) to conduct rulemaking to implement the provisions of:

- 342.02, Art. 1, Sec. 2, Cannabis Management Board (Board)
- 342.60, Art. 1, Sec. 51, Subd. 3 Standards Established by Commissioner of Health (MDH)
- 342.50-.59, Art. 1, Sec. 42, Subd. 8, Rulemaking (Board)
- 28A.30, Art. 3, Sec. 1, Subd. 5, Rulemaking Authorized (MDA)
- Art. 3, Sec. 3, Rulemaking; Department of Agriculture (MDA)

Assumptions

Based on similar referrals from other state agencies, the Office of Administrative Hearings (OAH) estimates the Board will refer 36 appeals to OAH under Art. 1, under Sec. 16, License Suspension or Revocation; Hearing. Of the 36 appeals OAH estimates that 4 appeals will result in hearings per year. OAH assumes that each of the 4 hearings will require an estimated 88 hours of administrative law judge (ALJ) time at the currently approved billable rate of \$215 per hour (see Minn. Stat. § 16A.126, subd. 1 (2020)). The remaining 32 matters appealed to OAH, but that are resolved before hearing average 11 hours of ALJ time.

Based on rulemakings in programs among other state agencies which are similar in size and scope, OAH assumes a program of this size will require a medium expedited rulemaking at \$133,376 in FY2022 to implement the requirements of Art. 1, Sec. 2, establishing the Board. Based on past practices, OAH assumes that a medium rulemaking under chapter 14 will require an estimated 50 hours of ALJ time for activity related to rulemaking procedures. Of the estimated rulemaking amount of \$133,376, \$10,750 is for the estimated 50 hours of ALJ time for a medium-size expedited rulemaking.

Based on rulemakings in programs among other state agencies which are similar in size and scope, OAH assumes a program of this size will require a medium expedited rulemaking at \$133,376 in FY2023 to implement the requirements of Art. 1, Sec. 51, establishing standards for allowable contaminants in cannabis and cannabis products. Based on past practices, OAH assumes that a medium rulemaking under chapter 14 will require an estimated 50 hours of ALJ time for activity related to rulemaking procedures. Of the estimated rulemaking amount of \$133,376, \$10,750 is for the estimated 50 hours of ALJ time for a medium-size expedited rulemaking.

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Based on rulemakings in similar size programs among other state agencies, OAH assumes a large rulemaking will be required to implement the provisions of sections 342.50 to 342.59 at \$310,248 in FY2023. Based on past practices, OAH assumes that a large rulemaking under chapter 14 will require an estimated 135 hours of ALJ time for activity related to rulemaking procedures. Of the estimated rulemaking amount of \$310,248, \$29,025 is for the estimated 135 hours of ALJ time for a large rulemaking.

MDA assumes that each of the four required rulemaking activities identified in Article 3, Food Safety, will require three large rulemakings and one larger than average rulemaking for purposes of this fiscal note. Based on past practices, OAH assumes that a large rulemaking under chapter 14 will require an estimated 135 hours of ALJ time for activity related to rulemaking procedures. OAH has used MDA's estimate to conclude that a larger than average rulemaking is estimated to require 153 hours of ALJ time.

OAH currently bills ALJ time for activities related to rulemaking at the MMB-approved billable rate of \$215 per hour (see Minn. Stat. § 16A.126, subd. 1 (2020)).

Expenditure and/or Revenue Formula

Billed to the Cannabis Management Board for the requirements related to implementing:

342.18, Art. 1, Sec. 16, License Suspension or Revocation; Hearing FY2023 and continuing

Estimated 88 hours of ALJ time at \$215/hr = \$18,920

Estimated 4 appeals referred to OAH go to hearing x \$18,920 = \$75,680

Appeals resolved without hearing Estimated 11 hours of ALJ time at \$215/hr = \$2,365

Estimated 32 appeals referred to OAH and resolved without hearing x \$2,365 = \$75,680

Averaged yearly estimate - \$75,680 + \$75,680 = \$151,360

342.02, Art. 1, Sec. 2, Cannabis Management Board FY2022

Estimated 50 hours of ALJ time @ \$215/hr = \$10,750

342.50-.59, Art. 1, Sec. 42, Subd. 8, Rulemaking FY2023

Estimated 135 hours of ALJ time @ \$215/hr = \$29,025

Cannabis Management Board - TOTAL EXPENDITURES:

FY2022 one-time expedited rulemaking - \$10,750

FY2023 Total Expenditures (license appeal referrals and one-time rulemaking) - \$151,360 + \$29,025 = \$180,385

Subsequent years - Total Expenditures - \$151,360

Billed to the Department of Health for the requirements related to implementing:

342.60, Art. 1, Sec. 51, Subd. 3, Standards established by commissioner of health, expedited rulemaking FY2023

Estimated 50 hours of ALJ time @ \$215/hr = \$10,750

Billed to the Department of Agriculture for the requirements related to implementing:

28A.30, Art. 3, Sec. 1, Edible Cannabis Product Handler Endorsement, Subd. 5, Rulemaking Authorized FY2023

Estimated 135 hours of ALJ time @ \$215/hr = \$29,025

Art. 3, Sec. 3, Rulemaking; Department of Agriculture

(1) Pesticide & Fertilizer Management Division

Estimated 153 hours of ALJ time @ \$215/hr = \$32,895 in FY2024

(2) Plant Protection Division

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Estimated 135 hours of ALJ time @ \$215/hr = \$29,025 in FY2023

(3) Food Feed Safety Division

Estimated 135 hours of ALJ time @ \$215/hr = \$29,025 in FY2023

Department of Agriculture TOTAL Expenditures:

FY2023 rulemaking activities - \$87,075

FY2024 rulemaking activities - \$32,895

Long-Term Fiscal Considerations

Hearing costs would continue into future years. Costs associated with the rulemaking activities are a one-time occurrence.

Local Fiscal Impact

References/Sources

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Fiscal Note

2021-2022 Legislative Session

HF600 - 6E - Legalize Cannabis

Chief Author: **Ryan Winkler**
 Committee: **Commerce Finance and Policy**
 Date Completed: **5/5/2021 7:38:32 AM**
 Agency: **Agriculture Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium	
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024
General Fund	-	912	1,736	1,447	1,178
Agriculture Fund	-	39	1,025	784	412
Total	-	951	2,761	2,231	1,590
Biennial Total			3,712		3,821

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	2	12.4	10.5	8.5
Agriculture Fund	-	-	8.84	11.78	11.78
Total	-	2	21.24	22.28	20.28

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Jim Carlson **Date:** 5/3/2021 11:07:53 AM
Phone: 651-284-6540 **Email:** jim.carlson@lbo.leg.mn

Revised

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2 Dollars in Thousands	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	912	1,736	1,447	1,178
Agriculture Fund	-	39	1,025	784	412
Total	-	951	2,761	2,231	1,590
Biennial Total			3,712		3,821
1 - Expenditures, Absorbed Costs*, Transfers Out*					
General Fund	-	912	1,736	1,447	1,178
Agriculture Fund					
Expenditures	-	39	1,223	1,631	1,631
Absorbed Costs	-	-	(57)	(77)	(77)
Total	-	951	2,902	3,001	2,732
Biennial Total			3,853		5,733
2 - Revenues, Transfers In*					
General Fund	-	-	-	-	-
Agriculture Fund	-	-	141	770	1,142
Total	-	-	141	770	1,142
Biennial Total			141		1,912

Bill Description

This bill relates to the regulation of cultivation, testing, advertising, sale, distribution, medical utilization, consumption and possession of cannabis and cannabis products in Minnesota.

Assumptions

Article 1, Section 15, Subdivision 2 (f) - Inspection, License Violations, Penalties

The board may enter into an agreement with the commissioner of agriculture to analyze and examine samples or other articles furnished by the board for the purpose of determining whether the sample or article violates this chapter or rules adopted under this chapter. This amendment may have the potential for significant fiscal impact for the Agriculture Laboratory depending on the scope of any future agreements. These impacts would be in the areas of staffing, supplies and equipment. Additionally, there would likely be construction costs for building modifications needed to accommodate the new work.

Article 3, Section 1, Subdivision 1-4, Food Safety - Edible Cannabis Product Handlers Endorsement Program

Creates an endorsement program for edible cannabis product handlers similar to food handlers regulated by chapters 28A, 31 and 34A.

This bill requires endorsements for all edible cannabis products handlers and does not specify a Cannabis Board license type(s) per proposed language in MS 28A.30 Subd. 2: "No person can manufacture, process, sell, handle, or store an edible cannabis product without a valid endorsement issued by the commissioner."

With the passage of this bill, an Edible Cannabis Product Handler Endorsement program will be required. It is assumed the program will have the following:

- "Endorsement" administration similar to licensing/registration

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- Retail inspections to verify compliance with regulations
- Manufacturing and wholesaling inspection to verify compliance with regulations
- Incident and outbreak investigation services
- Enforcement functions to comply with retail and manufactured food regulations

It is assumed retail Edible Cannabis Product Handlers will be classified as low risk facilities with only packaged food sales. It is assumed these facilities will be added to the existing Retail Food Program inventory and inspected at the same frequency as traditionally licensed low risk food handlers. Inspection and enforcement activities at Edible Cannabis Product Handler facilities would be an added, on-going cost to the agency. Retail facility plan review and licensing activities are approximately 4 hours per facility and routine low risk inspection activities are approximately 2.5 hours per facility. The number of potential retail Edible Cannabis Product Handlers is estimated to be 1,427. This is based on the number of retail facilities under Oregon's cannabis program as a percentage of their population. This percentage was then applied to the population of Minnesota. 2.85 FTE (Ag Specialist/Ag Advisor) would be required for 1,427 retail facilities.

It is assumed manufacturing and wholesaling Edible Cannabis Product Handlers will have similar types of food safety risk classifications as traditional food handlers (low, medium and high) and will be inspected at the same frequency. It is assumed these facilities will be added to the existing Manufactured Food Program inventory and inspected at the same frequency as traditional manufacture food producers and wholesalers. Inspection and enforcement activities at Edible Cannabis Product Handler facilities would be an added, on-going cost to the agency. Initial facility review and licensing activities are approximately 5.5 hours per facility and routine inspection activities are approximately 5.5 hours per facility, which varies based on risk level. The number of potential manufacturing and wholesaling Edible Cannabis Product Handlers is estimated to be 1,158. This is based on the number of processor and wholesaler facilities under Oregon's cannabis program as a percentage of their population. This percentage was then applied to the population of Minnesota. 6.62 FTE (Ag Specialist/Ag Advisor) would be required for 1,158 manufacturing and wholesaling facilities.

It is assumed the "endorsement" administration will be similar to the traditional food licensing administration system and be completed by the same professional staff. The number of "endorsements" is estimated to be 2,585. The on-going annual costs to would be approximately \$12 per application (@15 minutes combined handling, \$48 per hour salary/fringe rate).

Revenue is based on an estimated number of facilities in a comparable cannabis program in Oregon. These facility numbers were then multiplied by percentages of licenses that fall under the current fee structure for our Retail, Wholesale and Manufacturing licenses. Revenue is estimated at \$1,283,086 per year.

One-Time Edible Cannabis Product Handler Endorsement Administration System Creation costs - \$38,598

Application and renewal form creation (PASU, Graphics, Communications)

Professional staff time at 50 hours X \$48 per hour (salary and fringe) = \$2,400.00

Supervisory staff time at 8 hours X \$62 per hour (salary and fringe) = \$496.00

Managerial staff time at 4 hours X \$72 per hour (salary and fringe) = \$288.00

Endorsement layout and format (PASU, Graphics, MN.IT)

Professional staff time at 24 hours X \$48 per hour (salary and fringe) = \$1,152.00

Supervisory staff time at 4 hours X \$62 per hour (salary and fringe) = \$248.00

Managerial staff time at 2 hours X \$72 per hour (salary and fringe) = \$144.00

Licensing Information System enhancement (LIS) (MN.IT, PASU testing)

Upload reports to LIS (Endorsement, application, and renewal)

MN.IT developer staff time at 36 hours X \$70 per hour (salary and fringe) = \$2,520

MN.IT supervisory staff time at 4 hours X \$80 per hour (salary and fringe) = \$320.00

Professional staff time at 4 hours X \$48 per hour (salary and fringe) = \$192.00

Excel report creation (LIS)

MN.IT developer staff time at 100 hours X \$70 per hour (salary and fringe) = \$7,000

MN.IT supervisory staff time at 5 hours X \$80 per hour (salary and fringe) = \$400.00

Professional staff time at 4 hours X \$48 per hour (salary and fringe) = \$192.00

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MDA Website enhancement (RO, PASU)

Professional staff time at 50 hours X \$48 per hour (salary and fringe) = \$2,400.00

Supervisory staff time at 5 hours X \$62 per hour (salary and fringe) = \$310.00

Managerial staff time at 2 hours X \$72 per hour (salary and fringe) = \$144.00

eRenewal enhancement (MN.IT, PASU testing)

Adding renewal for the new Endorsement to eRenewal (MN.IT)

MN.IT developer staff time at 24 hours X \$70 per hour (salary and fringe) = \$1,680

MN.IT supervisory staff time at 5 hours X \$80 per hour (salary and fringe) = \$400.00

Professional staff time at 4 hours X \$48 per hour (salary and fringe) = \$192.00

*Adding application for the new Endorsement to eRenewal

MN.IT developer staff time at 24 hours X \$70 per hour (salary and fringe) = \$1,680

MN.IT supervisory staff time at 5 hours X \$80 per hour (salary and fringe) = \$400.00

Professional staff time at 4 hours X \$48 per hour (salary and fringe) = \$192.00

Endorsement administrative process development and training (Policy, SOP, WI) (PASU)

Professional staff time at 100 hours X \$48 per hour (salary and fringe) = \$4,800.00

Supervisory staff time at 40 hours X \$62 per hour (salary and fringe) = \$2,480.00

Managerial staff time at 4 hours X \$72 per hour (salary and fringe) = \$288.00

Enhance LIS to USAFS data sync to include new Endorsement type (Precise, MN.IT, BQM testing)

Precise vendor support 10 hours X \$128.13 = \$1,281.30

Professional staff time at 10 hours X \$48 per hour (salary and fringe) = \$480.00

Supervisory staff time at 2 hours X \$62 per hour (salary and fringe) = \$124.00

MN.IT developer staff time at 10 hours X \$70 per hour (salary and fringe) = \$700.00

MN.IT supervisory staff time at 4 hours X \$80 per hour (salary and fringe) = \$320.00

Indirect Costs \$5,375

On-going Annual Edible Cannabis Product Handler Endorsement Administration Costs - \$37,962

15 minutes per application X 2,585 applications annually = 646 hours per year

Professional staff time at 646 hours per year X \$48 per hour = \$31,008 (.31 FTE)

.31 FTE X \$2,356 annual other cost (copier, office supplies, space) = \$730

.31 FTE X \$3,022 annual MNIT cost = \$937

Indirect Costs \$5,287

On-going Annual Edible Cannabis Product Handler Inspection - \$1,516,364

Retail facility plan review, licensing, low risk inspection, and enforcement activities

1 FTE per 500 retail facilities

1,427 retail facilities require 2.85 FTE

2.85 FTE X \$100,000 (salary and fringe) = \$285,000

2.85 FTE X \$5,544 annual travel cost = \$15,800

2.85 FTE X \$2,356 annual other cost (copier, office supplies, space) = \$6,713

2.85 FTE X \$3,022 annual MNIT cost = \$8,612

Manufacturing and wholesale licensing, risk-based inspection, and enforcement activities

1 FTE per 175 manufacturing and wholesaling facilities

1158 estimated manufacturing and wholesaling facilities requires 6.62 FTE

6.62 FTE X \$100,000 (salary and fringe) = \$662,000

6.62 FTE X \$5,544 annual travel cost = \$36,701

6.62 FTE X \$2,356 annual other cost (copier, office supplies, space) = \$15,597

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6.62 FTE X \$3,022 annual MNIT cost = \$20,006

Supervisory oversight for inspection staff

1 FTE per 5 inspection staff

9.47 FTE requires 2 Supervisory staff

2 FTE X \$120,000 (salary and fringe) = \$240,000

2 FTE X \$2,000 annual travel cost = \$4,000

2 FTE X \$2,356 annual other cost (copier, office supplies, space) = \$4,712

2 FTE X \$3,022 annual MNIT cost = \$6,044

Indirect Costs \$211,179

General Management and Quality Control staffing costs of \$76,500. These costs are absorbed through the Ag Fund with existing staff.

Article 3, Section 1, Subdivision 2, Food Safety: MDA Lab Costs

The MDA Laboratory will have responsibility for testing of edible cannabis products (food) and regulatory samples resulting from inspection of the cultivating of plant material, while MDH, or other entity, would have responsibility for the regulatory testing of other cannabis products and over the investigation of adverse reactions.

User safety of edible cannabis products will be addressed by testing to ensure that the product is free of harmful substances including, but not limited to, microbial contamination, pesticides, residual solvents, foreign materials, and heavy metals. Additional testing may include potency (i.e. THC, CBD, etc.) and homogeneity.

Test methods for these analytes in edible cannabis products and enforcement samples have only recently been developed (or are still in the development process) so initial work to validate/verify these methods in-house is significant. Once the program is established between 50-75 samples a month would be submitted for analysis in edible cannabis products and enforcement samples, based on information provided by 3 states who have mature recreational cannabis programs.

The MDA Lab will not have a role in the testing of Adult-use cannabis products other than edibles and pesticide enforcement samples.

Based on the assumptions above the laboratory anticipates it will need 8.5 FTEs divided up amongst 4 units.

- The Chemistry/Toxicology Unit will perform the heavy metals and foreign materials testing. This unit would also perform the THC/CBD testing in edible cannabis products if that testing is delegated to the MDA.
- The Environmental Analysis Unit will perform the pesticide residue testing.
- The Microbiology Unit will perform the microbial contamination testing.
- The Operations Unit will be responsible for receiving the samples, handling chain of custody and securing the samples.

Note: any residual solvent testing would be subcontracted to MDH.

It is assumed that the laboratory would see a large surge in samples for pesticide residues in enforcement investigations. Since Cannabis is not recognized federally as a commodity, current pesticide labels prohibit its use on all forms of the plant. Estimates are based on 600 samples/year as has been seen in other states. Testing in these states' have seen violations ranging between 13-49%. This would require significant investments in equipment and staffing.

The 8.5 FTEs would be divided up amongst the laboratory as follows:

- Environmental Analysis Supervisor- 1 FTE: This FTE would be divided up amongst the supervisors of the 4 units described above.
- Research Scientist 2- 1 FTE: This FTE would be responsible for validating/verifying the methods in-house, new method development and providing on-going technical assistance to the analysts.
- Environmental Analyst 3- 1 FTE: This FTE would be responsible for pesticide analysis.
- Environmental Analyst 3- 1 FTE: This FTE would be responsible for pesticide analysis
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Environmental Analyst 2- 1 FTE: This FTE would be responsible for pesticide analysis.

- Chemist 2- 1 FTE: This FTE would be responsible for foreign materials, heavy metals, and THC/CBD analysis.
- Chemist Aide- 1 FTE: This FTE would be responsible for preparing the samples for analysis
- Bacteriologist 2- 0.5 FTE: This FTE would be responsible for microbial contamination analysis.
- Forensic Evidence Specialist- 1 FTE: This FTE would be responsible for chain of custody and securing the samples.

The budget includes \$575,000 to purchase a new High-Pressure Liquid Chromatography Mass Spectrometer for pesticide analysis. This is necessary to avoid negatively impacting pesticide enforcement samples. The \$43,000 in repairs/maintenance is required to keep new and existing equipment in working order to avoid equipment down time and keep sample analysis on schedule. Additional ongoing costs include \$60,000 for supplies and \$184,308 for communications, MNIT and indirect costs.

Article 3, Section 1, Subdivision 5, Food Safety- OAH Large Rule \$310,248

MDA interprets this rulemaking would be specific to the needs for the edible cannabis product endorsement process and that the rulemaking in Article 3, Section 3 Subdivision 3 is more generically to manufacturing cannabis from raw plant into ANY cannabis product which could include an ingredient for edible cannabis product.

Article 3, Section 3 Subdivision (1-4) - Rulemaking; Department of Agriculture

1. Pesticide, Fertilizer, Soil Amendments, and Plant Amendments

The commissioner of agriculture must adopt rules governing the use of pesticides, fertilizers, soil amendments, and plant amendments by licensed cultivators. The costs are estimated based on actual costs to develop a significant environmental rule recently established in the Pesticide and Fertilizer Management Division (PFMD). These estimates are based on a three-year process. The estimates are specifically to develop the rule outlined in the bill and do not attempt to estimate the cost to implement such a rule.

Projections for Rule Specialist estimates are based on full time position at the State Program Administrator Principal \$58.27/hour. Projections for Additional Staff are based on an average salary of various staff positions that may be involved with the rule writing. Estimated salary and fringe costs are: FY22 \$217,000, FY23 \$221,400 and FY24 \$225,800. Salary increases of 2% per year for FY22 - FY24 is included. Rules require public hearings in various locations around the state. We also assume we'd have meetings with various stakeholders. We may also need to travel to other states to see how they are implementing similar laws. These costs are estimated at \$10,000 per year. A one-time cost in FY24, from the Office of Administrative Hearing for Administrative Law Judge (ALJ) time of \$33,000. Totals per year are FY22 \$227,000, FY23 \$231,400, FY24 \$268,800.

We anticipate there would be significant costs to the Pesticide and Fertilizer Registration Programs and the Inspection and Enforcement Program within PFMD to implement the rule. However, until it is determined exactly what is in the rule it would be difficult to estimate the implementation costs. Based on FY20 expenditures in these program areas of approximately \$7 million and the anticipated increase in workload of perhaps 50%, which we heard was common from several state Departments of Agriculture that currently have legal cannabis, we would estimate a need of \$3.5 million dollars to implement the rules.

2. Certification, testing, and labeling requirements for Cannabis and Hemp Seed - OAH Large Rule \$310,248 (requires federal law change)

HF600 would require that MDA maintain a program for certifying seed and regulating the labeling and testing of cannabis seed for sale in the state. The Plant Protection Division currently has a regulatory program for permitting companies that label seed for sale as well as verifying that seed is labeled truthfully by inspecting, sampling, and testing seed labeled for sale across the state. This existing program for testing and labeling can meet the requirements of the bill for cannabis without fiscal impacts.

Seed certification is conducted by Minnesota Crop Improvement, the seed certification agency for Minnesota. Because existing seed certification is based on national and international standards, there is no mechanism to certify a species that would be considered illegal at the federal level. Currently, there is no known certification program for cannabis seed in the country according to the Association of Official Seed Certifying Agencies (AOSCA).

For the purposes of this fiscal note, if the certification of seeds would become legal, MDA could develop a program for

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seed certification. The development and implementation of this program would require a large rulemaking to develop the certification standards, implement the field inspections and testing processes to evaluate whether seed meets the specified standards, and issue certificates for seed that is certified. The estimated cost of a large rulemaking is \$310,248.

The Plant Protection Division expects that there will be some confusion amongst growers and processors of cannabis regarding regulation of hemp and cannabis. It is likely that there will be pushback from the industry regarding a separation between the two crops not only for federal/state regulatory purposes, but also for genetic contamination through cross pollination. We anticipate that additional outreach efforts will be needed to deal with this issue, however these needs are not expected to result in increased spending for the hemp program. However, it should be noted that states like CO, CA and OR that have large recreational and medical cannabis industries have had to deal with this issue by exploring options to create zones within the states where either cannabis or hemp can be grown so that unintended genetic drift between the two types of cannabis are limited. If this issue occurs in Minnesota, it could complicate licensing requirements and mapping of production locations for hemp that will require significant investment in dollars to update the Departments newly created Hemp E-licensing system.

3. Good Agriculture and Manufacturing Practices - OAH Large Rule \$310,248

MDA interprets this rulemaking as good manufacturing practices for cannabis preparation, edible cannabis product endorsement and the rule making would be specific to converting of cannabis from a raw ag commodity into a processed product for any use which could reasonably include the edible cannabis product endorsement rulemaking. The phrases “good agricultural practices” and “good manufacturing practices” are common in farming and manufacturing.

An edible cannabis product and a cannabis product are not synonymous. More directly, all edible cannabis products are cannabis products, but the reverse is not true (think smoking, etc.). Similarly, MDA is tasked with “endorsement” for edible cannabis products but that is not itself the only use of a Cannabis Manufacturing license.

Article 4 Section 1, Subdivision 1, Business Development [17.1175] Cannabis Grower Grants

The bill directs the MDA to create a new grant program. The bill does not appropriate any money for the grant program so there is not a way to estimate how much it would cost to administer the program. Assuming we operate the CanGrow Grants similar to the MDA’s AGRI grant program, we would need no less than 6.5% of the amount available for the grants for administration. For example, a \$1 million grant fund would require \$65,000 to administer.

Article 4 Section 1, Subdivisions 4-8, Loan Financing Grants, Program Outreach and Reporting Requirements

The bill directs the MDA to establish a revolving loan account to make loan financing grants to non-profit corporations, create an outreach program, and manage the reporting requirements under the CanGrow program. The bill does not appropriate any money for the grant program so there is not a way to estimate how much it would cost to administer the program. Assuming we operate the CanGrow Grants similar to the MDA’s AGRI grant program, we would need no less than 6.5% of the amount available for the grants for administration. For example, a \$1 million grant fund would require \$65,000 to administer.

Expenditure and/or Revenue Formula

Article 3, Section 1 - Food Safety -Edible Cannabis Product Handlers Endorsement Program

Endorsement Program Revenue	Licenses	FY22	FY23	FY24	FY25
Retail	1,427	0	57,972	316,213	469,050
Wholesale	501	0	36,445	198,793	294,876
Manufacturing	657	0	46,722	254,845	378,020
TOTAL	2,585	0	141,139	769,851	1,141,946

Revenue ramp-up aligns with Cannabis Management Board license ramp-up.

Endorsement Program Expenditures	FY22	FY23	FY24	FY25
Payroll	0	913,506	1,218,008	1,218,008
Travel	0	42,376	56,501	56,501
MNIT	33,223	26,699	35,599	35,599

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Other Operating	0	20,814	27,750	27,750
Indirects @ 16.18%	5,375	162,349	216,466	216,466
TOTAL Expenditures	38,598	1,165,744	1,554,326	1,554,326
FTE	0	8.84	11.78	11.78
Rev Exp = cost to GF	38,598	1,024,605	784,475	412,380

18-month ramp-up so licensing begins 3rd quarter FY23. Staffing and related costs begin 2nd quarter of FY23 for onboarding and training.

Article 3, Section 1 - Food Safety and Pesticide Enforcement Lab Testing

Cannabis Edibles Costs	FY22	FY23	FY24	FY25
Payroll	0	668,148	890,863	890,863
Communications	0	3,375	4,500	4,500
MNIT	0	11,796	15,728	15,728
Repairs/Maintenance	0	32,250	43,000	43,000
Supplies	0	45,000	60,000	60,000
Space Reconfiguration	15,000			
Capital Equip (Mass Spectrometer)	575,000			
Administrative costs	95,462	123,060	164,080	164,080
TOTAL General Fund	685,462	883,628	1,178,171	1,178,171
FTE	0	6.4	8.5	8.5

FY22 equipment purchase only and then in FY23 begin ramp-up of staff, etc. beginning 2nd quarter.

Article 3, Section 3 Rulemaking; Department of Agriculture

Rulemaking	FY22	FY23	FY24	FY25
Art 3 Sect.1 Subd. 5 Cannabis handler practice		310,248		
Art 3 Sect.3 Subd. 1 Pesticides, fertilizers, soil amendments, and plant amendments by licensed cultivators	227,000	231,400	268,800	
Art 3 Sect.3 Subd. 2 Certification, testing, and labeling requirements for Cannabis and Hemp Seed.				
Art 3 Sect.3 Subd. 3 Manufacturing Practices		310,248		
Rulemaking costs included in this proposal	227,000	851,896	268,800	
FTE	2	6	2	
Subd. 2 Certification, testing, and labeling requirements for Cannabis and Hemp Seed			310,248	
Rulemaking costs requiring federal law change (not included in proposal)			\$310,248	
FTE			2	

Long-Term Fiscal Considerations

We anticipate there would be significant costs to the MDA to implement the rules under Article 3, Section 3. However, until it is determined exactly what is in the rule it would not be possible to estimate the implementation costs.

Local Fiscal Impact

Revised

References/Sources

Agency Contact: Whitney Place

Agency Fiscal Note Coordinator Signature: Sherry Kromschroeder

Phone: 651-201-6580

Date: 5/3/2021 10:49:56 AM

Email: sherry.kromschroeder@state.mn.us

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Fiscal Note

2021-2022 Legislative Session

HF600 - 6E - Legalize Cannabis

Chief Author: **Ryan Winkler**
 Committee: **Commerce Finance and Policy**
 Date Completed: **5/5/2021 7:38:32 AM**
 Agency: **Cannabis Expungement Board**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact		
	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings) Dollars in Thousands	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	921	844	844	844
Total	-	921	844	844	844
Biennial Total			1,765		1,688

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	8	8	8	8
Total	-	8	8	8	8

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Carlos Guereca **Date:** 5/4/2021 5:08:15 PM
Phone: 651-2846541 **Email:** carlos.guereca@lbo.leg.mn

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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	921	844	844	844	844
Total		-	921	844	844	844
Biennial Total			1,765			1,688
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	921	844	844	844	844
Total		-	921	844	844	844
Biennial Total			1,765			1,688
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total		-	-	-	-	-
Biennial Total			-			-

Bill Description

Article 6, section 5 of the bill established the Cannabis Expungement Board that is comprised of the chief justice of the supreme court or their designee, the attorney general or their designee, one public defender, the commissioner of one state agency, and one public member with experience as an advocate for victim's rights.

The board is established with the following powers and duties:

1. Obtain and review records related to conviction of possession of a controlled substance.
2. Determine whether a person committed an act involving cannabis which would be of a lesser offense or no longer a crime after August 1, 2021.
3. Determine whether a person's conviction should be vacated, charges should be dismissed, and records should be expunged, or whether a person should be resentenced to a lesser offense; and
4. Notify the judicial branch of the individual's eligibility for expungement or resentencing.

The Bureau of Criminal Apprehension is required to identify convictions and sentences that qualify for review by the Cannabis Expungement Board.

The Cannabis Expungement Board has free access to records and may issue subpoenas if necessary.

The board is required to meet monthly and whenever it takes formal action on a review of conviction or stay of adjudication. All meetings are open to the public under chapter 13D.

Crime victims and law enforcement agencies may submit oral or written statements providing recommendation on whether or not a conviction should be expunged or resentenced to a lesser offense.

The board must follow appropriate protocols for the treatment of not public data and assign an anonymous, unique identifier to each victim of a crime and person whose conviction or stay of adjudication it reviews.

In making determinations the board must consider the nature and severity of the crime, the total amount of marijuana or tetrahydrocannabinols possessed, whether it involved a dangerous weapon, the infliction of bodily harm, the intent to cause fear in another, if expungement or lesser offense increases the risk or dangers to persons or society, aggravating or mitigating factors, statements from victims and law enforcement, whether or not firearm rights should be reinstated if expungement or reduction in sentence is granted, implications for background studies/checks, and other factors deemed relevant by the board.

The board must provide notification and specific information to the judicial branch of any conviction or stay of adjudication

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that qualifies for an order of expungement or resentencing, or if the charges should be vacated and dismissed. They must also make a reasonable and good faith effort to notify the individual. The judicial branch must issue orders as specified.

A technical note on the bill: The ability to identify cases or persons eligible for review may exist in separate systems and/or may not be accessible to any of the entities responsible for identifying those eligible. BCA may have some of the data, the courts may have other data, and the Cannabis Expungement Board (CEB) may need to develop methodologies with BCA and/or the courts to identify eligible cases/persons. There also may be information needed that is only maintained by local government, including county attorney's offices.

Assumptions

1. It is assumed that the Cannabis Expungement Board is required to review the cases indicated in Article 5, Section 6.
2. The bill does not specify how the Cannabis Expungement Board is staffed or the nature under which administrative support is provided to the board. This fiscal note is provided to demonstrate an estimated level of staffing and operational costs that would be necessary to support the work of the Cannabis Expungement Board.
3. Information from the judicial branch indicates that it is not possible to estimate the number of convictions and stays of adjudication that will qualify for consideration of expungement or resentencing by the Cannabis Expungement Board which makes it difficult to estimate the level of staffing that the board will need. There also is not a defined timeline within the bill by which all convictions and stays of adjudication must be reviewed.
4. The bill requires the board to meet a minimum of once monthly to review convictions and stays of adjudication. It is assumed the first meeting will occur in August 2021.
5. It is estimated that the Cannabis Expungement Board will need a minimum of eight staff initially to collect information on convictions and stays of adjudication that involved a controlled substance, research and prepare information for consideration by the board, arrange for victim and law enforcement recommendations to the board, ensure the protection of private data, submit board decisions to the judicial branch, and advise individuals of board decisions. The eight FTE is assuming a minimum of 109,356 cases to review. It should be noted that the Department of Public Safety (DPS) was only able to identify 109,356 cases and that there are likely more cases that need to be identified. Please refer to DPS's fiscal note for more information.
6. The staff will be comprised of one manager at a level 18M within the managerial plan, six state program administrator principles at a level 14L in the MAPE plan and one legal secretary at a 67L in the AFSME plan. Salary is at the midpoint for each position with benefits estimated at 30 percent.
7. The manager will be responsible for overall management of the staff and work associated with the CEB. The state program administrator principle staff will need to perform legal work reviewing data and providing recommendations to the CEB at monthly meetings, and the legal secretary will be responsible for logistics associated with the monthly CEB meetings and the tracking and transmission of data. Because there is no current way to identify the number of case or individuals who will be eligible for review, it is difficult to determine whether or not this level of staffing is sufficient.
8. Leased space, equipment, office build out, supplies, accounting and human resources services will be necessary to support the overall operations of the board staff.
9. The board will meet monthly, within the Capitol complex, to review all prior convictions and stays of adjudication. The meetings will begin in August 2021 and continue until all prior convictions or stays of adjudication have been reviewed.
10. There will be a point at which all reviews will have occurred and the board no longer needs to meet at a monthly frequency and the staffing levels may no longer be necessary. For the purpose of this fiscal note, it is assumed that the level of cases is such that the board would need to continue to meet on a monthly basis beyond FY25, which is the last year carried in the fiscal note table. Given the unknown total cases to be reviewed, and the uncertainty of average time it takes to review a case, it is unknown how long the CEB will need to meet.
11. The board consists of two public members who may be eligible for expense reimbursement. Expense reimbursement is estimated to be \$85 round trip mileage (152 round trip mile average), \$36 meal reimbursement and \$150 in hotel costs for the two members per meeting.
12. The chief justice, attorney general, and agency commissioner would have expenses covered by their agencies.
13. The board will need to purchase a case tracking software program to document decisions, protect private data, and manage unique identifier requirements. It is assumed this will be an off-the-shelf product with human resources like security provisions. It is assumed each of the five CEB staff people will need an annual license for the software.

Revised

Expenditure and/or Revenue Formula

	FTE	FY22	FY23	FY24	FY25
Manager 18M Managerial Plan	1	\$129	\$129	\$129	\$129
State Program Administrator Principle 14L MAPE	1	\$92	\$92	\$92	\$92
State Program Administrator Principle 14L MAPE	1	\$92	\$92	\$92	\$92
State Program Administrator Principle 14L MAPE	1	\$92	\$92	\$92	\$92
State Program Administrator Principle 14L MAPE	1	\$92	\$92	\$92	\$92
State Program Administrator Principle 14L MAPE	1	\$92	\$92	\$92	\$92
State Program Administrator Principle 14L MAPE	1	\$92	\$92	\$92	\$92
Legal Secretary 67L AFSME	1	\$68	\$68	\$68	\$68
Office Space/Lease		\$55	\$55	\$55	\$55
Office Build Out		\$38			
Equipment		\$26	\$1	\$1	\$1
Supplies		\$15	\$1	\$1	\$1
Account/Human Resources Services		\$2	\$2	\$2	\$2
Case Tracking System		\$30	\$30	\$30	\$30
Public Member Expense Reimbursement		\$6	\$6	\$6	\$6
Total	8	\$921	\$844	\$844	\$844

Long-Term Fiscal Considerations

As stated in the assumptions, the work of the board is not able to be fully estimated without additional information on the number of convictions or stays of adjudication that would need to be reviewed. It is unknown whether or not the costs estimated would be ongoing or how they might change once the number of convictions and stays of adjudication are known.

Local Fiscal Impact

Determining the eligibility for expungement may require accessing case files maintained by county attorney's offices. This may require the county attorney's office to identify records and/or cases eligible for expungement and then provide those files to the Cannabis Expungement Board. The number of cases is unknown and therefore the local impact cannot be determined.

References/Sources

Supreme Court Fiscal Note

DPS, BCA Fiscal Note

Michelle Weber, Legislative Coordinating Commission

Christian Larson, Legislative Budget Office

Revised

Maren Bardal, Legislative Budget Office

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Revised

Fiscal Note

2021-2022 Legislative Session

HF600 - 6E - Legalize Cannabis

Chief Author: **Ryan Winkler**
 Committee: **Commerce Finance and Policy**
 Date Completed: **5/5/2021 7:38:32 AM**
 Agency: **Commerce Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Dollars in Thousands					
General Fund	-	63	230	452	626
Total	-	63	230	452	626
Biennial Total			293		1,078

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	.5	1.5	3.25	5.25
Total	-	.5	1.5	3.25	5.25

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Christian Larson **Date:** 5/3/2021 2:34:51 PM
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Revised

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	63	230	452	626	
Total		-	63	230	452	626
Biennial Total			293		1,078	
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	63	230	452	626	
Total		-	63	230	452	626
Biennial Total			293		1,078	
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	
Total		-	-	-	-	-
Biennial Total			-		-	

Bill Description

House File 600-6E legalizes recreational adult-use cannabis in Minnesota.

The bill creates a Cannabis Management Board to regulate medical cannabis and adult use cannabis and creates licensing and operational requirements for medical and adult use cannabis businesses.

This fiscal note will address the following sections:

Article 1, Section 7 requires the Cannabis Management Board to establish appropriate energy standards for cannabis businesses.

Article 1, Sections 52 and 53 require that cannabis, and cannabis products packaged at the time of sale or prepackaged be properly labeled with the net contents.

Assumptions

HF 600-6E requires the Cannabis Management Board to consult with the Commerce Department's Division of Energy Resources in the development of energy standards as outlined in Article 1, Section 7. Commerce assumes staff costs related to the development of energy efficiency standards for the cannabis industry, and providing consulting services to the board in the development of their standards and basic technical assistance to manufacturers in meeting those standards.

Estimates for this work are based on Commerce's previous work with energy building code development and ongoing technical assistance.

Sales of cannabis and cannabis products between licensed cannabis businesses will be based on weight. Each licensed cannabis business will need at least one commercial scale. Commercial scale requirements and inspections are needed to facilitate accurate statewide monitoring as cannabis moves through the marketplace. The scales used to determine those weights will be regulated by the Commerce Department through the Weights & Measures unit (Minn. Stat. §239.011 Subd. 2. (10)).

Sales of cannabis, and medical cannabis to the customer or patient will be based on weight and must be labeled with a net weight. Each cannabis retailer will need at least one commercial scale. Annual inspection of scales used to determine those weights will be regulated by the Weights & Measures unit.

Revised

Sales of cannabis products, and medical cannabis products must be labeled with a net weight or volume. Packages at cannabis retailers and wholesalers will need to be inspected annually. Inspection of packaged goods to determine if they contain the amount represented on their label will be regulated by the Weights & Measures unit (Minn. Stat. §239.011 Subd. 2. (13).

The table below contains the Cannabis Management Boards assumptions for the number of licenses by business type for each fiscal year.

Fiscal Year	Total Licenses	License Category	Percent of Total Licenses	License by Category
FY22	0	*Production	37%	0
		Retailers	46%	0
		**Other	17%	0
FY23	300	Production	37%	111
		Retailers	46%	139
		Other	17%	50
FY24	1,620	Production	37%	600
		Retailers	46%	750
		Other	17%	270
FY25	2,400	Production	37%	889
		Retailers	46%	1,111
		Other	17%	400
FY26	2,700	Production	37%	1,000
		Retailers	46%	1,250
		Other	17%	450
*Production includes cultivators, manufacturers and wholesalers				
**Other includes : transporter, microbusiness, event organizer, delivery service, and medical				

FY23

Commerce assumes 1 FTE, to inspect scales, net content on packaging, and investigate weighing, net content, and labeling complaints at the 300 licensed businesses.

Scale inspection hours	390
Scale reinspection hours	26.6
Package inspection hours	722.8
Package reinspection hours	42.6
Complaint investigation hours	unknown
Total hours	1182

Scale inspection time: Scale inspection times are based on one scale per site. Many sites will have multiple scales which will increase inspection time at those sites.

Inspection of commercial scales in the capacity range that would be used in these application takes 1.3 hours per site.

300 sites X 1.3 hours = 390 hours

The rejection rate for these types of scale is 9%. Those location would need a reinspection, which takes 0.95 hours per reinspection.

300 sites x 9% = 27 sites to be reinspected: 27 sites x .95 hours per reinspection=26.6 hours

Package checking time:

The average inspection for checking net contents of packaged good takes 5.2 hours.

Those inspections could be conducted at retailer locations.

139 sites x 5.2 hours = 722.8 hours

Revised

The rejection rate for package checking is 12%, a reinspection takes 2.55 hours.

139 sites X 12% = 16.7 sites to be reinspected: 16.7 sites x 2.55 hours per reinspection = 42.6 hours

FY24

Commerce assumes 3 FTE, to inspect scales, net content on packaging, and investigate weighing, net content, and labeling complaints at 1620 licensed businesses.

Scale inspection hours	2106
Scale reinspection hours	138.5
Package inspection hours	3900
Package reinspection hours	229.5
Complaint investigation hours	unknown
Total hours	6374

Scale inspection time: Scale inspection times are based on one scale per site. Many sites will have multiple scales which will increase inspection time at those sites.

Inspection of commercial scales in the capacity range that would be used in these application takes 1.3 hours per site.

1620 sites X 1.3 hours = 2106 hours

The rejection rate for these types of scale is 9%. Those location would need a reinspection, which takes 0.95 hours per reinspection.

1620 sites x 9% = 145.8 sites to be reinspected: 145.8 sites x .95 hours per reinspection = 138.5 hours.

Package checking time:

The average inspection for checking net contents of packaged good takes 5.2 hours. Those inspections could be conducted at retailer locations.

750 sites x 5.2 hours = 3900 hours

The rejection rate for package checking is 12%, a reinspection takes 2.55 hours.

750 sites X 12% = 90 sites to be reinspected: 90 sites x 2.55 hours per reinspection = 229.5 hours.

FY25

Commerce assumes 5 FTE, to inspect scales, net content on packaging, and investigate weighing, net content, and labeling complaints at 2400 licensed businesses.

Scale inspection hours	3120
Scale reinspection hours	205.5
Package inspection hours	5777.2
Package reinspection hours	339.9
Complaint investigation hours	unknown
Total hours	9442.6

Scale inspection time: Scale inspection times are based on one scale per site. Many sites will have multiple scales which will increase inspection time at those sites.

Inspection of commercial scales in the capacity range that would be used in these application takes 1.3 hours per site.

2400 sites X 1.3 hours = 3120 hours

The rejection rate for these types of scale is 9%. Those location would need a reinspection, which takes 0.95 hours per reinspection.

2400 sites x 9% = 216 sites to be reinspected: 216 sites x .95 hours per reinspection = 205.5 hours.

Package checking time:

The average inspection for checking net contents of packaged good takes 5.2 hours. Those inspections could be conducted at retailer locations.

1111 sites x 5.2 hours = 5777.2 hours

Revised

The rejection rate for package checking is 12%, a reinspection takes 2.55 hours.

1111 sites X 12% = 133.3 sites to be reinspected: 133.3 sites x 2.55 hours per reinspection = 339.9 hours.

FY26

We believe we will need 5 FTE in this FY and subsequent FY's to inspect scales, net content on packaging, and investigate weighing, net content, and labeling complaints at 2700 licensed businesses.

Scale inspection hours	3510
Scale reinspection hours	230.9
Package inspection hours	6500
Package reinspection hours	382.5
Complaint investigation hours	unknown
Total hours	10623.1

Scale inspection time: Scale inspection times are based on one scale per site. Many sites will have multiple scales which will increase inspection time at those sites.

Inspection of commercial scales in the capacity range that would be used in these application takes 1.3 hours per site.

2700 sites X 1.3 hours = 3510 hours

The rejection rate for these types of scale is 9%. Those location would need a reinspection, which takes 0.95 hours per reinspection.

2700 sites x 9% = 243 sites to be reinspected: 243 sites x .95 hours per reinspection = 230.9 hours.

Package checking time:

The average inspection for checking net contents of packaged good takes 5.2 hours. Those inspections could be conducted at retailer locations.

1250 sites x 5.2 hours = 6500 hours

The rejection rate for package checking is 12%, a reinspection takes 2.55 hours.

1250 sites X 12% = 150 sites to be reinspected: 150 sites x 2.55 hours per reinspection = 382.5 hours.

Expenditure and/or Revenue Formula

Inspection: Add one inspector for FY23, 2 additional inspectors and associated test equipment in FY24, and 2 more in FY25.

- Weights & Measures Investigator 1: \$86,928/year
- Initial equipment cost per inspector:

Division of Energy Resources: .5 FTE (17L or senior engineer level) for year 1 and year 2 (and .25 FTE ongoing)

			FY22	FY23	FY24	FY25
Salary			38,138	\$ 87,018	165,709	\$ 263,469
Fringe			11,441	\$ 26,105	49,713	\$ 79,041
Other Personnel Related Costs			13,259	\$ 36,643	76,781	\$ 123,549
			62,838	\$ 149,766	292,202	\$ 466,058
Equipment			\$ -	\$ 79,976	\$ 159,952	\$ 159,952

Revised

Total			\$ 62,838	\$ 229,742	\$ 452,154	\$ 626,010
FTE			0.50	1.50	3.25	5.25

Long-Term Fiscal Considerations

The 5.25 FTE will be ongoing.

Local Fiscal Impact

References/Sources

Michigan Marijuana Regulator Agency Monthly Reports - <https://www.michigan.gov/mra/>

Oregon Liquor Control - https://www.oregon.gov/olcc/marijuana/Documents/mj_app_stats_by_county.pdf

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Revised

Fiscal Note

2021-2022 Legislative Session

HF600 - 6E - Legalize Cannabis

Chief Author: **Ryan Winkler**
 Committee: **Commerce Finance and Policy**
 Date Completed: **5/5/2021 7:38:32 AM**
 Agency: **Corrections Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium	
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024
General Fund	-	(177)	(345)	(407)	(458)
Total	-	(177)	(345)	(407)	(458)
Biennial Total			(522)		(865)

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	(2)	(3.8)	(4.5)	(5.1)
Total	-	(2)	(3.8)	(4.5)	(5.1)

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Maren Bardal **Date:** 5/4/2021 3:15:38 PM
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Revised

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	(177)	(345)	(407)	(458)	(458)
Total		-	(177)	(345)	(407)	(458)
Biennial Total				(522)		(865)
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	(177)	(345)	(407)	(458)	(458)
Total		-	(177)	(345)	(407)	(458)
Biennial Total				(522)		(865)
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-

Bill Description

The proposed legislation would provide for cannabis business structure and establishment of boards, task forces, advisory councils and business type models (new M.S. 342). It provides for penalties as well as expungements of criminal records. There are a number of related changes to the Drugs/Controlled Substances provisions in M.S. 152, and provides structure for medical use. The bill would repeal some existing statutory provisions. There are provisions regarding employee/employer limitations and requirements, and there are changes to cannabis related forfeiture provisions in M.S. 609.

The bill does not propose direct changes to the DWI provisions in M.S. 169A, but it is likely there would be cross-over impacts resulting from the changes to the Drugs/Controlled Substances provisions.

Assumptions

The Minnesota Sentencing Guidelines Commission (MSGC) assumes the changes to offense severity contained in this bill would result in fewer prison sentences.

Based on 2019 data, the MSGC estimates the provisions of this bill would result in 32 fewer people receiving prison sentences per year, and realize an eventual savings of 35 state prison beds. Refer to MSGC's fiscal note for details.

The MSGC estimates the year-by-year bed savings would be 19 beds in FY2022, 25 beds in FY2023, 27 beds in FY2024, 30 beds in FY2025, 32 beds in FY2026, and 35 beds in FY2027 and each subsequent year.

Prison bed savings are based on a marginal per diem cost of \$40.75 for FY2022, \$41.59 for FY2023, \$42.50 for FY2024, and \$43.47 for FY2025 and each subsequent year. This includes marginal costs for all facility, private and public bed rental, health care and support costs.

The annual savings are estimated by multiplying the number of prison beds by the subsequent annual per diem. Unless otherwise noted, prison beds are phased out on a quarterly basis.

Prison bed FTE impact for the decrease in the offender population assumes 80 percent of the ongoing bed impact is personnel-related and the average salary per FTE is \$72,000 including benefits.

The estimated impact to supervision caseloads statewide as a result of this bill would be minimal, however the accumulative effect could be significant as new offenses or penalty enhancements are enacted.

Revised

The provisions contained in Article 5, Section 11, specific to the responsibilities of the commissioner of corrections, reflect current policy and practice since March of 2019 and would have no fiscal impact to the Department of Corrections.

Expenditure and/or Revenue Formula

Costs/(Savings) for Prison Beds - DOC

Fiscal Year	2021	2022	2023	2024	2025
Number of Prison Beds	0	-19	-25	-27	-30
Cost of Prison Beds (in 000s)	\$0	(\$177)	(\$345)	(\$407)	(\$458)
FTEs	0	-2.0	-3.8	-4.5	-5.1

Long-Term Fiscal Considerations

Estimated prison bed savings would reach 35 beds and \$555,000 in FY2028 and continue into subsequent years.

Local Fiscal Impact

There would be savings for local correctional resources as result of this bill.

The MSGC estimates that 68 fewer people would be placed on gross misdemeanor probation for an estimated two years, which would result in a reduction in probation supervision caseloads of 136 cases each year. There would also be a savings in local jail beds if previous cases were receiving local confinement.

Additionally, the MSGC estimates 1,879 fewer people per year would be placed on misdemeanor probation for up to one year because possession of marijuana in a motor vehicle cases would no longer be a crime. There could also be savings in local jail beds if any of the cases were receiving local confinement.

References/Sources

Minnesota Sentencing Guidelines Commission

Department of Corrections staff

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Revised

Fiscal Note

2021-2022 Legislative Session

HF600 - 6E - Legalize Cannabis

Chief Author: **Ryan Winkler**
 Committee: **Commerce Finance and Policy**
 Date Completed: **5/5/2021 7:38:32 AM**
 Agency: **Education Department**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Dollars in Thousands					
General Fund	-	36	29	29	29
Total	-	36	29	29	29
Biennial Total			65		58

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	.25	.2	.2	.2
Total	-	.25	.2	.2	.2

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

This fiscal note was revised to correct a problem with the front tables that was incorrectly doubling the total expenditures.

LBO Signature: Alyssa Holterman Rosas **Date:** 5/5/2021 6:52:53 AM
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Revised

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025	
General Fund	-	36	29	29	29	
Total	-	36	29	29	29	29
			65			58
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	36	29	29	29	
Total	-	36	29	29	29	29
			65			58
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	
Total	-	-	-	-	-	-
			-			-

Bill Description

Article 1, Section 2 establishes the Cannabis Management Board and identifies membership on the board. The commissioner of education is not named, nor are any organizations related to youth development identified as members on the board.

Section 2, Subd. 11 requires the Cannabis Management Board to establish an Office of Social Equity.

Section 2, Subd. 11 (1) directs the Office of Social Equity to administer grants to communities that experienced a disproportionate negative impact from cannabis prohibition to support early intervention programs for youth and families among other things.

Section 4, (e)(8)(iv) requires the board to submit reports to the legislature that include recommendations for levels of funding for use of model programs to educate middle school and high school students on the health effects on children and adolescents of cannabis use and substance use.

Article 7, Section 4, Subd. 1 would require MDE to identify model programs that may be used to educate middle and high school youth on the health effects on children and adolescents of cannabis use and substance use. The commissioner must publish a list of model programs that include written materials and training for instructors by June 1, 2023.

Subd. 2 requires schools to implement a comprehensive education program on cannabis use and substance use for middle and high school students in the 2024-25 school year.

Subd. 3 requires that school districts and charter schools must provide instruction consistent with the parental curriculum review requirements in 120B.20.

Subd. 4 school districts and charter schools may establish youth councils in which members receive education on cannabis and substance use and provide peer-to-peer education on those topics.

Assumptions

The assumption is that the core of the fiscal impact to education will be in article 7. In this section the department of education must work with the Department of Health and Human Services to identify model programs for middle school and high school students.

Staff time will be required for reviewing and selecting model programs. States such as Alaska and Colorado provide approaches to legalization of cannabis for support to schools and youth development programs that can play a significant

Revised

role in identifying programs which will reduce overall research time. It is estimated that this will be a one-time cost of \$7,189 in FY22 for 0.05 FTE Ed Spec II.

With the district and charter school timeline for implementing the new curriculum starting in the 2024-25 school year, funds will be needed beginning in FY2022 in order to identify the model programs and assist districts in their local planning. This is a tight timeframe for implementation, as it usually takes districts and charters 3-5 years to roll out new curriculum.

Finally, MDE would need 0.20 FTE Education Specialist II ongoing for district training and materials related to cannabis education, at a cost of \$28,754 annually.

Expenditure and/or Revenue Formula

	FY21	FY22	FY23	FY24	FY25
0.20 FTE Ed Spec II - Ongoing District Support and Training		28,754	28,754	28,754	28,754
0.05 FTE Ed Spec II - Program Review		7,189			
TOTAL:		\$35,943	28,754	28,754	28,754

Long-Term Fiscal Considerations

The 0.20 FTE for district support and training for will be ongoing.

Local Fiscal Impact

While districts could use the programs identified by MDE, they would not need to and could have costs to engage stakeholders. This requirement would not be attached to their local health standards, which would also add costs for them to develop standards prior to identifying a program.

Local districts will be required to implement a comprehensive education program for middle school and high school students. This will include professional development costs and material costs for educators and outreach costs to engage parents, public health, and other stakeholders to ensure community values are used.

References/Sources

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Revised

Fiscal Note

2021-2022 Legislative Session

HF600 - 6E - Legalize Cannabis

Chief Author: **Ryan Winkler**
 Committee: **Commerce Finance and Policy**
 Date Completed: **5/5/2021 7:38:32 AM**
 Agency: **Employment and Economic Dvlpmt**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Dollars in Thousands					
General Fund	-	6,229	5,002	58	58
Total	-	6,229	5,002	58	58
Biennial Total			11,231		116

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	2.75	1.26	.5	.5
Total	-	2.75	1.26	.5	.5

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Christian Larson **Date:** 4/30/2021 3:33:20 PM
Phone: 651-284-6436 **Email:** christian.larson@lbo.leg.mn

Revised

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	6,229	5,002	58	58	
Total	-	6,229	5,002	58	58	58
Biennial Total			11,231			116
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	6,229	5,002	58	58	
Total	-	6,229	5,002	58	58	58
Biennial Total			11,231			116
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

This bill establishes the Cannabis Management Board; advisory councils; requirements related to cannabis use and sales; legalizing and limiting the position and use of cannabis by adults; providing for the licensing, inspection, and regulation of cannabis businesses, etc. This note refers to Sec. 4, [116L.90] CANNABIS INDUSTRY TRAINING GRANTS, Subd. 3. Grants to organizations and Subd. 4. Grants to individuals. Subd. 3. establishes grants to eligible organizations that may be used for developing a training program relevant to the legal cannabis industry and for providing such training to individuals. It stipulates that grants must be awarded through a competitive grant process. It defines eligible organizations and outlines the process for issuing and content of grant applications. Subd. 4. does the same as it relates to individual grant recipients.

The bill establishes the Cannabis Industry Startup Financing Grants. This program would award grants to nonprofit corporations to fund loans to new businesses in the legal cannabis industry and to support job creation in communities where long-term residents are eligible to be social equity applicants. Loans must be used to support a new business in the legal cannabis industry. Loan interest rates cannot exceed the Wall Street Journal prime rate plus four percent.

The bill establishes the Cannabis Industry Navigation Grants. Grants are awarded to eligible organizations to help individuals navigate the regulatory structure of the legal cannabis industry. Grants may be used for developing technical assistance resources relevant to the regulatory structure of the legal cannabis industry and for providing technical assistance or navigation services to individuals.

Assumptions

To accurately analyze fiscal costs, DEED would need to have much further discussion on how to divide the appropriation among the programs. For the purposes of this fiscal note, the department has allocated the funds as follows:

- CanNavigate - \$650,000 in FY2022 and \$900,000 in FY2023 (\$1.767 million)
- CanStartup - \$2 million in FY2022 and \$2.5 million in FY2023 (\$4.5 million)
- CanTrain - \$4.5 million total spending in FYs 2022 and 2023
- Total Admin allowed per law - \$333,000
- Total = \$11.1 million

Revised

This industry would be completely new to Minnesota and thus there will be delays in implementation at the state and nonprofit lender levels resulting in lower levels of spending in FY2022 relative to FY2023. DEED assumed for this fiscal note that we would be allowed to carry unused FY22 appropriation into FY23 to complete the program implementation and disbursement.

CanNavigate estimates use the department's business competitiveness grants as a model for providing grants. This note assumes 12 grants will be provided to organizations. One FTE will be needed to develop the RFP and select the organizations that will receive the grants.

CanStartup estimates use the department's Emerging Entrepreneur Loan Program (ELP) as a model to project loan activity. The average ELP loan is about \$30,000 but given that that this program is for the Cannabis industry, it is assumed that the industry mix will be slightly more industrial resulting in an average loan of \$100,000. It is assumed that the program could follow the same loan volume as ELP 50 loans processed annually through one (1) FTE. In addition, it is assumed that an additional .5 FTE will be needed in FY2022 to implement the program including managing the RFP process to select lenders. CanStartup would require continuing administration to operate the revolving loan fund. CanNavigate and CanTrain do not carry these ongoing costs as they do not have continuing funds.

CanTrain DEED's Employment and Training Programs (ETP) division will use its competitive grant making expertise to implement training programs for organizations and individuals as outlined in HF 600. This appropriation provides for .42 FTE (\$48,000) to develop the initial RFP and grant implementation process in FY 2022 and .20 FTE (\$30,000) for on-going grant support and monitoring in FY 2023.

This note also assumes that the department is limited, as noted in the legislation, to using three (3) percent of the appropriation for administrative expenses or \$222,000 in FY2022 and \$111,000 in FY2023. Administering the programs at full capacity will require more staff than available through these finds so program activity will be less than if the program administration was fully funded.

Expenditure and/or Revenue Formula

FY2022

CanNavigate 1 FTE (14L) to manage RFP process, complete 12 grant agreements and disburse \$650,000 in grants to the organizations (\$116,000)

CanStartup 1 FTE (14L) to manage RFP process and implement program including grant agreements to the selected organizations development of program documents (\$116,000)

CanTrain .75 FTE (10L, 12L, 15L, 18K combined for a total of \$85,691.30) to manage the RFP process, implement the training program, and disperse \$2,910,000 of grant agreements to approximately 42 grant organizations and/or individuals. The appropriation is inadequate in that it only provides for 56% of the cost of providing these services based upon conservative estimates.

Total: \$222,000

Because the department is limited to \$222,000 in administrative expenses, the program implementation and administration will be limited to what can be accomplished with this level of funding.

FY2023

CanNavigate .2 FTE (14L) to management the grant agreements with 12 organizations (\$23,000)

CanStartup .5 FTE (14L) to approve loans be lenders enrolled in program. This is half of the ELP staffing so half of that program's loan volume will be completed 25 loans X \$100,000 average loan = \$2.5 million in loans. (\$58,000)

CanTrain - .56 FTE (10L, 12L, 15L, 18K combined for a total of \$66,268.47) will provide program support and monitoring of dispersal of an additional \$1,455,000 worth of grant agreements to the existing organizations and/or individuals. The appropriation is inadequate in that it only provides for 45% of the cost of providing these services based upon conservative estimates.

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Total: \$\$111,000

Because the department is limited to \$111,000 in administrative expenses, the program activity will be limited to what can be accomplished with this level of funding.

CanStartup utilizes 0.5 FTE for FY24 and FY25 to administer revolving loan funds.

		FY22	FY23	FY24	FY25	Total
CanNavigate	FTE	1.00	0.20			1.20
	Admin	116,000	23,000			139,000
	Grants	867,000	900,000			1,767,000
CanStartup	FTE	1.00	0.50	0.50	0.50	2.50
	Admin	116,000	58,000	58,000	58,000	290,000
	Loans	2,000,000	2,500,000			4,500,000
CanTrain	FTE	0.75	0.56			1.31
	Admin	85,691	66,268			151,959
	Grants	3,045,000	1,455,000			4,500,000
Total	FTE	2.75	1.26	0.50	0.50	4.01
	Admin	317,691	147,268	58,000	58,000	464,959
	Grants/Loans	5,912,000	4,855,000			10,767,000
		6,229,691	5,002,268	58,000	58,000	11,231,959

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Agency Contact: Bob Isaacson - 651,259-7458

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Fiscal Note

2021-2022 Legislative Session

HF600 - 6E - Legalize Cannabis

Chief Author: **Ryan Winkler**
 Committee: **Commerce Finance and Policy**
 Date Completed: **5/5/2021 7:38:32 AM**
 Agency: **Health Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue	X	
Information Technology	X	
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings) Dollars in Thousands	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	9,949	8,454	8,298	8,353
State Government Special Rev	-	1,799	(1,962)	(1,962)	(1,962)
Total	-	11,748	6,492	6,336	6,391
Biennial Total			18,240		12,727

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	15	14.29	14.04	14.04
State Government Special Rev	-	-	(14.53)	(14.53)	(14.53)
Total	-	15	(.24)	(.49)	(.49)

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Carlos Guereca **Date:** 5/4/2021 4:49:06 PM
Phone: 651-2846541 **Email:** carlos.guereca@lbo.leg.mn

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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	9,949	8,454	8,298	8,353	
State Government Special Rev	-	1,799	(1,962)	(1,962)	(1,962)	(1,962)
Total	-	11,748	6,492	6,336	6,391	6,391
			18,240			12,727
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund						
Expenditures	-	9,235	8,454	8,298	8,353	
Transfers Out	-	714	-	-	-	-
State Government Special Rev						
Expenditures	-	-	(1,962)	(1,962)	(1,962)	(1,962)
Transfers Out	-	1,799	-	-	-	-
Total	-	11,748	6,492	6,336	6,391	6,391
			18,240			12,727
2 - Revenues, Transfers In*						
General Fund						
	-	-	-	-	-	-
State Government Special Rev						
	-	-	-	-	-	-
Total	-	-	-	-	-	-
			-			-

Bill Description

Legalizes adult use of cannabis, establishes a Cannabis Management Board, and establishes regulation authority.

Assumptions

Bill version HF600-6E

The modifications to the legislation as the 6E version do not have a fiscal impact for MDH. We assume that ongoing costs are the responsibility of the Cannabis Management Board or other state agencies named.

Bill version HF600-4E

The bill version HF600-4E- is related to agriculture. This amendment has no fiscal impact for MDH. We assume that ongoing costs are the responsibility of the Cannabis Management Board. The following sections directly reference or affect Department of Health programs, including the Office of Medical Cannabis:

Cannabis Management Board

Powers and duties.

Establish and regularly update standards for product testing, packaging and labeling;

A 0.5 FTE staff would begin work in fiscal year 2022 to research, evaluate and provide technical assistance to the Cannabis Board for rulemaking to establish cannabis testing requirements, laboratory testing standard governance and sampling, handling and test requirements. Initial work would include gathering relevant background information, review of current accreditation requirements, product testing, and analytes already defined by the Office of Medical Cannabis, other

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industry standards and established state cannabis testing laboratory accreditation programs (e.g. Oregon). A 0.5 FTE staff would continue work in fiscal year 2023 to assist with drafting and editing rule language, attending meetings, and responding to questions or concerns regarding the proposed language. The FTE staff will also assist in the development of any laboratory guidance and educational materials and assist with the drafting and review of procedures for laboratory testing. In fiscal year 2024 and fiscal year 2025, a 0.25 FTE staff would be used to assist with finalizing the cannabis testing licensing requirements/standards and laboratory guidance materials.

We assume the board will contract with MDH's laboratory accreditation program on an ongoing basis for updates to rulemaking and standards.

Cannabis Advisory Council

The commissioner of health, or designee, is a member of the advisory council. We assume the commissioner will serve on the committee within the scope of existing duties and will incur no cost.

Personal adult use of cannabis.

Subdivision 1 states a person cannot use cannabis or cannabis products at any location where smoking is prohibited under Minnesota Statutes, section 144.414. Minnesota Statutes, section 46, subdivision 1(3)(iii) also prohibits vaporizing medical cannabis in any indoor or outdoor area used by or open to the general public or a place of employment as defined in Minnesota Statutes, section 144.411, subdivision 1b.

MDH is the lead agency that regulates Minnesota Statutes, sections 144.411 to 144.417, which is referred to as the Minnesota Clean Indoor Air Act (MCIAA). The MCIAA regulates smoking in indoor public places and workplaces. The definition of smoking (under Minnesota Statutes, sections 144.413, subdivision 4) includes products containing, made or derived from marijuana. Under section 2, subdivision 4(17) of the bill, gives the board the authority to perform other duties required of or imposed upon the board by law. We assume the Cannabis Management Board, not MDH, would enforce all cannabis violations, including where prohibited under the MCIAA. We also assume the board will conduct all enforcement related functions, including education and outreach, responding to inquiries and complaints, completing inspections, and conducting enforcement actions.

There are many other requirements restricting cannabis use from certain locations, described in the bill, beyond smoking cannabis in indoor public places and workplaces covered under the MCIAA. There are also medical cannabis exemptions on school grounds and in health care facilities; and exemptions for establishments or events licensed to permit on-site consumption. The board, not MDH, would have the capability to evaluate all the requirements and to conduct appropriate enforcement.

Cannabis Cultivator

Limitations on health care practitioners.

MDH assumes the language of this subdivision will be monitored and regulated by the appropriate health licensing boards. There is no fiscal impact to MDH from this subdivision.

Cannabis Manufacturer Licensing

Limitations on health care practitioners.

MDH assumes the language of this subdivision will be monitored and regulated by the appropriate health licensing boards. There is no fiscal impact to MDH from this subdivision.

Cannabis Retailer Licensing

Limitations on health care practitioners.

MDH assumes the language of this subdivision will be monitored and regulated by the appropriate health licensing boards. There is no fiscal impact to MDH from this subdivision.

Patient Registry Program

Article 1, section 40, subdivision 3, creates a new medical cannabis application procedure for veterans. The new

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application procedure requires patients who are also veterans to submit an application and a copy of the United States Department of Veterans Affairs (USDVA) disability letter or other official documentation from the USDVA to the Office of Medical Cannabis.

The current application process is completed online through the patient registry program. This program currently requires that a health care practitioner certify that a patient has a qualifying medical condition. To bypass this requirement in the electronic registry, MNIT would need to create a new process, requiring coding and development work. Development requires \$81,000 for fiscal year 2022 and \$17,000 annually thereafter for maintenance.

Additionally, the department does not employ medical staff qualified to review disability letters to determine eligibility based on approved qualifying conditions and subsequently approve patient enrollment in the medical cannabis program. The department requires an advanced practice registered nurse to fulfill this role.

Lastly, establishing a new application process for veterans would require additional customer service representatives to process these applications and provide technical assistance.

It is anticipated that eliminating the health care practitioner certification for veterans will make the program more accessible to veteran applicants. Based on the number of inquiries from veterans who have been unable to register because they have not been certified, the department estimates the number of veteran patients will triple from the current number of 1,169 to 3,507. We assume that half of these patients will pay the full annual fee of \$200 and half will pay the reduced rate of \$50, which is based on historical program data. The total revenue estimate is \$437,500.

We assume that the new agency will be responsible for ongoing administrative costs for the staff and functions of the department after August 1, 2021, and that the new agency will pay for any needed MDH services via interagency agreements during a transition period, such as for information technology systems, physical space, and other administrative services. The new agency will be responsible for future move and other transition costs for staff, equipment, property, and data.

Task Force on Medical Cannabis Therapeutic

This section establishes a 23-member task force relating to therapeutic research. The commissioner of health is named as one of the members. We assume the commissioner will participate within the scope of normal duties. This section also requires a legislative report every other year. The commissioner will contribute existing data for the board's use in writing the report. MDH assumes there is not a fiscal impact to the department.

Limitations

Health care facilities.

MDH assumes the language of this subdivision is the same as that language already in use for health care facilities and medical cannabis within the state. Therefore, the subdivision does not contain a fiscal impact to MDH.

Testing

Testing Required and Procedures and Standards Established by Board.

We assume that the Cannabis Management Board will fall under the purview of MDH Minnesota Environmental Laboratory Accreditation Program (MNELAP) standards. The board will have ongoing responsibility for the rules and regulations of cannabis testing requirements, laboratory testing standard governance, the list of contaminants/analytes, and establish sampling test requirements and test results. Also, MDH assumes the Cannabis Management Board will have the ongoing responsibility for the issuance and tracking of licensed accredited laboratories, onsite laboratory assessment and enforcement of licensed testing facilities. There is no assumed cost to MDH.

Standards established by commissioner of health.

To develop and promulgate the new standards for contaminants found in cannabis and related products, in fiscal year 2022, MDH would require the following staff support on an ongoing basis: research scientists (3.5 FTE FY22-23; 3.25 FTE FY24-25) with a variety of technical skills, an epidemiologist (1 FTE), a rules coordinator (1 FTE), and a supervisor (1 FTE). These would be permanent positions, as once the cannabis industry obtains manufacturing capacity, this unit and its technical experts will be needed to review testing data, develop new guidance values for chemicals that are found in cannabis that we did not anticipate, conduct risk assessments, keep up to date with the scientific literature and other

Revised

state/federal programs, and amend the rule on a periodic basis. MDH also assumes ongoing, periodic costs of major rulemaking starting in fiscal year 2023 and repeating every three fiscal years based on experience in establishing and updating health risk limits for water and air contaminants.

Adult-Use Cannabis Substance Use Disorder Advisory Council

This section established an advisory council that recommends to the Department of Human Services specific substance abuse disorder programs, projects, and initiatives. The section required an annual legislative report. The commissioner of health named as a person to consult with to develop related measurable outcomes. The commissioner is assumed to participate within the current scope of duties, contributing with current existing data and knowledge. The department assumes no fiscal impact.

Food Safety

We assume businesses that are offering onsite consumption of edible cannabis products will be regulated by the new Office of Medical Cannabis as a microbusiness and not as a food establishment by the Minnesota Department of Health or its delegated agencies.

Although MDH is the lead agency that regulates food and beverage preparation and service under Minnesota Statutes, chapter 157, it does not apply in this circumstance. This statute requires that establishments that offer food for consumption be licensed as a food establishment. The Minnesota Food Code (Minnesota Rules, chapter 4626), includes a definition of food that includes anything that can be consumed by eating or drinking it. But, article 1, section 52, subdivision 1 requires consumable products to be packaged. In addition, article 1, section 32, subdivision 5, allows edible cannabis to be removed from the package to be consumed on-site. Per an agreement between MDH and the Minnesota Department of Agriculture (MDA), products that are purchased in a package and receive no further preparation by the establishment before being consumed are regulated by MDA. This would exempt MDH from regulating this scenario under Minnesota Statutes, chapter 157.

Under article 1, section 2, subdivision 4(17) of the bill, the board has the powers and duties to exercise other powers and authority and perform other duties required of or imposed upon the board by law. We assume the Cannabis Management board, not MDH, would assure the safety of edible cannabis to prevent foodborne illness. We assume the board will be responsible for conducting possible foodborne illness outbreak investigations, including food safety assessments that are necessary as part of the investigation, due to the consumption of edible cannabis. We assume the board will conduct all enforcement related functions, including education and outreach, responding to inquiries and complaints, completing inspections, and conducting enforcement actions.

Education on Cannabis Use and Substance Use

This section assigns the commissioner of education, in consultation with the commissioners of health and human services, to identify one or more model programs that may be used to educate middle school and high school students on the health effects on children and adolescents of cannabis use and substance use. We assume the commissioner of health will participate within normal duties, contributing with existing knowledge and data, and there will not be a fiscal impact to the department.

Cannabis Data Collection and Biennial Reports.

This section directs the department to engage in research and data collection activities to measure use of cannabis products in Minnesota by persons under 21, and 21 and over. The activity includes a baseline statewide assessment report due by July 1, 2022 with subsequent updated data every two years. The data required in each report includes: the current age of the customer; the age at which the customer began consuming cannabis or cannabis products; whether the customer consumes cannabis or a cannabis product, and by type of cannabis product if applicable; the amount of cannabis or cannabis product typically consumed at one time; the typical frequency of consumption; and other criteria specified by the commissioner.

The report may also include data to inform interventions to discourage cannabis use by children and pregnant or breastfeeding women.

MDH utilizes several existing data collection tools used to measure consequential health outcomes in the state. It has expertise to analyze and share the data that are collected to monitor the health of its citizens. Although the data collection tools that the department uses cover the two age groups required of this legislation, they do not collect all the required data elements. MDH assumes it will require additional staff and resources to modify the existing data

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collection tools by adding additional questions and work with contracted surveying organizations when applicable. The baseline assessment for 2022 would be based on the existing limited question set for cannabis use, but future reports would include all required data once questions are added.

The following existing survey tools would allow us to collect the data listed above: Behavioral Risk Factors Surveillance System (BRFSS) - >18 years continuous phone surveillance; Pregnancy Risk Assessment Monitoring System (PRAMS) 165 monthly mailed surveys; Minnesota Student Survey (MSS) grades 5, 8, 9, 11, in schools every 3 years (next one in 2022); and the Minnesota Youth Tobacco Survey (MYTS) grades 6-12, in schools every 3 years (next one in 2023).

The Minnesota Adult Tobacco Survey (MATS) age 18+, last done in 2018 can provide baseline data. The data collection tools have different schedules and will need to be coordinated to get the data required to meet the statewide assessment deadline and every two years thereafter. MDH requires 1.0 FTE staff for the first year to develop and validate appropriate questions and methodologies to capture the requested data and 0.5 FTE staff for subsequent years to conduct the analysis for the mandated reports. An additional 1.0 FTE staff will be necessary annually to develop the results into a report and set an effective communication strategy for these reports.

The Behavioral Risk Factors Surveillance System (BRFSS) is a large-scale telephone survey of adults aged 18 or older. Data are collected monthly throughout the year. It is a joint effort between MDH and the Centers for Disease Control and Prevention (CDC). The survey collects current health and health-related behavior information that is used to improve the health of Minnesotans. Although BRFSS asks some questions regarding cannabis presently that can be used for the baseline assessment, several questions will need to be added to get the required information for the subsequent years. Yearly funding of \$50,000 to develop additional questions by an outside vendor will be required.

The Minnesota Pregnancy Risk Assessment Monitoring System (PRAMS) is a population-based survey designed to collect information on maternal behaviors and experiences before, during, and shortly after a woman's pregnancy. Adding questions assessing marijuana use would require IRB approval and coordination with the CDC, in addition to renegotiation of vendor contracts. Though data are collected monthly, CDC releases data to states annually, so there is a lag of about 12 months or more after year end before analyses can be performed. Due to the sensitive nature of the added questions and increased participant burden, an increase in the reward for survey completion would be necessary to help offset a likely decline in response rates. Additional staff resources and funds would be required.

The Minnesota Student Survey (MSS) is a health behavior survey that has been administered every three years to students in regular public elementary and secondary schools, charter schools, and tribal schools since 1989. All public school districts in Minnesota are invited to participate in the survey covering the behaviors of 5th, 8th, 9th and 11th graders in Minnesota. While basic marijuana use questions are asked on this survey, an expanded set would need to be developed to accurately ascertain frequency and quantity of marijuana use among the youth of Minnesota.

The Minnesota Youth Tobacco Survey (MYTS) measures the use of tobacco products and includes three questions related to use of marijuana. One hundred public schools and classrooms across the state are randomly selected every three years to participate in the study. Typically, about 70 schools and 4,000+ students in grades 6 through 12 provide data for an overall response rate of 60 percent, this survey provides information on youth tobacco use and risk and protective factors.

While the **Minnesota Adult Tobacco Survey (MATS)** was conducted for the final time in 2018, data from this survey will be used in conjunction with BRFSS to develop a baseline measure of adult cannabis use in Minnesota with as much representative data as possible. Survey data from PRAMS will replace data from MATS used in this baseline report.

Data from the most recent years of the MSS, MYTS, BRFSS, and MATS will be used to establish a baseline understanding of cannabis use in MN using existing questions to determine use prevalence among youth (MSS & MYTS) and adults (BRFSS & MATS). Survey questions and methodologies will be developed in the first year and implemented in the subsequent years for all continuing surveys (MSS, BRFSS, MYTS) as well as PRAMS. BRFSS and PRAMS will collect data on an annual basis providing two years of data for all legislative reports on adult use. The MSS and MYTS are conducted every three years, and as such only one year of data from each will be available every two years for all legislative reports on youth use. Based on a review of the literature, oversampling and/or additional surveys may need to be conducted.

Cannabis Education Programs

Youth education

MDH assumes that we will administer contracts to conduct a coordinated, statewide public health education program to

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raise awareness about the adverse health effects of cannabis for persons under age 21. This program would include development and dissemination of information using evidence-based strategies and a marketing awareness campaign to protect persons under 21 from the harms of cannabis. Program materials may include message branding, brochures, posters, website presence, short videos, billboards, bus ads, social media posts and advertisements, online search engine ads, TV spots, radio spots -focusing on ethnic media outlets across the state.

MDH also assumes that we will administer a contract to engage and consult with youth around the state to inform the development and implementation of an effective youth-focused health education program that addresses the adverse health effects and use of cannabis by youth under age 21. Engagement is a critical component of any successful youth media campaign, particularly for at-risk youth. These activities will include focus groups and testing to inform the development of messages and communication strategies for different ages and culturally specific groups.

In addition, MDH will administer a youth prevention and engagement grant program for youth-based and youth-serving organizations to educate, train, and engage young people about the harms of cannabis. This effort will prioritize at-risk youth, including metro and Greater Minnesota communities, and tribal communities.

MDH staff are necessary to implement this statewide, coordinated education program to: (1) provide direction and oversight for communication strategies, including youth engagement and awareness campaign; (2) plan and coordinate with other state programs, agencies, and organizations working with youth, communities and schools on drug awareness and prevention activities; and (3) provide administrative support to manage a grant program, budgets, and contracts.

Education for pregnant and breastfeeding women; women who may become pregnant; and Home visiting programs.

MDH assumes that we will direct and administer a contract that includes identification, development, evaluation and dissemination of evidence-based strategies for a digital marketing awareness campaign to protect persons who are pregnant or who may become pregnant or who are breastfeeding, along with the impact on the infant and child from the harms of cannabis. MDH assumes that the effort would require establishing a contract with a media firm to conduct a statewide education campaign targeted at women of child-bearing age through such means as campaign and message branding, brochures, posters, website presence, short videos, billboards, bus ads, social media posts and advertisements, online search engine ads, TV spots, radio spots -focusing on ethnic media outlets across the state, online mom chat groups, peer influencers, etc. MDH will also contract with graphic and printing vendors to produce provider fact sheets, brochures for pregnant and parenting women, and training materials for providers as part of the broader education strategies.

Along with the contract for the media-based education campaign, MDH would establish grants for community organizations to work with MDH on culturally congruent messaging and message channels to disseminate in diverse communities in Minnesota. We assume a total of ten grants at \$10,000 each for community-based coordination and educational messaging. An additional contract would be established with the University of Minnesota Maternal and Child Health experts to advise and guide MDH on appropriate cannabis screening tools to use in various community-based public health settings.

MDH staff are necessary to provide planning, and coordination of the long-term education and training program, as well as the contract and grants management necessary to reach the intended audiences.

Education for substance use disorder treatment providers.

Although the legislation references the commissioner of health, we assume implementation of this subdivision will be by the Department of Human Services, and the cost will be reflected in their section of this fiscal note.

Transfer of Office and Authority

Effective August 1, 2021, the Office of Medical Cannabis is transferred from MDH to the Cannabis Management Board. We assume that forecast expenditure and revenue for medical cannabis will transfer on the effective date, and we estimate that the amount of the transfer to be 11 months, 8/1/2021 to 6/30/2022, of the annual forecast in fiscal year 2022. We assume that ongoing costs are the responsibility of the Cannabis Management Board.

Task Force on Medical Cannabis Therapeutic Research

We assume the Cannabis Management Board will have ongoing responsibility for the task force. There is no cost to MDH.

Expenditure and/or Revenue Formula

Revised

Medical Cannabis baseline forecast, transfers to Cannabis Management Board, and base reduction:

Medical Cannabis (dollars in thousands)		FY 2022	FY 2023	FY 2024	FY 2025
Base Forecast	BACT				
Expenditure					
General Fund	1	779	779	779	779
FTE		0.21	0.21	0.21	0.21
State Gov. Special Revenue	1	1,962	1,962	1,962	1,962
FTE		14.53	14.53	14.53	14.53
Revenue (State Gov. Special Revenue)	Rev	3,503	3,128	3,128	3,128
Transfer Out (11/12 of the year)					
Expenditure					
General Fund		714			
State Gov. Special Revenue.		1,799			
Reduction in MDH Budget Authority					
Expenditure					
General Fund	1		(779)	(779)	(779)
FTE			(0.21)	(0.21)	(0.21)
State Gov. Special Revenue.	1		(1,962)	(1,962)	(1,962)
FTE			(14.53)	(14.53)	(14.53)
Revenue (State Gov. Special Revenue)			(3,128)	(3,128)	(3,128)

Note: Eleven-twelves of the fiscal year 2022 budget authority, representing 11 months of the year, are assumed in the fiscal note as being transferred from MDH to Cannabis Management Board. Actual amounts may not equal exactly 11/12 of the budget period. Amounts for fiscal year 2023 and thereafter are represented as negative expenditure, revenue, and FTE staff for MDH in the table above.

Ongoing changes to the Office of Medical Cannabis license and registration from the legislation are assumed to be part of the Cannabis Management Board cost structure:

Expenditure Change

Expenditure (Actual Dollars)	Amount	FY 2022	FY 2023	FY 2024	FY 2025
Salary & Fringe:		FTE	FTE	FTE	FTE
Registered Nurse Advanced Practice	152,339	1	1	1	1
Customer Services Specialist	69,529	2.5	2.5	2.5	2.5
	FTE	3.50	3.50	3.50	3.50
	Subtotal	326,162	326,162	326,162	326,162
Information Technology:					
Computing & IT support per FTE	2,712	9,492	9,492	9,492	9,492
Registry Update - Veteran certification		81,005	16,639	16,639	16,639
	Subtotal	90,497	26,131	26,131	26,131
Other Operating Costs:					

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Materials, supplies & training per FTE	600	2,100	2,100	2,100	2,100
	Subtotal	2,100	2,100	2,100	2,100
Grants, Aids & Subsidies:					
	Subtotal	0	0	0	0
Indirect (21.7% Eligible Costs)	Subtotal	90,871	76,903	76,903	76,903
Expenditure	Total	509,629	431,296	431,296	431,296

Revenue Change

Revenue (Actual Dollars)		FY 2022	FY 2023	FY 2024	FY 2025
Fee Description:	Amount	Units	Units	Units	Units
Enrollment fee	200.00	1,750	1,750	1,750	1,750
Reduced enrollment fee	50.00	1,750	1,750	1,750	1,750
	Total	437,500	437,500	437,500	437,500

MDH expenditure for assumptions to the bill:

Expenditure (Actual Dollars)	Amount	FY 2022	FY 2023	FY 2024	FY 2025
Salary & Fringe:		FTE	FTE	FTE	FTE
<i>Edu. for Pregnant Women/HomeVisiting:</i>					
State Prog Admin Prin	105,274	1.00	1.00	1.00	1.00
Health Educator 2	87,866	1.00	1.00	1.00	1.00
Student Worker Para Prof Sr	66,061	0.50	0.50	0.50	0.50
Planner Intermediate	87,866	1.00	1.00	1.00	1.00
<i>Data Collection & Reports:</i>					
Research Scientist 3	117,962	1.00	0.50	0.50	0.50
Planner Principal State	105,274	1.00	1.00	1.00	1.00
<i>Testing:</i>					
Research Scientist 3	117,962	0.50	0.50	0.25	0.25
Research Scientist 3	117,962	1.00	1.00	1.00	1.00
Research Scientist 2	105,274	1.00	1.00	1.00	1.00
Research Scientist 2	105,274	1.00	1.00	1.00	1.00
Epidemiologist Senior	111,339	1.00	1.00	1.00	1.00
State Program Admin Sr	94,691	1.00	1.00	1.00	1.00
Research Scientist Supervisor 2	125,513	1.00	1.00	1.00	1.00
<i>Edu. for youth:</i>					
Planner Principal State	105,274	1.00	1.00	1.00	1.00
Managment Analyst 2	87,866	1.00	1.00	1.00	1.00
State Program Admin Principal	105,274	1.00	1.00	1.00	1.00

Revised

	FTE	15.00	14.50	14.25	14.25
	Subtotal	1,554,721	1,495,740	1,466,249	1,466,249
Information Technology:					
Computing & IT support per FTE	2,712	40,680	39,324	38,646	38,646
	Subtotal	40,680	39,324	38,646	38,646
Other Operating Costs:					
Materials, supplies & training per FTE	600	9,000	8,700	8,550	8,550
<i>Edu. for Pregnant Women/HomeVisiting:</i>					
Media Campaign Contracts		2,500,000	2,500,000	2,500,000	2,500,000
U of M Contract		100,000	100,000	100,000	100,000
Designing/Printing materials for providers		50,000	50,000	50,000	50,000
<i>Data Collection & Reports:</i>					
PRAMS Printing and Supplies		3,900	300	300	300
BRFSS Contract Supplement		50,000	50,000	50,000	50,000
PRAMS Contract Supplement		3,000	3,000	3,000	3,000
MYTS Contract Supplement			50,000		
MSS Contract Supplement		50,000			50,000
<i>Testing:</i>					
Ruelmaking costs			52,328		
<i>Edu. for youth:</i>					
Contract(s) for statewide youth awareness campaign (e.g., message branding, brochures, posters, website presence, short videos, billboards, bus ads, social media advertisements, online search engine ads, TV spots, radio focusing on ethnic media outlets)		2,500,000	2,500,000	2,500,000	2,500,000
Contract(s) for youth engagement and consultation; testing messages and communication strategies for different ages, culturally-specific groups, including tribal communities		600,000	600,000	600,000	600,000
Contract to evaluate grant program and campaign effectiveness; outcomes		100,000	100,000	100,000	100,000

Revised

	Subtotal	5,965,900	6,014,328	5,911,850	5,961,850
Grants, Aids & Subsidies:					
<i>Edu. for Pregnant Women/HomeVisiting:</i>					
Community Prevention Grants		100,000	100,000	100,000	100,000
Tribal Prevention Grants		110,000	110,000	110,000	110,000
<i>Data Collection & Reports:</i>					
PRAMS Survey Participant Awards			10,000	10,000	10,000
<i>Edu. for youth:</i>					
10 grants to youth-based or youth-serving organizations; school-based organizations (metro and greater MN) for engagement, consultation, and peer-to-peer training for different ages, culturally specific groups, including tribal communities	100,000	1,000,000	1,000,000	1,000,000	1,000,000
	Subtotal	1,210,000	1,220,000	1,220,000	1,220,000
Indirect (21.7% Eligible Costs)	Subtotal	463,577	463,163	439,804	445,229
Expenditure	Total	9,234,878	9,232,554	9,076,549	9,131,974
Fiscal Tracking (Dollars in Thousands)	BACT	FY 2022	FY 2023	FY 2024	FY 2025
Health		9,235	9,233	9,077	9,132
Administration		8,025	8,013	7,857	7,912
<i>Health Improvement</i>		<i>7,124</i>	<i>7,048</i>	<i>6,993</i>	<i>7,048</i>
<i>Health Protection</i>		<i>901</i>	<i>965</i>	<i>864</i>	<i>864</i>
Grants		1,210	1,220	1,220	1,220
<i>Health Improvement</i>		<i>1,210</i>	<i>1,220</i>	<i>1,220</i>	<i>1,220</i>
<i>Health Protection</i>		<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Minnesota Management and Budget (March 2021). "2022-2023 Governor's Budget Revised RecommendationsHealth". URL: <https://mn.gov/mmb-stat/documents/budget/2022-23-biennial-budget-books/governors-revised-march/health.pdf>

State of Minnesota (August 15, 2020). "Minnesota Rulemaking Manual: A Reference Book for the Practitioner". URL: <https://www.health.state.mn.us/data/rules/manual/docs/manual2020.pdf>

Revised

Explanation of MDH impact to the general fund in the topline numbers of the fiscal note:

Fiscal Note Tracking System		FY 2022	FY 2023	FY 2024	FY 2025
(for Legislative Budget Office reference)					
General Fund					
Expenditure:					
Reduce MDH Base		0	(779)	(779)	(779)
MDH Assumptions of Legislation		9,235	9,233	9,077	9,132
Net MDH Impact, GF	Total	9,235	8,454	8,298	8,353
FTE:					
Reduce MDH Base			(0.21)	(0.21)	(0.21)
MDH Assumptions of Legislation		15.00	14.50	14.25	14.25
Net MDH Impact, GF	Total	15.00	14.29	14.04	14.04

Agency Contact:

Agency Fiscal Note Coordinator Signature: Brian Awsumb

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Fiscal Note

2021-2022 Legislative Session

HF600 - 6E - Legalize Cannabis

Chief Author: **Ryan Winkler**
 Committee: **Commerce Finance and Policy**
 Date Completed: **5/5/2021 7:38:32 AM**
 Agency: **Human Services Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact		
		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	899	838	838	838	838
Total	-	899	838	838	838	838
Biennial Total			1,737			1,676

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	14	14	14	14
Total	-	14	14	14	14

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Carlos Guereca **Date:** 5/4/2021 9:09:38 PM
Phone: 651-2846541 **Email:** carlos.guereca@lbo.leg.mn

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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025	
General Fund	-	899	838	838	838	838
Total	-	899	838	838	838	838
Biennial Total			1,737			1,676
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	899	838	838	838	838
Total	-	899	838	838	838	838
Biennial Total			1,737			1,676
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

Article 1, Section 57 establishes a substance use disorder treatment and prevention grant account in the special revenue fund and money is appropriated to the board. The board may accept gifts and apply for grants to be used for the purposes in this section.

Money in the grant account must be distributed as follows:

- 75% is for grants for substance use disorder treatment and may be used for substance use disorder treatment provider rate increases. The board shall consult with the commissioner of DHS to determine appropriate provider rate increases or modifications to existing payment methodologies;
- 20% is for grants for substance use prevention; and
- 5% is for education to pregnant women, breastfeeding women, and women who may become pregnant

The board is required to consult with DHS, MDH, and the Substance Use Disorder Advisory Council to develop the application process, establish grant requirements, determine what organizations are eligible, and establish reporting requirements for grant recipients. The board must submit annual reports to the legislature beginning January 2023 on the grants awarded.

Article 1, Section 58 establishes the Adult-Use Cannabis Substance Use Disorder Advisory Council. Among the required duties, the council must make recommendations to DHS on grant and funding options for money appropriated from the general fund to DHS for substance use disorder prevention and treatment related to cannabis use; recommend to DHS specific programs, projects, and initiatives to be funded; and consult with the commissioners of DHS, Health, and Management and Budget to develop measurable outcomes to determine the effectiveness of programs, projects, and initiatives funded.

The council is appointed by the commissioner of DHS, except otherwise specified. The bill specifies the types of representatives to the commission and the geographic distribution of the membership. The bill specifies that the council is governed by section 15.059, but members can only be reimbursed for expenses. The chair must convene meetings quarterly and may convene more if necessary. The meetings must be provided at different locations across the state to provide geographic access. DHS must provide staff and administrative services for the council.

The bill requires DHS to submit a report of the grants and funding recommended by the council by March 1st of each year beginning March 1, 2024. When awarding grants, the commissioner of human services shall consider the programs, projects, and initiatives recommended by the council that address the priorities established by the council, unless otherwise appropriated by the legislature.

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Article 6, Section 5 requires the Cannabis Expungement Board to consider whether an expunged record of a conviction or stay of adjudication may be opened for purposes of a background study under section 245C.08.

Requires the court to direct an order specifically to the commissioner of human services if the Cannabis Expungement Board determines that an expunged record of a conviction or stay of adjudication may not be opened for purposes of a background study under section 245C.08.

Article 9, subdivision 4 provides an appropriation of \$150,000 in fiscal year 2022 to the department of human services to implement the Adult-Use Cannabis Substance Use Disorder Advisory Council.

Article 9, Subd. 9 requires a transfer of \$4 million in FY2024 and \$16 million in FY2025 from the general fund to the Substance Use Disorder Treatment and Prevention grant account .

Assumptions

Expungements

Assumes the relevant data to estimate the volume of orders the Background Studies Legal Division of DHS will need to process is the number of marijuana only possession cases under 152.021, subd. 2(a)(6), 152.022, subd. 2(a)(6), 152.023, subd. 2(a)(6), 152.024, subd. 2, 152.025, subd. 2, 152.027, subd. 3 or 4. The data include adult criminal cases filed 2017 to 2019 that have no charges other than marijuana possession charges.

Assumes that the Background Studies Legal Division will be required to process a total of 124,000 additional orders. Data from the Court Services Division of the Minnesota Judicial Branch indicate that the three-year average of orders is 4,000 per year. The 152 relevant crimes date back to 1989, so the 4,000 orders per year X 31 years = 124,000 total orders.

Assumes the Cannabis Expungement Board will take 10 years to process the 124,000 orders = 12,400 cased processed per year, (The Background Studies Legal Division currently processes approximately 1,000 orders per year.)

Assumes processing an order requires the following effort by Background Studies Legal staff:

- Legal process coordinator (MAPE 8L): 15 minutes per order
- Senior legal process coordinator (MAPE 11L): 45 minutes per order
- Attorney (MAPE 18L): 10 minutes per order

Assumes the following number of FTE for Background Studies Legal are required to process 12,400 orders per year assuming the above level of effort:

- Legal process coordinator (MAPE 8L): 2
- Senior legal process coordinator (MAPE 11L): 5
- Attorney (MAPE 18L): 1

Assumes one Human Services Supervisor 3 is needed in Background Studies Legal for the 8 new FTE to monitor and assure quality in staff work product, work with management team to develop and implement policy, provide advice to internal stakeholders, and perform general management duties.

Assumes that one Management Analyst 4 each for Background Studies and Background Studies Legal are needed to coordinate systems development and maintenance (total of 2 FTE).

In addition to salary costs, this analysis assumes 30% fringe and overhead costs of \$15,150 upfront costs and \$1,275 per month per FTE. Assumes hiring date of October 2021. Assumes FFP of 32%.

Assumes the large increase in order processing requires a more robust order tracking system that notifies DHS when new information is received on an individual. Systems changes would enable importing of existing, historical expungement information and updating new expungement information in real time. Changes to the NETStudy 2.0 system will be

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completed by DHS's external vendor. Vendor costs are estimated at \$152,000.

Adult-Use Cannabis Substance Use Disorder Advisory Council

DHS is responsible for administering the Adult-Use Cannabis Substance Use Disorder Advisory Council. The following administrative costs are required:

- One FTE to manage and administer the council (17L)
- Two grant managers (14L) to manage the grants recommended by the council. This fiscal note assumes grant managers will be required to manage grants as well as provide education and training to grantees. This bill does not specify the level of appropriation for the grants. Given that this is a new initiative, this fiscal note assumes two grant managers would be needed, however depending on the level of appropriation for these grants, the number of FTEs needed to adequately support the grants may shift.
- Council Expenses: Administrative funds to cover space rental and council member expenses such as mileage reimbursement for 17 members. This is estimated to cost \$60,000 per year.

In addition to salary costs, this analysis assumes 30% fringe and overhead costs of \$15,150 upfront costs and \$1,275 per month per FTE. Assumes hiring date of October 2021. Assumes FFP of 32%.

Substance Use Disorder Treatment and Prevention Grant Account Grants

Administrative Resources: This bill also requires DHS to assist the board in grants issued from the Substance Use Disorder Treatment and Prevention Grant Account. DHS must assist the board in the development of the application process, establishment of grant requirements, determination of what organizations are eligible, and the establishment of reporting requirements for grant recipients. This fiscal note assumes the FTEs listed above will also assist with the duties required.

Impacts to MA Programs: The bill specifies that 75% of the funds available must go to grants for substance use disorder treatment as defined in section 245G.01, subdivision 24, and may be used for substance use disorder treatment provider rate increases. It also requires the board to consult with the commissioner of DHS to determine appropriate provider rate increases or modifications to existing payment methodologies.

Because substance use disorder treatment services are forecasted Medical Assistance (MA) expenditures, it is not implementable to use grant funds to provide rate increases to these services. This fiscal note assumes that these funds will be used for grants related to substance use disorder treatment and are not applied as rate increases to forecasted MA services.

Expenditure and/or Revenue Formula

Fiscal Tracking Summary (\$000's)						
Fund	BACT	Description	FY2022	FY2023	FY2024	FY2025
GF	11	Background Studies Legal and Background Studies staff	729	821	821	821
GF	11	P/T Vendor Contracts for NETStudy 2.0	152			
SR	11	Move system funds to Special Revenue	(152)			
SR	11	P/T Vendor Contracts for NETStudy 2.0	152			
GF	15	Advisory Council	309	351	351	351

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		and Grant FTEs				
GF	11	Advisory Council administrative and reimbursement costs	60	60	60	60
GF	REV1	FFP on Admin Costs (32%)	(351)	(394)	(394)	(394)
		Total Net Fiscal Impact	899	838	838	838
		Full Time Equivalentents	14	14	14	14

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Emily Kissane, Background Studies

Jill Roberts, Background Studies Division

CSA Research

Data from the Court Services Division of the Minnesota Judicial Branch

Agency Contact: Elyse Bailey, 651-431-2932

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Fiscal Note

2021-2022 Legislative Session

HF600 - 6E - Legalize Cannabis

Chief Author: **Ryan Winkler**
 Committee: **Commerce Finance and Policy**
 Date Completed: **5/5/2021 7:38:32 AM**
 Agency: **Labor and Industry Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Dollars in Thousands					
General Fund	-	121	121	121	121
Total	-	121	121	121	121
Biennial Total			242		242

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	1	1	1	1
Total	-	1	1	1	1

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Christian Larson **Date:** 5/3/2021 2:40:57 PM
Phone: 651-284-6436 **Email:** christian.larson@lbo.leg.mn

Revised

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	121	121	121	121	121
Total	-	121	121	121	121	121
Biennial Total			242			242
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	121	121	121	121	121
Total	-	121	121	121	121	121
Biennial Total			242			242
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

This bill relates to the regulation of cultivation, testing, advertising, sale, distribution, medical utilization, consumption and possession of cannabis and cannabis products in Minnesota.

Establishment of Cannabis Management Board promote health and welfare and protect public safety related to the regulation and licensure of cultivation, retail sale and distribution of cannabis. Report to the legislature by January 2024 on board governance structure and suggested legislative changes. Board is authorized to establish environmental, energy and waste disposal standards for cannabis businesses and approve cannabis products for retail sale. The Board is empowered to inspect regulated cannabis operations to determine violations and issue orders to exact compliance. Board conduct statewide monitoring system of cannabis tracking, inventory, disposal, and sale cycle. May contract to do this work. The Board also will establish CanRenew, a program to award grants to eligible organizations to invest in communities where long-term residents are eligible to be social equity applicants.

Establishment of the Cannabis Advisory Council review developments in the cannabis industry and examine effectiveness of cannabis policy and make recommendations to the Cannabis Management Board.

Establishment of a patient registry program to be administered by a newly formed Office of Medical Cannabis. This Office will administer grants to healthcare providers or research organizations to conduct clinical trials on safety and efficacy of the use of medical cannabis or medical cannabis products to treat health conditions.

Establishment of a Task Force on Medical Cannabis Therapeutic Research to conduct impact assessment of medical cannabis therapeutic research.

Establishment of an Adult-Use Cannabis Substance Use Disorder Advisory Council to develop and implement a statewide approach to substance use disorder prevention and treatment related to cannabis.

Establishes grant making by the Department of Agriculture to administer a CanGrow program awarding grants.

Revised

Establishes grant making by the Department of Employment and Economic Development (DEED) to administer a CanStartup program awarding financing grants. Also, it creates cannabis industry navigation grants to assist eligible organizations navigate the regulatory structure of legal cannabis industry. Further, it directs DEED to establish a CanTrain program administering grants to eligible organizations to train people for work in the legal cannabis industry.

Establishes an approach to occupational competency model development and dual-training program consulting and technical assistance, specific to the cannabis industry as it relates to the statutorily allowed industries of the Minnesota Dual-Training Pipeline (advanced manufacturing, agriculture, health care, and information technology) within the Department of Labor and Industry (DLI) (175.45). Additionally appropriates funding to the Office of Higher Education for transfer to the Dual Training Grant program fund for use in financing the related instruction component of dual-training programs specific to cannabis-specific components of the aforementioned industries, as allowed in Minnesota statutes 175.45.

The bill establishes general operational requirements and prohibitions for cannabis cultivator, manufacturer and retailer operations and enforcement of established violations.

An employer is prohibited from discriminating against a person in hiring, termination, condition of employment, or penalize a person if it is based upon: person's enrolled in the registry program or positive drug test for cannabis, unless the patient used, possessed, sold, transported or was impaired by medical cannabis on the work premise, during work hours or while operating machinery.

The bill modifies Minnesota Statutes 2020, section 181.951 placing limits on cannabis testing by an employer. It sets out that an employer cannot request or require a job applicant to undergo a cannabis test or drug and alcohol testing solely for the purpose of determining the presence of the substance as a condition of employment (unless required by state or federal law). Employers cannot refuse to hire a job applicant that submits to testing for drug and alcohol and the test indicates the presence of cannabis (unless required by state or federal law). Further an employer cannot request or require an employee or job applicant to submit to a cannabis test on an arbitrary or capricious basis or random selection. Further, the bill allows an employer to request or require an employee to undergo cannabis testing via a testing laboratory if the employer has reasonable suspicion that while an employee is working or on work premise or operating employer vehicles, equipment or machinery, the employer is under the influence or impaired by cannabis, violated employer's written work rules prohibiting cannabis use or possession, sustained an injury or caused a work-related accident. It modifies 181.951 establishing certain cannabis testing exceptions, rights of employers to limit employee cannabis use or possession when working.

This bill calls out cannabis testing to be performed in licensed, accredited, or certified laboratories; further amends Minnesota Statutes 2020, section 181.950 calling out "is impaired from cannabis", Section 181.953 is amended placing additional limitations for cannabis; employers may discipline, discharge, or take other adverse personnel action against an employee for cannabis use, possession, impairment, sale, or transfer while an employee is working, on the employer's premises, or operating the employer's vehicle, machinery, or equipment.

Assumptions

The Department of Labor and Industry does not have authority to enforce Minnesota Statutes, Section 181.950-.957, the Drug and Alcohol Testing in the Workplace Act (DATWA), and fields few inquiries from workers and employers regarding it. When it does receive an inquiry, the Department simply directs inquirers to the law. While the DATWA is modified to include cannabis related regulations in this bill, these changes do not alter the Department's enforcement authority. The Department will receive some inquiries from employers seeking information about updating their drug and alcohol policies to align with the new law if enacted. The Department will work with its communication staff to update its website with information related to the law change if enacted and continue to guide inquirers to the new law for further reference and assistance when contacted. The inquiries and communication efforts would be immaterial and absorbed by existing staff. In addition, it will leverage existing outreach and engagement activities to raise awareness about the law change.

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Dual-Training Program Development:

DLI would receive funding in each year of the biennium for occupational competency model development and dual-training program consulting and technical assistance, specific to the cannabis components of the statutorily allowed industries of the Minnesota Dual-Training Pipeline (advanced manufacturing, agriculture, health care, and information technology) within the Department of Labor and Industry (DLI) (175.45). The purpose is to leverage the occupational competency model development and consultative skills of the Dual-Training Pipeline staff to support employers in building their own dual-training programs. The Office of Higher Education would also receive funding each year for transfer to the Dual Training Grant program fund for use in financing the related instruction component of dual-training programs specific to cannabis components of the aforementioned industries. Any occupations in the cannabis industry that technically fall outside of the statutorily allowed industries laid out for Dual-Training Pipeline would not be eligible for extensive technical assistance in competency model development or for associated grant funding. Registered apprenticeship programs incorporate the key components of dual training (related instruction paired with on-the-job training), so if they fall within the right industries, would be eligible for Dual Training Grant Programs as well.

DLI estimates 1.0 FTE (State Program Admin MAPE 10L) each year dedicated to creation, development, and administration of this grant program. A staff member will be needed to reach out to and convene industry experts, representative employers, higher education institutions, representatives of the disabled community, and representatives of labor to assist in identifying credible competency standards. This staff member will also be responsible for researching identified occupations, drafting the competency model, extensively soliciting feedback on the occupational competency model, developing an inventory of related instruction for the dual training, convening industry representatives for regular updates and guidance related to occupations in the cannabis sub-areas of advanced manufacturing, agriculture, health care services, and information technology.

Expenditure and/or Revenue Formula

State Prog Admin - MAPE 10L	2022	2023	2024	2025
FTE	1	1	1	1
Salary per FTE (midpoint)	68,466	68,466	68,466	68,466
Fringe Benefits (35% of Salary)	23,963	23,963	23,963	23,963
Indirect (22.5% of Salary/Fringe)	20,797	20,797	20,797	20,797
Salary / Fringe / Indirect	113,226	113,226	113,226	113,226
Non-Personnel Services	7,804	7,804	7,804	7,804
Cumulative Cost	121,030	121,030	121,030	121,030

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Agency Contact: Nicole Blissenbach (651-284-5334)

Agency Fiscal Note Coordinator Signature: Jacob Gaub

Phone: 651-284-5812

Date: 5/3/2021 10:11:47 AM

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Revised

Fiscal Note

2021-2022 Legislative Session

HF600 - 6E - Legalize Cannabis

Chief Author: **Ryan Winkler**
 Committee: **Commerce Finance and Policy**
 Date Completed: **5/5/2021 7:38:32 AM**
 Agency: **MN.IT Services**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue	X	
Information Technology	X	
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Other Misc. Special Revenue	-	-	-	-	-	-
MN.IT Services	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total				-		-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Other Misc. Special Revenue	-	-	-	-	-
MN.IT Services	-	14	14	14	14
Total	-	14	14	14	14

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Joe Harney **Date:** 5/4/2021 4:08:16 PM
Phone: 651-284-6438 **Email:** joe.harney@lbo.leg.mn

Revised

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025	
Other Misc. Special Revenue	-	-	-	-	-	-
MN.IT Services	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Other Misc. Special Revenue	-	4,601	3,498	3,498	3,498	3,498
MN.IT Services	-	193	237	237	237	237
Total	-	4,794	3,735	3,735	3,735	3,735
Biennial Total			8,529			7,470
2 - Revenues, Transfers In*						
Other Misc. Special Revenue	-	4,601	3,498	3,498	3,498	3,498
MN.IT Services	-	193	237	237	237	237
Total	-	4,794	3,735	3,735	3,735	3,735
Biennial Total			8,529			7,470

Bill Description

This bill relates to cannabis. It establishes the Cannabis Management Board and the Cannabis Advisory Council. The bill requires reporting relating to cannabis use and sale. It legalizes and limits the possession and use of cannabis by adults.

The bill requires establishment of a statewide monitoring system for integrated cannabis tracking, inventory, and verification to track all cannabis and cannabis products from seed or immature plant until disposal or sale to a patient or customer.

The Cannabis Management Board will need to consult with the state chief information officer to enter into a contract for the provision and improvement of the system. The Cannabis Management Board will also be responsible for licensing, inspection, and regulation of cannabis businesses.

Assumptions

1. Cost estimates are based on 53.25 Cannabis Management Board FTEs and 14 MNIT FTEs. Total FTE is 67.25.
2. Estimates are based on approximately 10,000 sq.ft of space.
3. Enterprise IT costs are based on FY22-23 approved enterprise rates.

Expenditure and/or Revenue Formula

MNIT's cost estimate includes both enterprise and pass through agency costs as well as cost savings to the Department of Health due to transfer of employees. Revenue represents reimbursement of costs from the new agency. The net fiscal impact to MNIT will therefore be zero.

Details of costs are in the tables below.

Revised

Enterprise Costs

	FY22	FY23	FY24	FY25	Cost type
ISP circuit - Fixed cost	1.20				Fixed, one-time
Low voltage cabling for computers and phones	23.21				FTE based, one-time
Data closet - racks, UPS's, patch panels	12.61				FTE based, one-time
WAN - Config and Install	0.44				Fixed, one-time
LAN - Professional services	3.04				Fixed, one-time
Wireless - Professional services	1.01				Fixed, one-time
Purchase of phones	15.74				FTE based, one-time
analog phones - fax machines, elevator	0.30				Fixed, one-time
IP Phones - Professional services for programming phones, 911 install	4.06				Fixed, one-time
Website - Set up of a basic no-frills website	10.10				Fixed, one-time
First week move-in support and help (professional hours)	2.43				Fixed, one-time
Website	2.50	5.00	5.00	5.00	Fixed, ongoing
IP Phone service	8.36	16.71	16.71	16.71	FTE based, ongoing
ISP circuit	6.00	12.00	12.00	12.00	Fixed, ongoing
WAN	5.07	10.14	10.14	10.14	Fixed, ongoing
LAN - port switches	3.36	6.73	6.73	6.73	FTE based, ongoing
LAN Core - dual LAN cores for LAN redundancy (one core switch)	4.03	8.05	8.05	8.05	Fixed, ongoing
Wireless access points	0.25	0.50	0.50	0.50	FTE based, ongoing
analog phones - fax machines, elevator, panic button (3)	0.66	1.33	1.33	1.33	Fixed, ongoing
workstations- laptop - Assumes all employees will use laptops	31.46	62.93	62.93	62.93	FTE based, ongoing
Enterprise Software Bundle	21.74	43.49	43.49	43.49	FTE based, ongoing

Revised

Mobile Device Management - Advanced - email access on a state devices	4.72	9.44	9.44	9.44	FTE based, ongoing
Multi-factor Authentication - Security Services	0.96	1.93	1.93	1.93	FTE based, ongoing
Security Core Services	10.76	21.52	21.52	21.52	FTE based, ongoing
MNIT Admin Charges - MNIT FTE based	9.05	18.09	18.09	18.09	FTE based, ongoing
MNIT Admin Charges - MNIT IT spend based	9.45	18.90	18.90	18.90	FTE based, ongoing
Total Enterprise Costs	192.53	236.76	236.76	236.76	

Pass through agency costs (MNIT FTE and IT systems costs)

	FTE	FY22	FY23	FY24	FY25	Effective Date
Board MNIT Costs (000)		1380	542	542	542	7/1/2021
<i>Seed to Sale</i>		1988	784	784	784	7/1/2021
<i>Cannabis Licensing and Credentialing</i>		3368	1326	1326	1326	7/1/2021
OMC Legacy System Upgrades		270	190	190	190	7/1/2021
Web Services		470	460	460	460	7/1/2021
Call Center Services	5	153	1247	1247	1247	7/1/2021
IT Staff Support	9					
<i>*Staff FTE cost absorbed in projected work above</i>						
Total Board IT Costs	14	4,601	3,498	3,498	3,498	

Long-Term Fiscal Considerations

N/A

Local Fiscal Impact

Revised

N/A

References/Sources

Agency Contact:

Agency Fiscal Note Coordinator Signature: Uma Venkat

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Revised

Fiscal Note

2021-2022 Legislative Session

HF600 - 6E - Legalize Cannabis

Chief Author: **Ryan Winkler**
 Committee: **Commerce Finance and Policy**
 Date Completed: **5/5/2021 7:38:32 AM**
 Agency: **Natural Resources Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	299	-	-	-	-
Total	-	299	-	-	-	-
Biennial Total			299			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	-	-	-	-
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Jim Carlson **Date:** 5/4/2021 10:14:58 AM
Phone: 651-284-6540 **Email:** jim.carlson@lbo.leg.mn

Revised

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	299	-	-	-	-
Total		-	299	-	-	-
Biennial Total				299		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	299	-	-	-	-
Total		-	299	-	-	-
Biennial Total				299		-
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-

Bill Description

The bill provides cannabis business structure and establishment of boards, task forces, advisory councils, and business type models (new Chapter 342). There is a focus on agricultural context of products. The bill provides for penalties as well as expungements of criminal records. There are a number of cannabis related changes to the Drugs/Controlled Substances provisions in Chapter 152, and provides structure for medical use. There are provisions regarding employee/employer limitations and requirements. There are changes to cannabis related criminal forfeiture provisions in Chapter 609.

The cannabis advisory board established under this bill is charged with adopting environmental standards rules relating to use of auto watering systems, water runoff standards, reuse of waste water, and filtration systems for removing contaminants. DNR is responsible for ground water appropriation permits that would be needed for watering systems; however, MPCA is most often the lead agency for water runoff standards, reuse of waste water, and filtration systems for removing contaminants. Other environmental standards required by the board include energy use, solid waste, and odor standards.

The bill did not include direct changes to the DWI provisions in Chapter 169A, but it is likely there will be cross-over impacts resulting from the changes to the Drugs/Controlled Substances provisions in Chapter 152).

Assumptions

We assume some costs for general training of DNR Enforcement Officers related to the new cannabis regulatory system and requirements, recognition of impairment, and for the enforcement of the purposed environmental standards adopted by the Cannabis Management Board.

We assume 2 days training will be necessary for each of the DNR's Officers. The cost estimates for the two days of training includes space, meals, overnight accommodations, staff time, and salary. We assume approximately 194 DNR Enforcement officers, including supervisors, will need to complete this training. Since there is no effective date specified in the natural resources enforcement sections, the default date for appropriations bills of July 1, 2021 is assumed as the effective date for the general training. We assume a recurring refresher training will be necessary every five years.

We assume the \$125,000 appropriated to the DNR in FY2022 for enforcement of environmental standards adopted by the Cannabis Management Board are specific to additional responsibilities borne by the agency for ground water appropriation permits that would be needed for watering systems.

Revised

Expenditure and/or Revenue Formula

Number of DNR Enforcement Officers required to complete the 2-day general training: 194

Average hourly rate salary and fringe per officer: \$88

Total salary rate (with fringe) per FTE= 2 training days; 16 hours x \$88= \$1,410/officer;

Total salary for all DNR Enforcement Officers = 194 X \$1,410 = \$273,533

Other costs that would be incurred include travel to the training, meals, lodging and facility use. The total estimated aggregate expenditures for these other training costs will be \$25,000 for the 2 training days.

The total cost of the general training is estimated at \$298,533.

Long-Term Fiscal Considerations

We assume a recurring refresher training will be necessary every five years, which is beyond our current fiscal horizon.

Should crop irrigation water needs exceed 10,000 gallons/day or 1 million gallons in a year, then a water appropriation permit will be required. Such permits are part of DNR's ongoing work and no extra costs are anticipated.

Local Fiscal Impact

None.

References/Sources

None.

Agency Contact: Col Rodmen Smith, ENF Director, 651-259-5042

Agency Fiscal Note Coordinator Signature: Emily Engel

Phone: 651-259-5548

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Revised

Fiscal Note

2021-2022 Legislative Session

HF600 - 6E - Legalize Cannabis

Chief Author: **Ryan Winkler**
 Committee: **Commerce Finance and Policy**
 Date Completed: **5/5/2021 7:38:32 AM**
 Agency: **Office of Higher Education**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	500	500	500	500	500
Total	-	500	500	500	500	500
Biennial Total			1,000			1,000

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	.35	.35	.35	.35
Total	-	.35	.35	.35	.35

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Alyssa Holterman Rosas **Date:** 5/4/2021 10:06:37 AM
Phone: 651-284-6439 **Email:** alyssa.holterman.rosas@lbo.leg.mn

Revised

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025	
General Fund	-	500	500	500	500	500
Total	-	500	500	500	500	500
Biennial Total			1,000			1,000
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	500	500	500	500	500
Total	-	500	500	500	500	500
Biennial Total			1,000			1,000
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

HF 600 This bill establishes a regulatory framework for adult-use cannabis, moves the medical cannabis program under the newly created Cannabis Management Board, establishes taxes on adult-use cannabis, creates grants to assist individuals entering into the legal cannabis market, amends criminal penalties, provides for expungement and resentencing of certain convictions, reschedules marijuana, and appropriates money.

As amended, HF 600 (6th engrossment) includes the following:

Article 1: Regulation of Adult-Use Cannabis (no OHE provisions)

Article 2: Taxes (no OHE provisions)

Article 3: Food Safety (no OHE provisions)

Article 4: Business Development (OHE provisions in Sec. 5)

Sec. 1. Cannabis grower grants (no OHE provisions)

Sec. 2. Cannabis industry startup financing grants (no OHE provisions)

Sec. 3. Cannabis industry navigation grants (no OHE provisions)

Sec. 4. Cannabis industry training grants (no OHE provisions)

Sec. 5. Dual training pipeline; appropriations

Paragraph (a): Department of Labor and Industry requirements - Funds the creation of occupational competency standards and the provision of technical assistance to the development of dual-training programs under Minn. Stat. § 175.45 for the legal cannabis industry.

Paragraph (b): Office of Higher Education requirements Provides \$500,000 in each fiscal year for grants to employers in the legal cannabis industry for dual training competency programs, with special priority for employers and trainees who are eligible to be social equity applicants.

Article 5. Criminal Penalties (no OHE provisions)

Article 6: Expungement (no OHE provisions)

Revised

Article 7: Miscellaneous Provisions (no OHE provisions)

Article 8: Scheduling of Marijuana (no OHE provisions)

Article 9: Appropriations (no OHE provisions)

Assumptions

Dual training is an existing program at OHE. The new funds provide for additional grants to training providers in the area specified by HF600. The proposed language does not require OHE to administer the program differently than current operations, in partnership with the Department of Labor and Industry.

MS136A.246 Subd. 11 provides OHE 5% of any appropriation to the account for administrative operations.

This language would require no modifications to existing IT systems.

OHE assumes the following activities are required to implement the language proposed: Develop relationships with representatives from relevant industry associations, employers, and training providers. Leverage developed relationships to market the program to potential applicants.

OHE assumes that staff will need to increase the amount of time spent on the following program administration activities due to the increase in employers receiving grants: Review, update, and publish application and relevant forms. Provide technical assistance to individuals interested in applying. Review applications for completeness. Verify required applicant information using documentation provided by applicants. Organize and facilitate application review and selection processes. Obtain written verification that selected applicants understand the requirements of the program. Encumber funds and execute multi-year contracts (i.e. 5-year contracts) with individual participants or institutions. Process verification and funds confirmation for each participant. Request payments to each eligible participant. Collect, analyze, and disseminate data on the program.

Information about programs and employers eligible under the proposed legislation would be integrated into existing communication materials.

Information about programs and employers funded under the proposed legislation would be integrated into existing reporting.

As written, the language is consistent with funds being appropriated to base funding. OHE Assumes the \$500K is an increase to the dual training base funding and extends to FY2024, FY2025, and beyond. If the intention is for the funding to be one time funds for FY2022 and FY2023 only, OHE believes adjustments to include "One Time" funding language should be made.

Expenditure and/or Revenue Formula

Staff: Based on the activities required to implement the proposed legislation, OHE assumes that a .35 FTE (position) would be required to administer the program at a cost of \$25,000 per year.

Cost Table (in thousands)

Cost	Initial	Year 2022	Year 2023	Year 2024	Year 2025
Grants to Employers		\$475	\$475	\$475	\$475
Staff	\$0	\$25	\$25	\$25	\$25
Total	\$0	\$500	\$500	\$500	\$500

Long-Term Fiscal Considerations

None

Local Fiscal Impact

Revised

None

References/Sources

Agency Contact: Megan Fitzgibbon

Agency Fiscal Note Coordinator Signature: Poawit Yang

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Date: 5/4/2021 10:05:06 AM

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Revised

Fiscal Note

2021-2022 Legislative Session

HF600 - 6E - Legalize Cannabis

Chief Author: **Ryan Winkler**
 Committee: **Commerce Finance and Policy**
 Date Completed: **5/5/2021 7:38:32 AM**
 Agency: **Pollution Control Agency**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	518	495	64	-	-
Total	-	518	495	64	-	-
Biennial Total			1,013			64

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	4	3.5	.5	-
Total	-	4	3.5	.5	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Jim Carlson **Date:** 5/4/2021 10:25:36 AM
Phone: 651-284-6540 **Email:** jim.carlson@lbo.leg.mn

Revised

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025	
General Fund	-	518	495	64	-	
Total	-	518	495	64	-	
Biennial Total			1,013			64
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	518	495	64	-	
Total	-	518	495	64	-	
Biennial Total			1,013			64
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	
Total	-	-	-	-	-	
Biennial Total			-			-

Bill Description

H.F. No. 600, sixth engrossment established regulations associated with production, distribution, sale, and use of adult-use Cannabis. And creates and establishes the powers and duties of a Cannabis Management Board to oversee the development of rules, policy, and regulation of medical cannabis and adult-use cannabis markets.

Information provided in this fiscal note pertains specifically to Section 7 Establishment of Environmental Standards (lines 20.13-21.16) which requires the establishment of water, energy, odor (air) and solid waste environmental standards for cannabis businesses

Assumptions

The following assumptions and costs apply to H.F. No. 600, sixth engrossment.

The MPCA has rulemaking authority for environmental standards so we assumed the Cannabis Management Board would delegate the rulemaking under Section 7 (lines 20.13-21.16) to the MPCA or at a minimum require MPCA staff input at the equivalent level.

This is assumed to be a major rulemaking, so expenditures were estimated based on a rulemaking of similar scope and size as laid out in the Minnesota Rulemaking Manual.

It is assumed rulemaking would be needed for air, water, and solid waste but packaged together as one rule to save on legal, coordination, publication, and supply costs.

The Minnesota Rulemaking Manual assumes 2 years for rulemaking. Costs were apportioned across 2 fiscal years (FY) based on estimated timing of the work. All FTE costs were split across 2 fiscal years except the initial 0.5 FTE of wastewater (WW) staff needed to evaluate and assist local units of government with possible regulation of discharging production wash water to their collection and treatment systems. WW 0.5 FTE was limited to FY22.

It is assumed small businesses seeking to manufacture cannabis products will need assistance determining and complying with new or existing environmental requirements. Small business environmental assistance staff were included for FY22-24.

It is assumed that time spent on the Cannabis Advisory Council will be nominal and whoever from the MPCA assigned to this team would accommodate that work as part of his or her current workload.

We do not know the number of cannabis businesses that may require permitting through the MPCA. At this time, we

Revised

assume any permitting done by the agency will be done with existing staff compliment.

Expenditure and/or Revenue Formula

Costs:

Rulemaking administrative costs:

- Office of Administrative Hearing costs (filing fees associated with the eComments site, ALJ review time, hearing costs) = \$29,075 (FY23)
- State Register costs (publication of all associated notices) = \$7,890 (FY23)
- Miscellaneous expenses (mailings/copying/transcripts): \$3,925 (FY23)

FTE Costs:

Rulemaking FTE related costs:

- Attorney Costs \$148/hour for 86 hours = \$12,728 or \$6,364 in FY22 and \$6,364 in FY23
- Rule Coordinator staff (0.75 FTE x \$128,000 x 2 years) = \$192,000 or \$96,000 for FY22 and \$96,000 for FY23
- Solid Waste program staff (0.75 FTE x \$128,000 x 2 years) = \$192,000 or \$96,000 for FY22 and \$96,000 for FY23
- Air program staff (0.75 FTE x \$128,000 x 2 years) = \$192,000 or \$96,000 for FY22 and \$96,000 for FY23
- Water quality program staff (0.75 FTE x \$128,000 x 2 years) = \$192,000 or \$96,000 for FY22 and \$96,000 for FY23

Total rulemaking costs: \$821,618 or \$390,364 for FY22 and \$431,254 for FY23

Other program costs:

- Wastewater program staff (0.5 FTE x 128,000) = \$64,000 (FY22)
- Small Business Assistance staff (0.5 FTE x 128,000 x 3) = \$192,000 or \$64,000 for FY22, \$64,000 for FY23, and \$64,000 for FY24

Total Costs:

- \$1,077,618 or \$518,364 for FY22 and \$495,254 for FY23 and \$64,000 for FY24

*The annual cost of 1.0 FTE is \$128,000 in FY2021-2025. Annual costs for 1.0 FTE include salary, fringe, and non-specialized employee support costs (work space, computer and office supplies, office equipment, local travel, etc.)

Long-Term Fiscal Considerations

Depending on the results and conditions of the rulemaking, there could be long term implementation costs associated with issuing permits, conducting inspections, enforcement follow-up, and outreach and assistance. Small business assistance could also be needed beyond FY24.

Local Fiscal Impact

Revised

The potential cost to local governments is unknown until an evaluation of impacts and/or rulemaking is complete.

References/Sources

Minnesota Rulemaking manual

Agency Contact: Dana Vanderbosch 651-485-1290

Agency Fiscal Note Coordinator Signature: John Allen

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Revised

Fiscal Note

2021-2022 Legislative Session

HF600 - 6E - Legalize Cannabis

Chief Author: **Ryan Winkler**
 Committee: **Commerce Finance and Policy**
 Date Completed: **5/5/2021 7:38:32 AM**
 Agency: **Prof Educator Licensing Std Bd**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Alyssa Holterman Rosas **Date:** 4/30/2021 10:09:04 AM
Phone: 651-284-6439 **Email:** alyssa.holterman.rosas@lbo.leg.mn

Revised

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025	
Total	-	-	-	-	-	-
Biennial Total			-			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total	-	-	-	-	-	-
Biennial Total			-			-
2 - Revenues, Transfers In*						
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

For PELSB, this bill addresses the expungement of charges and the sealing of court records in certain cases addressed in the bill. PELSB completes background checks on all new applicants and thus is the recipient of court records. On line 143.23 and line 148.33, PELSB is identified as the agency who will receive expungement information, or the order concluded by the Cannabis Expungement Board.

Assumptions

None of these changes impact the discipline process work of PELSB. Therefore, there is no fiscal impact.

Expenditure and/or Revenue Formula

No financial impact.

Long-Term Fiscal Considerations

No financial impact.

Local Fiscal Impact

No financial impact.

References/Sources

Agency Contact: Alex Liuzzi (651-539-4180)

Agency Fiscal Note Coordinator Signature: Alex Liuzzi

Date: 4/30/2021 10:05:46 AM

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Fiscal Note

2021-2022 Legislative Session

HF600 - 6E - Legalize Cannabis

Chief Author: **Ryan Winkler**
 Committee: **Commerce Finance and Policy**
 Date Completed: **5/5/2021 7:38:32 AM**
 Agency: **Public Defense Board**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

The Public Defense Board assumes that the proposed legislation may impact criminal cases. However, the fiscal impact cannot be determined due to a lack of data and/or factors that cannot be measured.

LBO Signature: Maren Bardal **Date:** 5/3/2021 11:20:04 AM
Phone: 651-284-6429 **Email:** maren.bardal@lbo.leg.mn

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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2 Dollars in Thousands	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-
Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Total	-	-	-	-	-
Biennial Total			-		-
2 - Revenues, Transfers In*					
Total	-	-	-	-	-
Biennial Total			-		-

Bill Description

House File 600-6e would allow for the sale of marijuana. It would remove certain crimes for possession and sale of marijuana from the controlled substance statutes and creates other crimes related to the legal sale of cannabis and codifies them in a separate section of the statutes.

The bill removes 152.022 Subdivision 1 Subsection (5) the sale on one or more occasions w/in 90-day period of a mixture of 10 kilos or more, and Item iii of Subsection 7 which is sale of a mixture of a total weight of five kilograms or more.

It would also remove the portion of 152.022 Subd. 2 Subsection 6 that makes possession of 100 or more marijuana plants a crime.

The bill would remove cannabis from the controlled substance list under 3rd degree crimes for sale (152.023 Subd.1).

The bill would amend 152.023 Subd (2) Subsection (5) by making it a third-degree controlled substance crime for the possession of more than 10 kilograms, more than two kilos of cannabis concentrate, or a product infused with more than 200 grams of tetrahydrocannabinol.

The bill removes 152.024 Subd 1 Subsection (4) the unlawful sale of any amount in a school zone, park zone, public housing, or drug treatment facility.

The bill removes fifth degree sale unless that sale is for no remuneration from 152.025 Subd 1 Subsection 1

The bill removes the sale of cannabis from 152.025 Subd 1 Subsection 1 fifth degree sale of a controlled substance.

The bill would also provide for new penalties since cannabis would now be available through licensed retailers.

The bill would provide for a first-degree felony of not more than five years in prison if a person is in possession of the following which were not obtained from a business licensed to sell cannabis- more than one pound of cannabis not in their residence, or more than ten pounds in their residence, or between 80grams and two kilograms of cannabis concentrate, or edible cannabis products infused with more than 8 grams but not more than 200 grams of tetrahydrocannabinol.

A second-degree penalty (gross misdemeanor) of imprisonment for not more than one year possession of the following which were obtained from business licensed to sell cannabis- more than one pound but not more than 10 kilograms not in their residence, or more than 10 pounds but less than ten kilograms in their residence, or more than 80grams but not more than two kilograms of cannabis concentrate, or edible cannabis products infused with 8 grams but not more than 200 grams of tetrahydrocannabinol.

A third-degree misdemeanor for possession of the following which were not obtained from business licensed to sell cannabis- more than three ounces but not more than one pound not in their residence, or more than 16 grams but not more than 80 grams of cannabis concentrate, or edible cannabis products infused with between 1,600 milligrams and 8

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grams of tetrahydrocannabinol.

A fourth-degree petty misdemeanor for possession of the following which were not obtained from business licensed to sell cannabis- between 2 and 3 ounces of cannabis, or between 8 and 16 grams of cannabis concentrate or edible cannabis products infused with between 800 and 1,600 milligrams of tetrahydrocannabinol.

If the cannabis was obtained from a licensed business more than 2 ounces but not more than one pound of cannabis, between 8 and 80 grams of concentrate, or edible products infused with between 800 milligrams and 8 grams of tetrahydrocannabinol

The bill would also make it a misdemeanor if the person uses the product while operating a motor vehicle, or a petty misdemeanor if the person has in their possession (in their motor vehicle) more than 2 ounces, 8 grams of cannabis concentrate, or products infused with 800 milligrams of tetrahydrocannabinol in a container that has been opened.

The bill would also make it a petty misdemeanor for a person who possesses in a motor vehicle, not more than 2 ounces of cannabis, eight grams of cannabis concentrate, or products infused with 800 milligrams of tetrahydrocannabinol in any container that has been opened, or the seal broken, or the contents of which have been partially removed.

The bill would also establish a petty misdemeanor for unlawful use of cannabis in a public place.

Sale

The bill establishes a first degree sale penalty (5 year felony) if the person unlawfully sells more than 2 ounces of cannabis, or 8 grams of concentrate, or edibles infused with 800 milligrams of tetrahydrocannabinol, if the sale occurs within 10 years of a previous conviction for similar amounts, or within 10 years of sale to a minor where the defendant is more than 36 months older than the minor, or sale to a minor in school zone, park zone, public housing zone or drug treatment facility, or within 10 years of three or more convictions for sale of similar amounts, or two sales within 10 years if the sale took place in a school zone, park zone, public housing zone or drug treatment facility, or within 10 years of a conviction under this new subdivision.

The bill establishes a second-degree penalty (gross misdemeanor) if the person unlawfully sells more than 2 ounces of cannabis, or 8 grams of concentrate, or edibles infused with 800 milligrams of tetrahydrocannabinol to a minor if the defendant is more than 36 months older than the minor, within 10 years of two convictions for the sale of similar amounts, or within 10 years of a conviction for sale in a school zone, park zone, public housing zone or drug treatment facility.

The bill establishes a third-degree penalty (misdemeanor) if the person unlawfully sells more than 2 ounces of cannabis, or 8 grams of concentrate, or edibles infused with 800 milligrams of tetrahydrocannabinol.

The bill establishes a petty misdemeanor if the person unlawfully sells not more than 2 ounces of cannabis, or 8 grams of concentrate, or edibles infused with 800 milligrams of tetrahydrocannabinol.

The bill establishes a petty misdemeanor for minors and requires participation in drug treatment and community service if the minor unlawfully sells cannabis or cannabis products.

The bill establishes a cannabis cultivation crime in the first degree (5-year felony) if the person cultivates more than 23 plants, or a second degree (gross misdemeanor) for cultivation of 16 to 23 plants.

The bill would also create a misdemeanor penalty (M.S. 342.58) for a health care practitioner who refers patients to a cannabis business in which the provider has a financial interest.

Assumptions

The cases related to the possession and or sale of cannabis are most often included with other charges which makes it difficult to estimate how many cases might be involved with the sections of statute being repealed or amended.

The creation of new penalties under the bill will undoubtedly create new cases, however it is not clear how many cases there may be and the seriousness of these cases.

There may be a reduction in current cases as a result of persons now pursuing legal options for marijuana sales and possession. There is no reliable way to determine what may be a reduction in cases.

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It has been our experience that when there is a new area of the law, there are additional appeals and post-conviction remedies sought. Again, it is difficult to know how many of these cases there may be.

There is insufficient data to predict what impact the bill may have on public defender caseloads and workloads.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Agency Contact:

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Fiscal Note

2021-2022 Legislative Session

HF600 - 6E - Legalize Cannabis

Chief Author: **Ryan Winkler**
 Committee: **Commerce Finance and Policy**
 Date Completed: **5/5/2021 7:38:32 AM**
 Agency: **Public Safety Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		
	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings) Dollars in Thousands	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	3,013	2,486	2,486	2,486
Trunk Highway	-	3,621	1,443	1,443	1,443
Total	-	6,634	3,929	3,929	3,929
Biennial Total			10,563		7,858

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	9	9	9	9
Trunk Highway	-	10	10	10	10
Total	-	19	19	19	19

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

The proposed legislation contains several provisions under Article 6, Sections 4 and 5 that the Department of Public Safety, Bureau of Criminal Apprehension cannot implement because they do not maintain or have access to the data or information needed. As a result, the Department of Public Safety has only estimated the fiscal impact based on the records that are available.

LBO Signature: Maren Bardal **Date:** 5/3/2021 7:59:16 PM
Phone: 651-284-6429 **Email:** maren.bardal@lbo.leg.mn

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State Cost (Savings) Calculation Details

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State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	3,013	2,486	2,486	2,486	2,486
Trunk Highway	-	3,621	1,443	1,443	1,443	1,443
Total		-	6,634	3,929	3,929	3,929
Biennial Total			10,563		7,858	
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	3,013	2,486	2,486	2,486	2,486
Trunk Highway	-	3,621	1,443	1,443	1,443	1,443
Total		-	6,634	3,929	3,929	3,929
Biennial Total			10,563		7,858	
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Trunk Highway	-	-	-	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-

Bill Description

ARTICLE 1

Section 1: Defines terms including “adult-use cannabis,” “adult-use cannabis concentrate,” “adult-use cannabis product,” “batch,” “cannabinoid profile,” “cannabis business,” “edible cannabis produce,” “hemp-derived consumable or topical product,” “labor peace agreement,” “medical cannabis,” “patient,” “qualifying medical condition,” and “statewide monitoring system” as used in the new chapter of law.

Section 2: Establishes the Cannabis Management Board consisting of seven members. Tasks the board with overseeing the regulation of the production and sale of adult-use cannabis, adult-use cannabis products, and medical cannabis. Establishes the powers, duties, and guiding principles for the board. Establishes three-year staggered terms for board members. Permits the board to require fingerprints from persons determined by board rule to be subject to fingerprinting and obtain criminal conviction data for persons seeking a license from the board. Directs the board to meet at least monthly and establishes that the board is subject to the requirements of chapter 13D. Gives the board authority to establish limits on the potency of cannabis that can be sold to customers by licensed retailers and licensed microbusinesses with an endorsement to sell cannabis and cannabis products to customers. Gives the board temporary expedited rulemaking authority. Directs the board to appoint an executive director and other employees as needed, including peace officers. Establishes an office of social equity to administer grants and act as an ombudsperson for the board.

Section 3: Establishes an advisory council consisting of 25 members, including the commissioner of public safety, an expert in criminal justice reform to mitigate the disproportionate impact of drug prosecutions on communities of color, . Directs the council to meet monthly or at the call of the chair and provides that the meetings are subject to chapter 13D. Directs the council to perform duties including reviewing national cannabis policy, examining the effectiveness of state cannabis policy, reviewing developments in information about cannabis, and taking public testimony.

Section 4: Directs the board to conduct multiple studies to determine the expected size and growth of the regulated cannabis industry; the size and makeup of the illicit cannabis industry; and the impact, if any, of adult-use cannabis on the prevalence of impaired driving. Provides that the initial reports must be made to the legislature by January 15, 2022, and final reports must be made by January 15, 2023. Also requires a report to the legislature on January 15 of each year on the status of the regulated cannabis industry; the illicit cannabis market; proposals for legislative action; and suggestions for legislative funding for social equity grants, education and prevention programs, and training for peace officers.

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Section 5: Directs the board to contract with an outside vendor to establish a statewide monitoring system to track all cannabis and cannabis products from seed or immature plant to disposal or sale to a patient or customer.

Section 6: Directs the board to approve all cannabis products for sale by rule. Prohibits the approval of products that are, or resemble, certain candies and snacks commonly consumed by children.

Section 8: Provides legal limitations on the use, possession, and transportation of cannabis and cannabis products and establishes civil penalties for violations. States that a person age 21 or older may:

- possess 2.0 ounces or less of cannabis in a public place;
- possess ten pounds or less of cannabis in a person's residence;
- possess or transport eight grams or less of adult-use cannabis concentrate;
- possess or transport edible products infused with a total of 800 mg or less of tetrahydrocannabinol;
- give away cannabis and cannabis products in an amount that is legal for a person to possess in public;
- use cannabis and cannabis products in private areas; and
- cultivate up to eight cannabis plants, of which four or fewer may be mature, flowering plants.

Section 9: Establishes ten categories of licenses. License categories are:

- cannabis cultivator;
- cannabis manufacturer;
- cannabis retailer;
- cannabis wholesaler;
- cannabis transporter;
- cannabis testing facility;
- cannabis microbusiness;
- cannabis event organizer;
- cannabis delivery service; and
- medical cannabis business.

Section 12: Provides that local units of government may not prohibit the possession, transportation, or use of cannabis or cannabis products authorized under the chapter. Provides that local units of government may not prohibit the establishment of a cannabis business licensed under this chapter. Permits local units of government to establish reasonable restrictions on the time, place, and manner of operations and directs the board to work with local units of government to establish a model ordinance. Permits local units of government to conduct studies on establishing reasonable limitations on the time, place, and manner of the operation of cannabis businesses and permits local governments engaged in such a study to prohibit a cannabis business from opening until January 1, 2024. Directs local units of government to review applications sent by the board and certify whether the application complies with local ordinances. Directs the board to seek input on applications from local governments. Requires the board to establish an expedited complaint process for complaints made by local governments.

Section 13: Directs the board to establish forms and procedures for the processing of licenses issued under this chapter. Establishes minimum requirements for the information collected by the board including information about the applicant, the ownership and control of the business, the security plan for the business, and an attestation that the entity has entered into a labor peace agreement. Permits the board to charge an application fee of \$250.

Revised

Section 15: Establishes that the board may enter and inspect cannabis businesses and records at reasonable hours. Gives the board the power to issue subpoenas, issue oaths, take depositions, and require the production of records. Permits the board to enter into agreements with community health boards to delegate its inspection and enforcement duties. Permits the board to conduct inspections at any time. Requires the board to prioritize inspections based on suspected violations that pose an imminent danger to customers or the public. Further directs the board to prioritize inspections based on complaints from local units of government. Permits the board to issue administrative orders directing cannabis businesses to take specific action, permits businesses to appeal those orders, and allows the board to assess administrative penalties of up to \$10,000 for each violation. Provides that certain data related to complaints and investigations are not public.

Section 17: Establishes general ownership and operation requirements that apply to all cannabis businesses. Establishes disqualifications for certain criminal offenses that last either for the person's lifetime, or for one, five, or ten years following the discharge of a sentence. Establishes requirements for holding a license including that a license holder be at least 21; reside in Minnesota or be a business with Minnesota ownership of at least 75 percent; not be employed by the board or work as a peace officer; never have had a revocation of a license issued under this chapter; and have filed and paid appropriate business taxes.

Section 18: Establishes general operation requirements including prohibitions on hiring a person under 21 years of age or allowing a person under 21 years of age into most parts of a cannabis business; prohibiting consumption of cannabis and cannabis products within a cannabis business except as authorized for quality control or pursuant to an endorsement permitting consumption on site; having restricted access to areas where cannabis is grown, manufactured, or stored; having adequate ventilation and filtration systems; maintaining certain records; providing a diversity report; using the statewide monitoring system; and having adequate security.

Section 21: Provides that a cannabis manufacturer license entitles the license holder to extract tetrahydrocannabinol and other raw materials from cannabis, concentrate tetrahydrocannabinol, manufacture products for public consumption, package and label cannabis products for sale to other cannabis businesses, and perform other actions approved by the board. Requires applicants for a cannabis manufacturer license to provide information regarding business operations. Permits an entity holding a cannabis manufacturer license to also hold a cannabis cultivator license, medical cannabis license, and a cannabis event organizer license. Establishes prohibitions on relationships between cannabis manufacturers and health care practitioners who certify qualifying medical conditions for patients.

Section 22: Requires that cannabis manufacturing must take place in an enclosed, locked facility that is used exclusively for the manufacture of cannabis products except that a business that also holds a cannabis cultivator license may operate in a facility that shares general office space, bathrooms, entryways, and walkways. Requires cannabis manufacturers wishing to perform extraction and concentration to provide specific information on operations to obtain a license endorsement. Requires cannabis manufacturers wishing to produce customer products to provide specific information on operations to obtain a license endorsement. Limits the use of trademarked food products in producing products for customers.

Section 24: Prohibits the sale of cannabis plants, adult-use cannabis, or adult-use cannabis products to individuals under 21 years of age. Permits the sale of adult-use cannabis and cannabis products within the limits established by the chapter; cannabis paraphernalia, including childproof storage containers; certain drinks; books, videos, and magazines related to information on cannabis cultivation and cannabis products; multiple use bags; certain clothing; and hemp products. Requires cannabis retailers to verify the age of customers before selling products. Limits the display of cannabis and cannabis products. Requires cannabis retailers to post notices announcing product recalls, warning of the dangers of driving while under the influence; and stating that consumption is intended only for individuals who are 21 years of age or older. Prohibits cannabis retailers from operating between 2:00 a.m. and 8:00 a.m. Monday through Friday, or between 2:00 a.m. and 10:00 a.m. on Sunday unless operation is permitted under ordinance. Permits a local city or county to adopt an ordinance permitting additional hours of operation. Requires cannabis retailers to comply with local building ordinances, maintain security, maintain adequate lighting, and accept deliveries through limited access areas. Prohibits sales to a person who is visibly intoxicated; selling more than an individual is permitted to possess; giving away plants, cannabis, or cannabis products; operating a drive-through window; operating a vending machine containing cannabis or cannabis products; or selling cannabis or cannabis products when a security system, or the statewide monitoring system, is not working. Permits a cannabis retailer to sell medical cannabis from a portion of its premises that is distinct from the remainder of the premises and contains space for consultation with a pharmacist.

Section 29: Provides that a cannabis testing facility license entitles a license holder to obtain and test immature cannabis plants and seedlings, cannabis, cannabis products, hemp, and hemp products. Requires applicants for a cannabis testing facility license to provide information regarding business operations and proof of accreditation. Prohibits an entity holding a cannabis testing facility license from holding any other license.

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Section 30: Requires a testing facility to comply with rules adopted by the board establishing testing protocols, record retention, and disposal of cannabis and cannabis products.

Section 40: Adds § 342.50. Establishes the medical cannabis registry program, in which patients diagnosed with a qualifying medical condition who enroll in the patient registry are eligible to obtain medical cannabis and medical cannabis products. (The current patient registry program is administered by the commissioner of health.)

Subd. 9: Requires the Office of Medical Cannabis to register a designated caregiver for a patient upon certification from the patient's health care practitioner or the federal Department of Veterans Affairs that the patient requires assistance in obtaining or administering medical cannabis or medical cannabis products. Establishes qualifications for designated caregivers, and requires a criminal background check to be conducted before registering a person as a designated caregiver. Allows a registered designated caregiver to also be enrolled in the registry program as a patient.

Section 45: Adds § 342.55. Establishes the task force on medical cannabis therapeutic research and specifies task force duties. The task force includes the commissioner of public safety and does not expire. The task force is required to evaluate the impact of cannabis on law enforcement and prosecutions.

Section 47, subd. 2: Lists acts that are not violations of chapter 152 or chapter 342, acts that do not subject the actors to civil penalties or disciplinary action, and acts for which certain actors are not civilly or criminally liable. Prohibits law enforcement authorities from accessing the registry without a search warrant, prohibits public employees from releasing data about a patient enrolled in the registry program except as authorized in law, and prohibits information obtained from a patient under statutes governing the registry program from being admitted as evidence in a criminal proceeding unless the certain criteria are met. States that possession of a registry verification or application does not constitute probable cause or reasonable suspicion and cannot be used to support a search or inspection.

Section 51: Adds § 342.60. Requires a cannabis business to comply with testing requirements in this section and in rule before selling, offering for sale, or transferring cannabis or cannabis products, and establishes duties related to testing for the board and the commissioner of health.

Section 58: Provides that actions in compliance with the new chapter are lawful.

ARTICLE 4

Section 4: Creates the CanTrain grant program, run by the Department of Employment and Economic Development, to give grants to (1) organizations to train people for cannabis jobs, and (2) individuals to subsidize getting training for cannabis jobs. Both types of grants favor programs that result in an industry-relevant credential or include hands-on or on-site experiences in the industry. The grants to individuals are designed to be made by lottery after a very simple application, with DEED publishing all the information necessary to find an appropriate training program, and funds can be used for external barriers to training like child care and transportation as well as formal tuition and materials. The amount for individual grants is currently blank.

ARTICLE 5

Section 1: Makes a conforming change, eliminating the controlled substance offense in the second degree related to the sale of marijuana.

Section 2: Makes a conforming change, eliminating the controlled substance offense in the second degree related to the possession of 100 or more marijuana plants.

Section 3: Makes a conforming change, eliminating the controlled substance offense in the third degree related to the sale of marijuana.

Section 4: Amends the controlled substance offense in the third degree related to the possession of marijuana to provide that a person commits the offense if the person possesses more than ten kilograms of cannabis in any place other than the person's home, more than two kilograms of cannabis concentrate, or products infused with more than 200 grams of tetrahydrocannabinol.

Section 5: Makes a conforming change, eliminating the controlled substance offense in the fourth degree related to the sale of marijuana in a school zone, park zone, public housing zone, or a drug treatment center.

Revised

Section 6: Makes a conforming change, eliminating the controlled substance offense in the fifth degree related to the sale of marijuana.

Section 7: Makes a conforming change, eliminating the controlled substance offense in the fifth degree related to the possession of marijuana, cannabis, or cannabis products.

Section 8: Establishes petty misdemeanor, misdemeanor, gross misdemeanor, and felony crimes for possessing cannabis and cannabis products in excess of the amounts that would be legal under this bill.

Section 9: Establishes petty misdemeanor, misdemeanor, gross misdemeanor, and felony crimes for selling cannabis and cannabis products without a license. Includes increased penalties for repeat offenders; sale to a minor; or sale in a school zone, park zone, public housing zone, or drug treatment facility.

Section 10: Establishes gross misdemeanor and felony crimes for cultivating cannabis without a license and in excess of the amounts that would be legal under this bill.

Section 13: Makes a conforming change in the definition of “designated offense” as it applies to forfeiture.

Section 14: Makes a conforming change to allow for the forfeiture of controlled substances when they are manufactured, distributed, dispensed, or acquired in violation of the new Chapter 342 (Medical Cannabis Program) sections.

Section 15: Establishes exceptions excluding property associated with cannabis and cannabis products within the statute authorizing administrative forfeiture for property associated with controlled substances

Section 16 &17: Makes conforming changes to the forfeiture statute to acknowledge the new Chapter 342 sections.

ARTICLE 6

Generally: Provides for automatic expungement of petty misdemeanor and misdemeanor marijuana convictions. Establishes a Cannabis Expungement Board to review other cannabis convictions and determine whether a person is eligible for expungement, resentencing, or neither. Directs the Cannabis Expungement Board to consider whether an offense involved violence or a victim, the amount of marijuana involved in an offense, and whether expungement or resentencing is in the public interest. Requires public meetings, but further requires that the identity of a person being considered and any identified victim be private.

Section 1: Makes a conforming change to reflect the new expungement language.

Section 2: Makes a conforming change to reflect the new expungement language.

Section 3: Makes a conforming change to reflect the new expungement language.

Section 4: Expungement of Certain Cannabis Offenses.

Subd. 1: Provides that a person is eligible for an order of expungement if proceedings against the person for violations alleging that the person possessed marijuana or tetrahydrocannabinols were dismissed or resolved in the person’s favor, or if the person was convicted or received a stayed sentence for possessing a small amount of marijuana or possessing marijuana in a motor vehicle.

Subd. 2: Directs the Bureau of Criminal Apprehension to identify individuals eligible for expungement under subdivision 1 and provide notice to the judicial branch. Directs the Bureau of Criminal Apprehension to make a reasonable effort to notify an individual whose information is sent to the judicial branch under this section.

Subd. 3: Directs the judicial branch to issue an order of expungement to eligible individuals. Provides that provisions under section 609A.03, subdivision 6, regarding cases that received a stay of adjudication pursuant to section 152.18 apply. Provides that the limitations under section 609A.03, subdivision 7a, paragraph (b), do not apply and orders issued under this section shall be sent to the commissioner of human services, the Professional Educator Licensing and Standards Board, or the licensing division of the Department of Education.

Section 5: Expungement and resentencing of felony cannabis offenses.

Subd. 1: Establishes the Cannabis Expungement Board which consists of the following five members: the chief

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justice of the supreme court or a designee, the attorney general or a designee, one public defender, one commissioner, and one public member. Provides that the board will have the power and duty to review records, determine whether a person should receive an expungement, and determine whether a person should be resentenced to a lesser offense.

Subd. 2: Provides that a person is eligible for expungement or resentencing if the person was convicted of, or received a stayed sentence for, a felony offense involving the possession of marijuana, the offense did not involve a dangerous weapon or harm to another, the act for which the person was sentenced would be a lesser offense or no longer be criminal under changes to law, and the person has no existing right to an appeal.

Subd. 3: Directs the Bureau of Criminal Apprehension to identify convictions that qualify for review under the standards established in subdivision 2.

Subd. 4: Provides that the Cannabis Expungement Board will have access to all records of any type related to a conviction for possession of a controlled substance held by law enforcement agencies, prosecuting authorities, and court administrators.

Subd. 5: Requires the Cannabis Expungement Board to meet at least monthly. Provides that meetings are subject to chapter 13D. Permits crime victims and law enforcement agencies to submit written or oral statements. Requires the board to use anonymous identifiers when discussing an individual's records.

Subd. 6: Directs the Cannabis Expungement Board to review available records to determine whether the conviction or stay of adjudication is eligible for expungement or resentencing. Provides that expungement under this section is presumed to be in the public interest unless there is clear and convincing evidence that expungement or resentencing would create a risk to public safety. Directs the board to determine whether limitations on expungement apply to each individual case and, if expungement is not appropriate, whether resentencing is appropriate. Directs the board to consider factors including public safety in making its determination.

Subd. 7: Directs the Cannabis Expungement Board to provide notice to the judicial branch of individuals eligible for expungement or resentencing. Directs the board to make a reasonable effort to notify an individual whose information is sent to the judicial branch under this section.

Subd. 8: Provides that all data collected, created, received, maintained, or disseminated by the Cannabis Expungement Board in which each victim of a crime and person whose conviction or stay of adjudication the Cannabis Expungement Board reviews is or can be identified as the subject of the data is classified as private data on individuals.

Subd. 9: Directs the courts to issue an order of expungement consistent with the findings of the Cannabis Expungement Board upon receipt of information from the board.

Subd. 10: Provides that, if the Cannabis Expungement Board determined that a person is eligible for resentencing, the court shall proceed as if the appellate court directed a reduction of the conviction to an offense of lesser degree pursuant to rule 28.02, subdivision 12 of the Rules of Criminal Procedure. Permits the court to issue an order without holding a hearing if the person completed or was discharged from the sentence. Directs the court to issue an order restoring the person's right to possess firearms and ammunition where applicable.

ARTICLE 7

Section 13: Prohibits cannabis testing of job applicants or using cannabis test results to make hiring decisions. Prohibits all random cannabis testing. Allows cannabis testing of current employees based on reasonable suspicion an employee: (1) is under the influence or impaired by cannabis at work or on work property; (2) violated the employer's valid written cannabis policy; or (3) sustained an injury or caused a work-related injury or accident. Existing law and testing safeguards apply.

Section 14: Provides exceptions to limitations on cannabis testing. Existing drug and alcohol testing requirements continue to apply to:

1. a safety-sensitive position;
2. a peace officer;

Revised

3. a firefighter;
4. a position working directly with children, vulnerable adults, or health care patients;
5. a position requiring a commercial driver's license or requiring testing for motor vehicle operation;
6. a federally funded grant position; or
7. any other position where state or federal law require testing.

Section 25: Repealer.

- (a) Repeals existing rules governing the medical cannabis registry program.
- (b) repeal existing statutes governing the medical cannabis registry program.
- (c) repeal existing statutes governing the medical cannabis registry program.
- (d) repeals section 152.027, subdivisions 3 and 4, which establish criminal penalties for possession of marijuana in a motor vehicle and the possession or sale of small amounts of marijuana. This paragraph is effective August 1, 2021.

ARTICLE 8

Reschedules marijuana from Schedule I to Schedule III

ARTICLE 9

Section 1: Appropriations

Subd. 3: Appropriates \$500,000 in fiscal year 2022 from the general fund to the Department of Public Safety for use by the Bureau of Criminal Apprehension in identifying, reviewing, and transmitting records that are, or may be, eligible for expungement.

Assumptions

Assumptions MN Bureau of Criminal Apprehension Minnesota Justice Information Services (BCA MNJIS)

Article 1, Section 2:

Under this section, the Cannabis Management Board has the power/duty to require fingerprints from persons determined by board rule to be subject to fingerprinting and obtain criminal conviction data for persons seeking a license from the board.

A rule is not an approved method by which criminal background checks may be obtained from the FBI, as noted in Public Law 92-544. The population to be checked and the requirement to do so must be a legislative enactment. Therefore, the BCA assumes that no individuals would be checked via this language.

The section goes on to state that the director of the Board “shall request the BCA to perform background checks on persons who are finalists for employment with the board but may employ personnel pending completion of the background check.” This language would not be enough to obtain criminal background checks from the FBI. In order for it to comply with FBI requirements, the language must state that a national check is required and fingerprints are required of the applicant to perform the check. As this language does not currently comply and would not authorize information to be shared by the FBI, the BCA assumes no individuals would be checked via this language.

Article 1, Section 40:

The Office of Medical Cannabis is also required to conduct criminal background checks on those applying to serve as designated caregivers, prior to registration. This language is insufficient to obtain criminal background checks from the FBI. In order for it to comply with FBI requirements, pursuant to Public Law 92-544, the language must state that a national check is required and fingerprints are required of the applicant to perform the check. As this language does not currently comply and would not authorize information to be shared by the FBI, the BCA assumes individuals would undergo

Revised

Minnesota only criminal history background checks based on this language.

Each criminal history background check fee is \$15.00. The BCA's costs are directly offset by these fees, which are placed in a Special Revenue fund for the purposes of employee salaries and Criminal History System maintenance. In 2020, there were 792 background checks for registered caregivers. However, the BCA cannot know how many background checks will be requested on behalf of registered caregivers due to the amended authority in this bill.

Article 6, Section 4:

The Criminal History System (CHS) is Minnesota's repository for data on subjects arrested for felony, gross misdemeanor, targeted misdemeanor, and some misdemeanor offenses. The BCA receives records from law enforcement agencies about adults booked for targeted misdemeanors, gross misdemeanors and felonies as required by Minn. Stat. § 299C.10. These records do not include all petty misdemeanors and misdemeanors.

It is assumed that only the CHS system records will be identified, reviewed, modified, or transmitted.

This section directs the BCA to identify and notify the court of cases for which an individual's record might qualify for expungement under the following conditions:

- 1) upon the dismissal and discharge of proceedings against a person under section 152.18, subdivision 1, for violation of section 152.024, 152.025, or 152.027 for possession of marijuana or tetrahydrocannabinols;
- 2) if the person was convicted of or received a stayed sentence for a violation of section 152.027, subdivision 3 or 4;
- 3) the person was arrested for possession of marijuana or tetrahydrocannabinols and all charges were dismissed prior to a determination of probable cause; or
- 4) all pending actions or proceedings involving the possession of marijuana or tetrahydrocannabinols were resolved in favor of the person. For purposes of this chapter, a verdict of not guilty by reason of mental illness is not a resolution in favor of the petitioner. For the purposes of this chapter, an action or proceeding is resolved in favor of the petitioner if the petitioner received an order under section 590.11 determining that the petitioner is eligible for compensation based on exoneration.

The BCA currently seals records that are sentenced under Minn. Stat. 152.18 upon discharge and dismissal.

If a person was convicted of or received a stayed sentence for a violation of Minn. Stat. 152.027, Subd. 3 or 4, these records would be considered a misdemeanor or petty misdemeanor, which are not routinely reported to the BCA. Therefore, the BCA would be unable to identify all applicable records.

If a person was arrested for possession of marijuana or tetrahydrocannabinols and all charges were dismissed prior to a determination of probable cause, the records at the BCA would not necessarily contain information as to why the charge was dismissed. Therefore, the BCA would be unable to identify all applicable records. The BCA would seal records upon the receipt of orders from the judicial branch. The Judicial branch was unable to provide a case count for the number of records that would need revision.

The above bill also directs the BCA to notify the judicial branch of the following:

- (1) the name and date of birth of an individual whose conviction is eligible for an order of expungement; and
- (2) the case number of the eligible conviction

Further, it directs the BCA to make a reasonable and good faith effort to notify any person whose conviction qualifies for an order of expungement that the offense qualifies and a notice is being sent to the judicial branch.

The requirement to identify eligible individuals and notify the judicial branch is only for those persons with **convictions**. Therefore, the only notices needed would be for those with petty misdemeanors and misdemeanors noted in Subd. 1, under Minn. Stat. 152.027, Subd. 3 or 4. As noted earlier, misdemeanors and petty misdemeanors are not routinely reported to the BCA, therefore, the BCA would be unable to identify all applicable records to notify the judicial branch. Further, the BCA does not have any contact information for individuals and would, therefore, be unable to contact criminal history subjects regardless of the crime.

Revised

The judicial branch will be issuing orders sealing records upon receiving notice that an offense qualifies for expungement or upon entering an order dismissing charges prior to a determination of probable cause.

It is assumed that the effective date of August 1, 2021 implies that the law applies to offenses that are dismissed and discharged, convicted, or sentenced before that date. Any charges and resulting offenses dismissed, discharged, convicted, or sentenced from that date forward will be under the newly revised criminal statutes.

Article 6, Section 5:

This section directs the BCA to identify and notify the Cannabis Expungement Board of offenses that qualify for review. An individual is eligible for expungement or resentencing if:

- 1) the person was convicted of, or adjudication was stayed for a violation of section 152.021, subdivision 2; 152.022, subdivision 2; 152.023, subdivision 2; 152.024, subdivision 2; or 152.025, subdivision 2, for the possession of marijuana or tetrahydrocannabinols;
- 2) the offense did not involve a dangerous weapon, the intentional infliction of bodily harm on another, an attempt to inflict bodily harm on another, or an act committed with the intent to cause fear in another of immediate bodily harm or death;
- 3) the act would either be a lesser offense or no longer be a crime after August 1, 2021; and
- 4) the person did not appeal the sentence, any appeal was denied, or the deadline to file an appeal has expired.

The BCA would be responsible for identifying those records where adjudication was stayed that qualify for review under 1) above. It is assumed that further analysis of these records would be done by the board.

Once the court issued expungement orders, the BCA would seal any records associated with the cases.

If the court were to resentence an offender, instead of expunge, the BCA would modify the records associated with the case to reflect the new sentence.

Article 9, Section 1:

This section would provide the BCA with \$500,000 for identification, review and transmission of records that are, or may be, eligible for expungement under this act.

It is assumed that because the language directs the BCA to identify criminal records that qualify for expungement to the Board and the Judicial Branch, and a court order will be issued, the work associated with complying with the order will have to be completed manually as opposed to BCA being able to automate expungements based on a different process (e.g.: no individual court order for Article 6, Section 4) and statutory authority.

It will take 45 minutes per expungement to process the court order and review and amend the criminal history, in accordance with the court order. A criminal history analyst rate will apply to this work.

It will take 25 minutes per resentencing to review and amend the criminal history. A criminal history analyst rate will apply to this work.

No review, therefore, no time will be required to leave criminal records as they are if the Board and Judicial Branch choose not to act on a record sent to them.

As we cannot know what the Board or the Judicial Branch will decide in each of the cases for which both expungement and resentencing are options, we will assume the median of these three times (25 minutes) will be used for those records.

As of February 16, 2021, the following number of records are stays of adjudication, convictions, or dismissals for each crime noted, with the kind of work necessary for each record noted in parentheses:

Minn. Stat. 152.027, Subd. 3 (Expungement): 3,516 (convictions) + 27 (stays of adjudication) +23,085 (dismissals) = 26,628 records

Revised

Minn. Stat. 152.027, Subd. 4(a-c) (Expungement): 3,742 (convictions) + 12 (stays of adjudication) + 26,609 (dismissals) = 30,363 records

Minn. Stat. 152.021, Subd. 2(a)(6) ; Minn. Stat. 152.022, Subd. 2(a)(6); Minn. Stat. 152.023, Subd, 2(a)(5) (Expungement or Resentencing): 1 (convictions) + 0 (stays of adjudication) + 2 (dismissals)= 3 records

Minn. Stat. 152.024, Subd. 2 - (Expungement or Resentencing): 1,118 (convictions) + 307 (stays of adjudication) + 2,183 (dismissals) = 3,608 records

Minn. Stat. 152.025, Subd. 2 - including all subsections (Expungement or Resentencing): 73,834 (convictions) + 34,094 (stays of adjudication) + 93,236 (dismissals) = 201,164 records

The above counts for Minn. Stat. 152.025, Subd. 2 include records for crimes related to any drug under the applicable statute as the statute does not differentiate by drug. Therefore, the Criminal History System has no method by which to differentiate these crimes by drug.

Please note that costs below cannot account for required updates to records that the BCA is unable to identify.

If a person was arrested for possession of marijuana or tetrahydrocannabinols and all charges were dismissed prior to a determination of probable cause, the records at the BCA would not necessarily contain information as to why the charge was dismissed. Therefore, the BCA would be unable to identify all applicable records. The BCA would seal records upon the receipt of orders from the judicial branch. The Judicial branch was unable to provide a case count for the number of records that would need revision.

It is assumed that the changes to records will take place over the span of 5 years, but this timeline is dependent upon review of cases by the Board and communication to the Judicial Branch who must then issue an expungement order to the BCA.

It is assumed that the BCA will not hire FTE's for the purposes of completing this task and will instead bring on temporary employees do the work necessary.

Assumptions - MN Bureau of Criminal Apprehension Forensic Science Services (BCA FSS).

Article 1, Sections 29 & 30:

The BCA FSS will not be considered a "Cannabis Testing Facility" as defined in Article 1 Sec. 29 and Sec. 30. It is assumed that the BCA will not be testing edibles because of this. Additionally, the BCA FSS does not have a validated procedure for the quantitation of cannabinoids in edibles and, therefore, cannot provide this service. Testing of cannabis by the BCA FSS Drug Chemistry Unit will continue to be limited to evidence submitted for the investigation of controlled substance crimes involving sale or possession of cannabis as outlined in MN STAT §152.

Legalization of Cannabis, Generally:

Conflicting data exists regarding the impact of legalization of adult-use cannabis on overall crime rates. However, a recent time-series analysis of crime in Colorado and Washington failed to demonstrate an association between the legalization of cannabis and the rate of crime. Therefore, for the purpose of this fiscal note, it is assumed that the provisions in this bill will not impact the crime rate in a way that would result in an increased demand for forensic examination of evidence in laboratory sections including DNA, Firearms, Latent Prints, Trace Evidence, or that would require additional responses by the Crime Scene Response Unit.

The BCA FSS currently provides toxicology analysis for the presence of drugs in over 5,000 driving cases per year. The presence of THC was detected in approximately 60% of the cases over the past two years. A recent study assessing the involvement of cannabis use among drivers in fatal crashes in Washington State suggests legalized adult use cannabis laws may contribute to an increase in DUID frequency. As such, it is assumed that the demand for toxicology testing in suspected impaired driving cases will, at a minimum, double with the legalization of adult use cannabis due to the anticipated increase in frequency of DUID cases and enhanced enforcement efforts. This would represent an increase in caseload for the BCA FSS Toxicology Section of at least 3000 cases per year.

- An additional 6 FTE's would be required to address this caseload. \$111,000 per year ongoing per FTE

Revised

- One toxicology supervisor would be needed to oversee the increased staff for the section at a cost of \$152,000 per year.
- Training and continuing education for the new Toxicology scientists is needed at a cost of \$3,500 each in the first year and \$1,700 per new FTE each per subsequent year.
- Additional testing supplies would be necessary for the testing of the additional caseload.
- Additional equipment will also be necessary to support the increased capacity of the section.

Article 4, Section 4:

BCA FSS involvement in study outlined in Article 4 Sec. 4. is limited to the toxicological testing of samples only, not project oversight. The fiscal impact to the BCA FSS will be directly related to the design of the project model. For the purpose of this fiscal note, it is assumed that samples collected as part of the study on impaired driving are limited to those that will already be collected from drivers suspected of driving, operating or in physical control of a motor vehicle in violation of section 169A.20 (4) and the screening test indicated the presence of a controlled or intoxicating substance (other than alcohol). It is assumed that approved blood and urine screening procedures currently utilized by BCA FSS to routinely screen samples will be utilized in this study to compare to those results obtained by the oral fluid roadside tests and confirmatory tests of all the preliminary screening results will not be required.

Assumptions MN Bureau of Criminal Apprehension Investigations Division (MN BCA Investigations)

Other states have experienced diversion of legal marijuana products to other states where the product is not legal. If legalized, Minnesota would likely experience the same issues as our surrounding states do not currently have legalized adult-use marijuana. Diversion of legal products to states without legalized adult-use marijuana would require additional investigators to help deter this illicit activity.

1 FTE (Special Agent) to address the diversion crimes to the illegal market as the five states surrounding Minnesota do not have legalized marijuana at this time. This agent would focus on being a resource to local agencies and task forces around Minnesota for these unique crimes.

This BCA Special Agent will work closely with our state, local, and federal partners to ensure that marijuana legally possessed in Minnesota is not being illegally diverted outside of the state for sale or distribution in non-legalized states, or states with different legalization rules, or even into other countries with different laws.

To help control diversion into states that do not have legal marijuana, the state will need to tightly regulate production and licensing. The BCA would be responsible for enforcing the criminal sanctions for interstate trafficking as well as investigating and prosecuting growing and distribution facilities that are negligent or intentionally violating the controls set in place by the state.

1 FTE (Criminal Intelligence Analyst) to work with our partners across the state to track trends, analyze crime patterns, and provide analytical assistance to agencies in these investigations.

State Patrol:

It is assumed that the State Patrol's canines certified in cannabis detection would be retired and replaced as continued use of canines certified in cannabis detection could result in some significant legal challenges as has been seen in other states where marijuana has been legalized. Therefore, the State Patrol would retire and replace nine drug detection canines.

The State Patrol would need to train all 600+ state troopers on any new law(s) related to legalization as it relates to the detection of impaired driving or other aspects of the law. This training would be absorbed into current In-service training and no additional training costs would be incurred.

Multiple studies have shown an increase in DUID cases in states that have legalized marijuana. A recent AAA Report shows an increase in fatal crashes involving a THC positive driver, a recent OJP Report describes an increase in serious injury crashes and fatalities since legalization in Washington and a recent CMAJ study showed an increase of 15% in fatal crashes. The State Patrol assumes similar increases will be seen in Minnesota and therefore will hire five additional crash reconstruction specialist troopers to maintain the current level accident reconstruction services.

States that have legalized marijuana have also recognized challenges related to detecting cannabis impairment in DUI

Revised

cases (OJP report) and these challenges are enhanced as DUID cases increase. Drug recognition experts play a key role in assisting with impairment evaluation and drug identification during the arrest process as well as helping ensure successful prosecution for cases involving DUID arrests. The State Patrol assumes there will be an increase in the number of DUID arrests requiring the services of a drug recognition expert trooper and therefore will hire five additional drug recognition expert troopers.

Hiring of new FTEs would occur in FY22

Alcohol and Gambling Enforcement:

No fiscal impact to the Alcohol and Gambling Enforcement Division. No tasks, duties, or impact to AGE's enforcement or regulatory duties.

Expenditure and/or Revenue Formula

Expenditure and/or Revenue Formula BCA MNJIS

Each applicable record must be multiplied by the needed time to amend the record, based upon the requisite order expected via the bill language, to amount to the total time needed by criminal history analysts to complete the necessary tasks.

Minn. Stat. 152.027, Subd. 3 (Expungement): $26,628 \times 45 \text{ minutes} = 1,198,260 \text{ minutes} = 19,971 \text{ hours}$

Minn. Stat. 152.027, Subd. 4(a-c) (Expungement): $30,636 \times 45 \text{ minutes} = 1,378,620 \text{ minutes} = \text{approximately } 22,977 \text{ hours}$

Minn. Stat. 152.021, Subd. 2(a)(6) ; Minn. Stat. 152.022, Subd. 2(a)(6); Minn. Stat. 152.023, Subd. 2(a)(5) (Expungement or Resentencing): $3 \times 25 \text{ minutes} = 75 \text{ minutes} = \text{approximately } 1 \text{ hour}$

Minn. Stat. 152.024, Subd. 2 (Expungement or Resentencing): $3,608 \times 25 \text{ minutes} = 90,200 = \text{approximately } 1,503 \text{ hours}$

Minn. Stat. 152.025, Subd. 2 - including all subsections (Expungement or Resentencing): $201,164 \times 25 \text{ minutes} = 5,029,100 = 83,818 \text{ hours}$

Given all of the above requisite hours of work, the total amount of time needed to amend all the records the BCA currently has (with the exclusion of those records that the BCA cannot identify, noted above), is 128,270 hours.

Individuals classified as Criminal History Analysts will be required to do the work necessary at a rate of \$38.67 per hour, including fringe benefits.

At the rate of \$38.67 for 128,270 hours, the total cost is \$4,960,200.90.

As noted earlier, this time will be divided over the course of 5 years. Therefore, annual costs will be \$992,040.18.

Expenditure and/or Revenue Formula BCA FSS Toxicology Testing

Six scientists (mid-range salary for Forensic Scientist 2) at \$111,000 per year equals \$666,000 ongoing.

One supervisor at \$152,000 per year ongoing. The top of the pay range was used to estimate this cost. This was based on past promotions within the laboratory. Supervisor vacancies are filled by highly qualified, long-term employees who are generally at the top of the Forensic Scientist 3 range and enter the Forensic Science Supervisor position at or very near the top of the range.

Training and continuing education for seven FTE's totals \$21,000 the first year and \$11,900 each year thereafter.

Supplies to support the forensic testing cost \$375,000 per year ongoing.

New equipment and set up is required in the first year at a cost of \$551,600.

Ongoing maintenance agreements for the new equipment \$35,000 starting the second year and ongoing

Expenditure and/or Revenue Formula BCA Investigations

Revised

Special Agents make a maximum salary of \$89,429 and, with the addition of fringe benefits, each agent costs \$125,850.08 per annum in salary and fringe benefits.

The BCA has hired no Special Agent at or below midrange salary recently. Instead, all Special Agents have been salaried at steps towards the highest brackets available to them, due to experience. Because of this, it is necessary to account for actual possible costs via the maximum salary and fringe benefit request.

Each special agent requires equipment, training and supplies in costing \$18,100 per year.

Therefore, each special agent will a total of \$143,950.08 per annum to keep on staff.

The cost per annum for a Criminal Intelligence Analyst is \$101,972.63, including both salary and fringe benefits.

The supplies needed for the Criminal Intelligence Analyst includes the following

Phones	\$1,200.00
Misc. Supplies / Training	\$5,000.00
Computer Equipment	\$500.00
Radios	\$2,060.00
Total (per CIA)	\$8760.00

Therefore, the Criminal Intelligence Analyst will cost \$110,732.63 per annum to keep on staff.

DPS/BCA will use the \$500k appropriation in FY22 to cover a portion of the FY22 cost.

State Patrol:

9 Additional Canine Acquisition **\$257,184.00** Cost calculation broken down as follows:

\$86,976.00

Purchase nine single-purpose canines (includes cost of travel/meal expenses, canines and associated equipment, vehicle rental and wage for two trainers)

\$35,648.00

Two pre-training sessions; 8-weeks each for nine canines (includes cost of lodging, meals and wages for two trainers)

\$134,560.00

Two handler training sessions; 5-weeks each for nine troopers (includes cost for lodging, meals and wages for eight troopers and two trainers)

COST OF 10 FTEs (5 crash reconstruction specialists and 5 drug recognition experts):

Position	Qty	Top Hr. Rate w/Fringe	Plus Differential 3%	First Year Cost	Annual Cost Thereafter
DRE	5	63.48	65.38	\$ 455,075	\$ 682,613
Recon	5	63.48	65.38	\$ 455,075	\$ 682,613
Academy Costs and equipment	10			\$ 2,050,000	\$ 0

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BWC	10			\$ 92,259	\$ 67,319
Recon Equipment	5			\$ 301,525	\$ 0
Evidence Cloud Storage	10			\$ 4,200	\$ 4,200
FirstNet Phone Per Year	10			\$ 6,055	\$ 6,055
Grand Total				\$ 3,364,189	\$ 1,442,800

First Year Cost: \$257,184.00 + \$3,364,189.00 = **\$3,621,373.00**

(9 Canine Replacement, 5 Crash Reconstruction Specialists & 5 Drug Recognition Experts)

Subsequent Year Cost: **\$1,442,800.00**

Long-Term Fiscal Considerations

State Patrol:

Secondary impact concerns exist for the State Patrol when considering the effects of marijuana legalization. Various published research documents and studies have shown that states who have legalized marijuana have experienced an expansion of the illegal market and an increase in traffic fatalities and crashes. There is no reason to believe that Minnesota won't experience similar trends and the State Patrol would likely see workload increases consistent with other states who have legalized marijuana. Additional troopers would be needed to address the additional workload, allowing us to maintain the current level of public safety response, education and enforcement.

Related to impaired driving, investigations involving marijuana impairment will take more time than today's typical impaired driving investigation. Because there is no reliable roadside test for detecting marijuana impairment, troopers will have to first engage in an initial investigation to determine that the impairment they detected is not due to alcohol and if not, then conduct a thorough drug recognition evaluation to determine what drug (or category of drugs) was used to cause the impairment. This drug evaluation process amounts to almost double the amount of time currently needed for a standard investigation involving only alcohol impairment. There could be a significant increase in the need for specially trained Drug Recognition Expert troopers as well as first line troopers to maintain current service levels and provide timely public safety response.

Based on vehicle miles traveled data, crash data and population data, the State Patrol would deploy an additional seventy troopers statewide across eleven patrol districts. The addition of these front line troopers necessitate the addition of ten lieutenants. In addition the following specialized troopers would be needed:

- Ten safety education/public information officers (allows each district to have dedicated resource toward public education and proactive work toward reducing drug impaired driving, including dedicated community engagement staff). An initial and ongoing public education campaign, regarding the prevention of impaired driving due to marijuana use, would require additional safety education troopers.

First year costs for recruiting, hiring, training and equipping 90 troopers approximately \$30,714,000.00.

Second year+ costs 90 troopers approximately \$12,892,000.00.

Local Fiscal Impact

Expungement of criminal history records: Each local agency with criminal history records will have to expunge them per the language noted above. The BCA cannot know what kind of fiscal impact this would have on those agencies.

Revised

Production and availability of edibles: Edibles exist in numerous forms such as baked goods and candy (e.g. suckers, gummy bears) that contain ingredients that complicate the laboratory testing process. The BCA FSS validated procedures for evidence involving edibles are limited to the detection of the presence of THC and does not include quantitation of THC. If required for prosecution of cases involving this type of evidence, quantitation of THC in edibles would need to be performed by a laboratory other than the BCA FSS. The cost of this laboratory testing would be the responsibility of the local, county, or state agency investigating the offense. These forensic tests and associated expert witness testimony would need to be provided by private laboratories at the expense of the requesting agency.

References/Sources

<https://nij.ojp.gov/library/publications/cannabis-effect-crime-time-series-analysis-crime-colorado-and-washington-state>

<https://newsroom.aaa.com/2020/01/fatal-crashes-involving-drivers-who-test-positive-for-marijuana-increase-after-state-legalizes-drug/>

Agency Contact:

Agency Fiscal Note Coordinator Signature: Rita Wurm

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Revised

Fiscal Note

2021-2022 Legislative Session

HF600 - 6E - Legalize Cannabis

Chief Author: **Ryan Winkler**
 Committee: **Commerce Finance and Policy**
 Date Completed: **5/5/2021 7:38:32 AM**
 Agency: **Revenue Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue	X	
Information Technology	X	
Local Fiscal Impact		
	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	4,393	(10,107)	(60,387)	(92,691)	
Outdoor Heritage Fund	-	-	(99)	(495)	(726)	
Arts and Cultural Heritage Fund	-	-	(59)	(296)	(435)	
Clean Water Fund	-	-	(99)	(495)	(726)	
Parks And Trails Fund	-	-	(43)	(214)	(313)	
Total	-	4,393	(10,407)	(61,887)	(94,891)	
Biennial Total			(6,014)		(156,778)	

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	25.03	29.59	29.76	28.89
Outdoor Heritage Fund	-	-	-	-	-
Arts and Cultural Heritage Fund	-	-	-	-	-
Clean Water Fund	-	-	-	-	-
Parks And Trails Fund	-	-	-	-	-
Total	-	25.03	29.59	29.76	28.89

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Joe Harney **Date:** 5/4/2021 6:05:49 PM
Phone: 651-284-6438 **Email:** joe.harney@lbo.leg.mn

Revised

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2 Dollars in Thousands	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	4,393	(10,107)	(60,387)	(92,691)
Outdoor Heritage Fund	-	-	(99)	(495)	(726)
Arts and Cultural Heritage Fund	-	-	(59)	(296)	(435)
Clean Water Fund	-	-	(99)	(495)	(726)
Parks And Trails Fund	-	-	(43)	(214)	(313)
Total	-	4,393	(10,407)	(61,887)	(94,891)
Biennial Total			(6,014)		(156,778)
1 - Expenditures, Absorbed Costs*, Transfers Out*					
General Fund	-	4,393	4,093	4,113	4,009
Outdoor Heritage Fund	-	-	-	-	-
Arts and Cultural Heritage Fund	-	-	-	-	-
Clean Water Fund	-	-	-	-	-
Parks And Trails Fund	-	-	-	-	-
Total	-	4,393	4,093	4,113	4,009
Biennial Total			8,486		8,122
2 - Revenues, Transfers In*					
General Fund	-	-	14,200	64,500	96,700
Outdoor Heritage Fund	-	-	99	495	726
Arts and Cultural Heritage Fund	-	-	59	296	435
Clean Water Fund	-	-	99	495	726
Parks And Trails Fund	-	-	43	214	313
Total	-	-	14,500	66,000	98,900
Biennial Total			14,500		164,900

Bill Description

The bill legalizes cannabis for adult use. It establishes a Cannabis Management Board to oversee all agency activity related to the legalization and regulation of cannabis. This summary will cover the provisions in the bill that impact the Department of Revenue. Cannabis will be subject to a 10% gross receipts tax on all retail sales. The gross receipts tax will be collected at the retail level by cannabis retailers and microbusinesses that have nexus in the state of Minnesota. In addition to the gross receipts tax, a use tax will be imposed and Cannabis manufacturers expenses, medical or license holders under 342 will not be allowed section 280E expenses. The gross receipts tax will be effective for gross receipts received after December 31, 2022.

Assumptions

DOR will need to update the Integrated Tax System (GenTax) and other computer systems, which includes analysis, gathering requirements, and system testing. A new Account type will be established for the 10% gross receipts tax. This includes creating registration, eServices return filing and payment system, audit, billing, financials, letters, interfaces, data capture, etc. Additional staff would be needed beginning in FY22 for systems analysis and testing for the new account type. See the **FTE impact** table below for the FTE impact needed each year. Staff will be needed on an ongoing basis.

DOR assumes this bill will require an offsite facility to collect cash payments. The offsite option was discussed at length and determined to be the best solution for the following reasons: cost and disruption to renovate a location at DOR's main office (Stassen); renovation of existing space in Stassen was more expensive; better security and safety for Revenue staff and customers; perception of the public stemming from association with cannabis; one location for all payments to be

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received; less traffic for customers to location potentially not located downtown; and reduction of internal risk involving potential disclosure and personal association. This facility will need to be secure, accessible, and able to handle large cash payments. There will be additional staff needed in the Tax Operations Division to schedule and collect the payments. DOR will incur expenses for the rent and renovation of an offsite location requiring set up of software/system, safe, and staff to handle payment of returns. This potentially includes armored transport.

The model for an offsite facility was based off conversation and review of other states, mainly Oregon. Federally backed banks cannot take money from the sale of cannabis so reliance was put on state backed banks. In the state of Oregon, the state banks also did not want to accept the funds, which is a potential in MN as well. This requires large amounts of cash to be paid for Cannabis returns. In Oregon the paying parties regularly showed up fully armed; this would cause numerous potential issues in Revenue. In order to process the cash, additional security and equipment such as counting machines are required. If cannabis is legalized at a Federal level, an offsite location could continue operation. 4 AFSCME and 1 MMA FTE's are needed to staff this outside location for scheduling, collecting, and processing of payments. 1 MAPE FTE is needed for system upgrades including the creation of the new tax type and setup of computers and GenTax cashiering system at an offsite location. This additional staff is needed on an ongoing basis.

DOR will need additional taxpayer assistance, enforcement, compliance and appeals staff.

The Special Taxes Division assumes 12 FTE's at MAPE level, 1 Supervisor and 1 Managerial level FTE will be needed on an ongoing basis beginning in FY22. A new unit will be needed to administer the new tax. The Special Tax Division currently oversees over 150 specialty taxes and fees and the addition of an Assistant Director will give the division the support it needs to manage the addition of a new, complex tax type, especially on a product that will have just been made legal. The unit size was determined based on other unit sizes for similar tax types and tax needs. We will need employees for auditing, taxpayer education, compliance, policy work, systems, legal review, etc. For reference, when the MinnesotaCare tax became law an entire division was created to set up and administer the tax.

The new FTE's for the Special Taxes Division would be needed in FY22. Processes and procedures for a new unit will need to be established before the tax begins. It takes time to create new accounts within GenTax, test them, and bring them into production for taxpayers to start using. We also need to create, review, and publish letters, returns, education material and employee information, and all documents need to go through our communications procedures which also takes time. Auditing processes and procedures and compliance process and procedures need to be created as well.

The Corporate Franchise Tax Division (CFT) assumes additional staff will be needed. Since the subtractions in the bill are effective for tax years beginning after 12/31/21, returns with non-medical subtraction will first be received for calendar year filers for tax year 2022, with the possibility of short-year 2021 returns. CFT assumes we will audit returns immediately, in 2023, in order to encourage compliance with the recently created subtraction for a new set of taxpayers. We assume that all returns received in early years will be reviewed at a high level via a pre-audit, since the subtraction is new and cannot be checked against values on the federal return. CFT assumes 190 business returns will be filed as a result of the changes in this bill. See the **FTE Impact** table below for details.

The bill subjects cannabis and cannabis products to sales tax as well as the gross receipts tax. The Sales Tax Division assumes 2 additional FTE will be needed due to the language in this bill. These employees will specialize in the industry, be granted appropriate security permissions to access specific software databases, be the primary auditors for sales and use tax audits of businesses within the industry, assist in the development of training material (internal and external), and assist other divisions during potential joint audit ventures. One FTE is assumed to be needed in FY22 as the language of the bill is effective for only half of the fiscal year. We anticipate that for a full fiscal year, 2 FTEs will be required to perform the duties as described above. See the **FTE Impact** table below.

DOR will need additional legal staff to respond to requests for legal advice, analysis, and opinions. One FTE in FY22-FY25 and ongoing will be needed for this work. Since this is a new tax type, it is assumed there will be front-end work that could include issuing revenue notices, administrative rules, fact sheets, research, memos and other related work for the legal staff.

DOR will need 0.25 FTE beginning in FY23 and ongoing for sales tax appeals. This impact is determined by a formula that takes into account the number of auditors the Sales Tax Division assumes is needed, the number of appeals that tend to be generated by one auditor in one year, and the number of appeals that can be completed per appeals officer in one year.

The Criminal Investigations Division (CID) assumes a significant increase in cases as a result of this bill and will need 2 Criminal Investigators and 1 Supervisor, beginning FY23 for that work. CID also assumes specialized equipment and

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supplies, including one vehicle, will be needed. These costs include a 5-year lease on a Toyota Highlander Hybrid (\$676.02/month) and fuel. Additional subpoena costs are estimated at \$1,500/year, beginning in FY23.

CID believes that enactment of any legislation legalizing and taxing cannabis at the retail level will increase the number of criminal referrals to CID. Additional staff and resources will be necessary to deal with the increase in criminal referrals. Based on conversations with other states, criminal investigation referrals increased as a result of their cannabis legislation. Our estimate is based on the number of tobacco investigations that CID conducts on an annual basis, as discussed below.

Under this bill, the retail sale of cannabis would be taxed at the general sales tax rate and a 10% gross receipts tax would be added. The criminal tax provisions of M.S. 289A.63 would apply, and CID would have jurisdiction over investigation of failure to file and/or pay these taxes as well as filing of false returns. CID would treat these criminal tax investigations as we would a general rate sales tax criminal tax investigation.

We anticipate that these businesses will be heavily cash intensive, due to federal banking issues and other factors. We further anticipate that pursuing these cash intensive cases may require additional investigative efforts. Identifying, investigating, and prosecuting under-reporting of sales will require extensive surveillance at suspect sites. This will require multiple unmarked vehicles.

Due to the nature of the investigation being a criminal investigation, CID conducts surveillance using unmarked state vehicles for surveillance activities and search warrants. These efforts typically also include search warrants and would be more labor intensive than tobacco investigations. CID currently operates with one vehicle per three investigators.

The CID FTE assumption is based on an estimate of a closely related activity we currently investigate tobacco investigations. CID sees approximately 25-30 tobacco investigations per year. We anticipate that cannabis will involve many of the same players from tobacco using similar operations. Both types of cases require research, training, surveillance, electronic tracking, search warrants, subpoenas, financial analysis, witness interviews, collaboration with other law enforcement agencies, report write-ups, submittal to prosecutor, and any prosecutor follow-up and trial. We conservatively assume an average of 150 hours per case. This translates into 3,750 4,500 new FTE hours to work the new cases we anticipate as a result of this bill.

Increasing CID FTE's by two investigators to handle an increase in cases will require the addition of one more vehicle to the CID fleet. CID conducts investigations statewide and year-round, necessitating the need for an all-wheel drive vehicle. CID vehicles are used to conduct surveillance, travel to conduct in-person interviews, for search warrants, and transporting evidence from the search warrant location to the CID evidence room in the Stassen Building to address chain of custody concerns. Vehicles are also used to transport evidence from the Stassen Building evidence room to the Department of Human Services, Computer Forensic Lab who processes electronic evidence for CID.

DOR will engage in outreach and communication to inform taxpayers, businesses, tax preparers, tax software companies and DOR employees about the changes in this bill. For example, DOR may issue email and social media bulletins, and include information about the changes in press releases, conference calls, and other materials about new tax law changes. DOR will update employee instructional and training materials.

DOR will mail letters to taxpayers affected by the law change. The letters will notify them of the change and provide related information about what the change means for them. DOR will mail approximately 25 letters the first year, 50 letters the second year, and 75 letters the third year to taxpayers required to pay the gross receipts tax.

DOR will create/update tax forms, instructions, and schedules to reflect the changes in this bill. DOR will create/update fact sheets, web content and outreach materials to reflect the changes in this bill.

DOR assumes systems costs would be incurred if a unique tax line to track recreational cannabis subject to the general sales tax rate would be required to be added to the sales and use tax return. These numbers are assumed to be reported on normal existing tax lines on the sales and use tax return. The bill is not clear as to whether the Gross Receipts Tax will be filed on the sales tax return, but if it is then DOR may incur costs for adding an additional "Goods and Services" indicator under registration to allow businesses to add the Gross Receipts Tax to their sales tax return.

DOR assumes no additional costs will be incurred for funds transfers and distributions, unless a new account code and revenue budget in SWIFT need to be set up and monthly distributions processed.

The language in the A13 amendment references the powers of the Cannabis Management Board (CMB). DOR assumes that under the A13 amendment the CMB has the sole power of inspection and investigation. The language that the A13

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replaces allowed the CMB to delegate licensing, inspection, reporting, and enforcement duties to a community health board, city or county but that language is not stricken under the A13 amendment. So, it returns to sole jurisdiction for licensing and enforcement is with the CMB. Revenue and specifically CID has no jurisdiction and no part to play under this bill, including with the A13 amendment.

DOR also notes the bill does not give the CMB the same seizure powers that DOR's Special Taxes Division or law enforcement have with contraband tobacco. The amendment gives the CMB the power, if they have probable cause that any cannabis product is being distributed in violation of the chapter or rules adopted under the chapter, to tag or in some other way order its withdrawal from distribution or other appropriate marking notice thereby embargoing the cannabis. The only way that embargo can be lifted is by order of the board or of the district court. If the CMB finds that the cannabis that was embargoed is then found to be in violation of the chapter or rules, it can petition the district court for an order and decree for the condemnation of the product. DOR has no involvement in this area under this bill.

FTE Impact

FTE's	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Systems Analysis & Testing Staff		2.97	2.19	2.19	1.19
Legal staff		1.00	1.25	1.25	1.25
Communications staff		0.04			
Tax Operations / Processing staff		6.00	6.00	6.00	6.00
Special Taxes staff		14.00	14.00	14.00	14.00
Corporate Franchise Tax staff		0.02	1.15	1.32	1.45
Sales and Use Tax staff		1.00	2.00	2.00	2.00
Criminal Investigations staff			3.00	3.00	3.00
TOTAL FTE IMPACT		25.03	29.59	29.76	28.89

Expenditure and/or Revenue Formula

Administrative Impact

Administrative Costs (Savings)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Employees		2,709,335	3,392,664	3,412,862	3,428,313
Systems Analysis & Testing		354,834	261,782	261,782	142,382
Systems Development		200,000			
Systems Support			20,000	20,000	20,000
Forms/Media/Communications		14,733	1,806	1,806	1,806
Mailing		16	32	48	
Offsite Location Renovation/Rental		1,114,563	404,373	404,373	404,373
CID Equipment, Supplies, Vehicle & Fuel			11,113	11,113	11,113

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Subpoena costs			1,500	1,500	1,500
Total Administrative Costs (Savings)		4,393,482	4,093,269	4,113,483	4,009,487

Revenue Analysis

Effective for gross receipts received after December 31, 2022.

Analysis in (000's)	FY 2022	FY2023	FY2024	FY2025
Gross Receipts Tax	\$0	\$8,600	\$39,100	\$58,600
Sales Tax	\$0	\$5,600	\$25,400	\$38,100
General Fund Total	\$0	\$14,200	\$64,500	\$96,700
Sales Tax	\$0	\$300	\$1,500	\$2,200
Natural Resources and Arts Funds	\$0	\$300	\$1,500	\$2,200
Total All Funds	\$0	\$14,500	\$66,000	\$98,900

Gross Receipts Tax

Estimates of cannabis usage in Minnesota are based on National Surveys on Drug Use and Health conducted by the Substance Abuse and Mental Health Services Administration.

Cannabis sales data from Colorado is scaled to Minnesota's population and economy.

An elasticity of -0.54 is assumed.

It is assumed that the Cannabis Management Board will complete rulemaking and issue licenses for cannabis businesses to be operational by the 2023 start date for legal sales.

Growth rates are estimated using cannabis sales growth from Colorado.

The fiscal year 2023 estimate is adjusted for five months of impact.

Business Expense Subtraction

The expected additional business income and corporate tax revenue from the legalization of cannabis is not included in the forecast. The business expense subtraction provided for in the bill is also not included as a revenue impact.

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The business income and corporate tax subtraction is estimated to reduce general fund income and corporate tax revenue by \$900,000 in fiscal year 2023, \$4.2 million in fiscal year 2024, and \$7.7 million in fiscal year 2025.

The estimates are based on Colorado cannabis business expenses and sales scaled to the Minnesota population and economy.

A 7% marginal individual income tax rate is assumed for pass-through businesses and a 9.8% marginal income tax rate is assumed for C corporations.

Tax year impacts are allocated 30% and 70% to the fiscal years.

Long-Term Fiscal Considerations

Ongoing and annual system support is necessary to accommodate future maintenance of new code, storage, and support. System support is calculated at up to 20% of original development costs.

Staff will be needed on an ongoing basis to handle outreach and education, return processing, compliance and enforcement activities, taxpayer appeals and for legal support. Supporting equipment, supplies, and offsite rental costs will be needed on an ongoing basis.

Local Fiscal Impact

Local governments are expected to see increased tax revenues due to the expansion of the sales tax base.

References/Sources

Agency staff provided information for this fiscal note.

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Fiscal Note

2021-2022 Legislative Session

HF600 - 6E - Legalize Cannabis

Chief Author: **Ryan Winkler**
 Committee: **Commerce Finance and Policy**
 Date Completed: **5/5/2021 7:38:32 AM**
 Agency: **Sentencing Guidelines Comm**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Maren Bardal **Date:** 5/4/2021 4:14:23 PM
Phone: 651-284-6429 **Email:** maren.bardal@lbo.leg.mn

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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2 Dollars in Thousands	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-
Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Total	-	-	-	-	-
Biennial Total			-		-
2 - Revenues, Transfers In*					
Total	-	-	-	-	-
Biennial Total			-		-

Bill Description

Article 1, Regulation of Adult-Use Cannabis. This article, to be codified in a new Minn. Stat. ch. 342, establishes the Cannabis Management Board to oversee the regulation of cannabis and cannabis products; establishes substance use disorder treatment and prevention grants; specifies licensure categories for cannabis businesses and requirements and procedures for licensure and operations; establishes legal limitations on the use, possession, and transportation of cannabis and cannabis products; transfers the medical cannabis registry program from the Department of Health to the Cannabis Management Board; and establishes the cannabis industry community renewal grant program. No effective dates are specified.

Article 1 neither creates, repeals, nor amends a felony crime or sentence. The civil penalties established within sections 8 and 15 do not preclude criminal penalties for the same behavior. Section 47 creates defenses to chapter 152 violations for certain behavior consistent with the medical cannabis patient registry. Section 47 also creates gross misdemeanors for unlawful access or disclosure of the medical cannabis patient registry by law enforcement officers, board members, or public employees. Section 48 creates a misdemeanor for health care practitioners who involve themselves in the cannabis business in certain ways.

Article 2, Taxes. This article provides the tax structure for the retail sale of recreational cannabis. It also deletes references to “marijuana” from Minn. Stat. chapter 297D (“Marijuana and Controlled Substance Taxation”). Its provisions take effect Jan. 1, 2022, or Jan. 1, 2023, with some definitions taking effect upon enactment.

Article 3, Food Safety. This article addresses the topic of food safety, specifically the safety of edible foods and beverages that contain THC or CBD derived from cannabis. It also assigns cannabis rulemaking responsibilities to the Minnesota Department of Agriculture. No effective dates are specified. Article 3 neither creates, repeals, nor amends a crime or sentence.

Article 4, Business Development. This article establishes grant programs to support cannabis businesses. No effective dates are specified. Article 4 neither creates, repeals, nor amends a crime or sentence.

Article 5, Criminal Penalties. This article establishes new crimes related to the possession, sale, and cultivation of cannabis and cannabis products, and amends existing crimes. When ranges are shown in the descriptions that follow, the crime applies when more than the lesser amount is involved, but not more than the greater amount.

The following Article 5 provisions are effective **August 1, 2021**, and apply to crimes committed on or after that date:

Controlled Substance Crime 2nd Degree Possession is amended to delete “100 or more marijuana plants” as a measure of quantity (sec. 2). The reference to possession of 25 kg or more of marijuana is unchanged.

Controlled Substance Crime 3rd Degree Possession is amended (sec. 4). The existing measure of 10 kg or more of marijuana or tetrahydrocannabinol (THC) is deleted and replaced with the following measures: more than 10 kg of cannabis, more than 2 kg of cannabis concentrate, and products infused with more than 200 g of THC.

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Controlled Substance Crime 5th Degree Possession is amended (sec. 7). The existing exception for possession of a small amount of marijuana is deleted and replaced with an exception for possession of cannabis or cannabis products.

Cannabis possession crimes are created (sec. 8).

The first two degrees apply to possession of the following substances: cannabis outside the person's residence, 1 lb. to 10 kg; cannabis within the person's residence, 10 lbs. to 10 kg; cannabis concentrate, 80 g to 2 kg; and edible cannabis products infused with THC, 8 g to 200 g of THC. Possession of Cannabis in the 1st Degree, a felony with a 5-year, \$10,000 statutory maximum penalty, applies when the substances were not obtained from a business licensed to sell cannabis and cannabis products ("a licensed business"). Possession of Cannabis in the 2nd Degree, a gross misdemeanor, applies when the substances were obtained from a licensed business.

Possession of Cannabis in the 3rd Degree, a misdemeanor, applies to possession of the following substances not obtained from a licensed business: cannabis outside the person's residence, 3 ounces to one pound; cannabis concentrate, 16 g to 80 g; and edible cannabis products infused with THC, 1,600 mg to 8 g of THC.

Possession of Cannabis in the 4th Degree, a petty misdemeanor, applies to possession of the following substances not obtained from a licensed business: cannabis, 2 ounces to 3 ounces; cannabis concentrate, 8 g to 16 g; and edible cannabis products infused with THC, 800 mg to 1,600 mg of THC. The same offense applies to possession of the following substances obtained from a licensed business: cannabis, 2 ounces to 1 pound; cannabis concentrate, 8 g to 80 g; and edible cannabis products infused with THC, 800 mg to 8 g of THC.

Use of Cannabis in a Motor Vehicle, a misdemeanor, applies to use of cannabis or cannabis products while driving, operating, or being in physical control of a motor vehicle.

Use of Cannabis in Public is a petty misdemeanor.

Cannabis cultivation crimes are created (sec. 10). Cultivation of Cannabis in the 1st Degree, a felony with a 5-year, \$10,000 statutory maximum penalty, applies to the unlawful cultivation of more than 23 cannabis plants. Cultivation of Cannabis in the 2nd Degree, a gross misdemeanor, applies to the unlawful cultivation of 16 to 23 cannabis plants.

Sections 11 and 12 establish prerequisites for prohibiting an inmate on supervised release or a probationer from using cannabis.

The following Article 5 provisions are effective **January 1, 2023**, and apply to crimes committed on or after that date:

Controlled Substance Crime 2nd Degree Sale is amended to delete references to marijuana or THC (sec. 1).

Controlled Substance Crime 3rd Degree Sale is amended (sec. 3). The existing reference to marijuana is deleted and cannabis is added as an exception to the provision criminalizing sale to a minor.

Controlled Substance Crime 4th Degree Sale is amended to delete references to marijuana or THC (sec. 5).

Controlled Substance Crime 5th Degree Sale is amended to delete references to marijuana or THC (sec. 6).

Cannabis sale crimes are created (sec. 9).

The first three degrees apply to the unlawful sale of more than 2 ounces* of cannabis, 8 g of cannabis concentrate, or edible cannabis products infused with 800 mg of THC (hereinafter "cannabis sale crime threshold amount," or "CSCTA"). (*In some places within section 9, this is 1.5 ounces, but House Research informs MSGC staff that this will be corrected to 2 ounces in an upcoming engrossment.)

Sale of Cannabis in the 1st Degree, a felony with a 5-year, \$10,000 statutory maximum penalty, applies to sale of a CSCTA when: (1) within 10 years of a previous conviction of sale of a CSCTA to a minor; (2) within 10 years of a previous conviction of sale of a CSCTA and the current offense involves a sale to a minor at least 3 years younger than the defendant; (3) the sale is to a minor at least 3 years younger than the defendant and the sale takes place in a school zone, park zone, public housing zone, or drug treatment facility ("in a zone"); (4) within 10 years of three or more convictions for sale of a CSCTA; (5) within 10 years of two or more convictions for sale of a CSCTA if either a prior conviction or the current offense took place in a zone; or (6) within 10 years of a conviction for Sale of Cannabis in the 1st Degree.

Sale of Cannabis in the 2nd Degree, a gross misdemeanor, applies to sale of a CSCTA when: (1) to a minor at least 3

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years younger than the defendant; (2) within 10 years of two convictions for sale of a CSCTA; or (3) within 10 years of a conviction for sale of a CSCTA if either the prior conviction or the current offense took place in a zone.

Otherwise, Sale of Cannabis in the 3rd Degree, a misdemeanor, applies to sale of a CSCTA.

Sale of Cannabis in the 4th Degree, a petty misdemeanor, applies to the unlawful sale of lesser amounts cannabis or cannabis products, or of edible cannabis products infused with lesser amounts of THC.

Sale of Cannabis by a Minor is a petty misdemeanor.

Section 13 adds felony cannabis crimes to the list of those crimes to which forfeiture may apply. Sections 14, 15, 16, and 17 permit forfeiture of unregulated cannabis and associated property.

Article 6, Expungement. This article provides for automatic expungement of certain marijuana offenses, and establishes a Cannabis Expungement Board to review other cannabis convictions and determine whether a person is eligible for expungement, resentencing, or neither. If the Cannabis Expungement Board determines that the person's conviction should be vacated and charges should be dismissed, the order shall vacate and dismiss the charges. The article is effective August 1, 2021.

Section 4 establishes a process for expungement for marijuana possession offenses. People eligible for expungement orders are those who have successfully completed the Minn. Stat. § 152.18 discharge-and-dismissal process for marijuana possession offenses, Controlled Substance Crime in the Fourth Degree or below; those with convictions for possession of marijuana in a motor vehicle or possession or sale of a small amount of marijuana; those with marijuana-possession arrests where all charges were dismissed prior to a determination of probable cause; or those for whom all pending actions or proceedings involving marijuana/THC possession were favorably resolved. The expungement is automatic if there is a conviction that qualifies under the above criteria, in which case the BCA will notify the judicial branch of the existence of the conviction. Upon receiving such a notice, or upon entering an order dismissing charges prior to a determination of probable cause, the court shall issue an order sealing the relevant court and arrest records.

Section 5 establishes the Cannabis Expungement Board (CEB). Persons eligible for expungement or resentencing are those who have been convicted of, or received a stay of adjudication for, Controlled Substance Crime, 1st through 5th degrees, for marijuana possession, if the offense would be a lesser offense (a nonfelony or non-crime, for felonies) after August 1, 2021, and the offense did not involve a weapon or an assault. The BCA is to notify the CEB of the eligible cases. The CEB is to review all available records to determine whether cases are eligible. If eligible, the CEB shall notify the court that the offense qualifies for expungement, unless expungement is not in the public interest, in which case the CEB shall determine whether resentencing to a lesser offense is appropriate. Upon CEB notice that the offense qualifies for expungement, the court shall issue an order sealing the relevant court and arrest records. If the CEB determined that the person was eligible for resentencing to a lesser sentence, the court shall proceed as if it had been ordered by an appellate court to resentence to an offense of lesser degree, unless the defendant was no longer under sentence, in which case the court shall amend the conviction to an offense of a lesser degree.

Article 7, Miscellaneous Provisions. This article requires education programs on cannabis use; requires the commissioner of health to collect data on cannabis use in the state; adds Minn. Stat. § 3.9224 establishing that medical cannabis compacts are to be negotiated; adds provisions governing workplace testing for cannabis; modifies eligibility requirements for certain public assistance programs for persons with a drug offense conviction; establishes a civil cause of action if a person suffers a cannabis nuisance; and repeals existing statutes and rules governing the medical cannabis registry program. The article specifies no effective dates except as noted below.

The bill's repealer (Article 7, sec. 25) repeals, among other provisions, Minn. Stat. § 152.33, which contains three felony offenses related to medical cannabis.

Effective August 1, 2021, the bill repeals Minn. Stat. § 152.027, subd. 3 & 4, which now establish misdemeanor penalties for possessing more than 1.4 grams of marijuana in a motor vehicle; petty misdemeanor penalties for possessing a small amount (42.5 grams or less) of marijuana, or selling a small amount of marijuana for no remuneration; and misdemeanor penalties for failing to comply with the terms of the petty misdemeanor sentence.

Article 8, Scheduling of Marijuana. This article reschedules marijuana from Schedule I to Schedule III effective the day following enactment. Both Schedule I and Schedule III are referred to in the elements of controlled substance crimes.

Article 9, Appropriations. This article appropriates money to pay for establishing the regulatory structure for adult-use cannabis and other costs that will be incurred before the legal sale of adult-use cannabis. The appropriations are in FY

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2022. Article 9 neither creates, repeals, nor amends a crime or sentence.

Assumptions

It is assumed that Article 1 will have no state or local correctional impact. With respect to its chapter 152 defenses, it is assumed that these defenses exempt behavior within programs that did not exist before the bill, or behavior that was already exempt before the bill, and will therefore reduce no convictions under chapter 152 compared to present. With respect to the new crimes, it is assumed that the professionals and public servants to whom the new misdemeanor and gross misdemeanor penalties apply will comply with the law.

It is assumed that articles 3, 4, and 9 will have no state or local correctional impact, as they neither create, repeal, nor amend a crime or sentence.

It is assumed that the Article 2 amendment to Minn. Stat. § 297D.09 effectively repeals, effective January 1, 2023, the crime referred to in the Sentencing Guidelines as Failure to Affix Stamp on Marijuana/Hashish/Tetrahydrocannabinols. Because this offense is ranked at the lowest severity level on the Sentencing Guidelines' Drug Offender Grid (severity level D1), and because the offense occurs infrequently (last sentenced in 2013), no state or local correctional impact is assumed.

No impact for Article 6 is estimated. It is assumed that expunged records will nevertheless be accessible and useful in criminal history score calculation to the same extent as before.

It is assumed that Article 7 will have no state or local correctional impact except for the repeal of Minn. Stat. §§ 152.33 & 152.027, subd. 3 & 4.

It is assumed that the repeal of Minn. Stat. § 152.33 will take effect August 1, 2021, and will apply to convictions not final as of that date. Because there are no sentences for § 152.33 offenses on record, it is assumed that the repeal will have no state or local correctional impact.

The impact of the repeal of Minn. Stat. § 152.027, subd. 3 and 4, is estimated with Article 5.

It is assumed that Article 8 will have no state or local correctional impact because it is assumed that the immediate rescheduling of marijuana from Schedule I to Schedule III will not alter its treatment in the controlled substance crimes. Each time Schedule I substances are mentioned in the statutes defining the five controlled substance crimes, they are either qualified by the term "narcotic drug" (which marijuana is not) or listed together with Schedule III substances.

With respect to Article 5, it is assumed that the marijuana sale and possession thresholds in Minn. Stat. § 152.021, Controlled Substance Crime First Degree, remain unaltered and in effect.

It is assumed that Article 5's cannabis/marijuana possession provisions yield the thresholds for possession of cannabis/marijuana shown in Table 1.

Table 1. Possession Thresholds, Effective August 1, 2021

Offense	Penalty	Marijuana or Cannabis	Cannabis Concentrate	THC in Infused Products	Plants
CS1	30F	50kg or more			500 or more
CS2	25F	25kg or more			
CS3	20F	more than 10kg	more than 2kg	more than 200g	
PC1	5F	10lb to 10kg IR/ULS 1lb to 10kg OR/ULS	80g to 2kg ULS	8g to 200g ULS	
CC1	5F				more than 23
PC2	GMD	10lb to 10kg IR/LS 1lb to 10kg OR/LS	80g to 2kg LS	8g to 200g LS	
CC2	GMD				16 to 23
PC3	MD	3oz to 1lb OR/ULS	16g to 80g ULS	1.6g to 8g ULS	
PC4	PMD	2oz to 3oz OR/ULS 2oz to 1lb OR/LS	8g to 16g ULS 8g to 80g LS	0.8g to 1.6g ULS 0.8g to 8g LS	

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	None*	2oz or less OR 10lb or less IR	8g or less	0.8g or less	16 or less (but see cannabis)
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When ranges are shown, the offense applies when more than the lesser amount is involved, but not more than the greater amount.

Key: CSx = Controlled Substance Crime x Degree; PCx = Cannabis Possession x Degree; CCx = Cannabis Cultivation x Degree; xF = felony with a statutory mandatory penalty of x years imprisonment; GMD = gross misdemeanor; MD = misdemeanor; PMD = petty misdemeanor; OR = outside residence; IR = in residence; LS = licensed source; ULS = unlicensed source

*Civil penalties may apply.

One of the responsibilities of the Minnesota Sentencing Guidelines Commission is to assign severity levels (SLs) to new felonies, which is based on various factors such as statutory maximum penalty and similarity to other ranked offenses. Because each of the three new felony offenses Sale of Cannabis in the 1st Degree, Possession of Cannabis in the 1st Degree, and Cultivation of Cannabis in the 1st Degree has the same statutory maximum penalty as Controlled Substance Crime in the 5th Degree, ranked at SL D2, it is assumed that the Commission will likewise rank the new felonies at SL D2.

It is assumed that future marijuana/cannabis cases will be like marijuana cases sentenced in 2019. MSGC staff examined each criminal complaint for the 365 cases sentenced in 2019 for which a marijuana offense was the most serious sentenced. Marijuana offenses were identified by the MOC codes and the text of the complaints were used to verify the drug type and gather information on the amount of drug involved as well as whether or not the drug was possessed within the defendant's residence. It was found that 32 percent of the offenses occurred in a residence and 67 percent occurred outside a residence.

It was assumed that designations on complaints as: "marijuana wax," "hash," "hashish," "hash oil," "honey oil," "butter," or "shatter" are included in the cannabis concentrate category.

It was assumed that designations on complaints as: "candy," "gummies," or "cookies" are included in the THC infused category. Because the complaints did not specify the weight of the THC itself, the weight of the candy was used instead of the weight of the THC; this may overstate the severity of the offense in some cases.

Where the severity of the new offense depended on whether the substance was obtained from a licensed cannabis business, it was assumed that the substance was not obtained from a licensed business.

If no amount was specified in the complaint, and there was no reason to think otherwise, it was assumed that the offense would be a misdemeanor or less.

It was assumed that a case that had a presumptive prison disposition and received a mitigated departure would continue to receive such a departure if, under the new system, it would also have a presumptive prison sentence.

When the amount of marijuana specified in the criminal complaint would no longer qualify the offense for treatment within the degree of controlled substance crime sentenced, the offense's sentence was calculated using the degree of controlled substance or cannabis crime that the specified amount of marijuana qualified the offense for. In a small number of cases, this resulted in an increase in the severity of the crime, because the offense had been sentenced at a lower severity than the offense qualified for. In no case, however, was a sentence recalculated in such a way that a new prison sentence resulted where there was no prison sentence before.

Similarly, among second-degree marijuana sale offenses where the offense of conviction is being eliminated, each offense was treated as a second-degree possession case because the amount of drugs sold in each case remained within second-degree possession limits.

Applying the assumptions described above, MSGC determined how many of the marijuana cases sentenced in 2019 would move to a different penalty level. Eighty-two percent of the cases would cease to be felonies. Thirty-two percent would become misdemeanors, and 14 percent would become petty misdemeanors. Thirty-five percent of the cases would cease to be offenses because the amount of drugs involved are no longer within one of the offense levels specified in the bill. Table 2, below, describes the results.

Table 2. 2019 Case Distribution, Estimated Case Distribution Under Bill

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Offense Title	2019 Case Distribution	Percent	Proposed Offense Title	Estimated 2019 Case Distribution Under Bill	Percent
CS1 Sale (F)	8	2.2	CS1 Sale (F)	9	2.5
CS1 Poss. (F)	0	0.0	CS1 Poss. (F)	2	.5
CS2 Sale (F)	12	3.3	CS2 Sale (F)	0	0
CS2 Poss. (F)	9	2.5	CS2 Poss. (F)	16	4.4
CS3 Sale (F)	8	2.2	CS3 Sale to Minor (F)	2	.5
CS3 Poss. (F)	7	1.9	CS3 Poss. (F)	9	2.5
CS4 Sale (F)	3	.8	Sale Cannabis 3 (MD)	59	16.2
CS4 Poss. (F)	0	0.0	Sale Cannabis 4 (PMD)	24	6.6
CS5 Sale (F)	74	20.3	Cultivate Cannabis 1 (F)	1	0.3
CS5 Poss. (F)	244	66.8	Possess Cannabis 1 (F)	24	6.6
			Possess Cannabis 3 (MD)	59	16.2
			Possess Cannabis 4 (PMD)	27	7.4
			No Offense	129	35.3
			Unknown	4	1.1
Total	365	100	Total	365	100

Gross misdemeanor cases involving trace amounts of marijuana, would no longer be crimes. According to data from the Minn. Judicial Branch, in 2019, there were 68 such convictions.

Possession of marijuana in a motor vehicle, currently a misdemeanor under Minn. Stat. § 152.027, subd. 3, is repealed. According to data from the Minn. Judicial Branch, in 2019, there were 1,879 such convictions. It is assumed that those offenses involved possession of marijuana outside the residence in quantities between 1.4 g and 42.5 g, all of which are below the bill's two-ounce possession threshold. It is therefore assumed that these misdemeanors will not be penalized in the future.

MSGC has no information on how many of the non-felony cases receive probation and for how long. It is assumed that gross misdemeanors receive an average two years' probation and misdemeanors receive an average one-year probation. It is unknown how many non-felony cases receive local confinement and for how long.

Expenditure and/or Revenue Formula

NA

Long-Term Fiscal Considerations

It is estimated that if the changes to offense severity contained in this bill were applied to the cases sentenced in 2019, 32 fewer people would receive prison sentences which would result in a savings of 35 prison beds. The savings will be 19 beds in FY2022, 25 beds in FY2023, 27 beds in FY2024, 30 beds in FY2025, 32 beds in FY2026, and 35 beds in FY2027 and every year after.

Local Fiscal Impact

Because the cases involving trace amounts of marijuana will no longer be crimes, it is estimated that 68 fewer people a year will be placed on gross misdemeanor probation for an estimated two years. That could result in a reduction in supervision caseloads of 136 cases. In addition, if any were receiving local confinement, that too will be eliminated. This will result in local savings; the magnitude of the savings is not estimated by MSGC. Because the cases involving possession of marijuana in a motor vehicle will no longer be crimes, it is estimated that 1,879 fewer people a year will be placed on misdemeanor probation for an estimated one year. That could result in a reduction in supervision caseloads of 1,879 cases. In addition, if any were receiving local confinement, that too will be eliminated. This will result in local savings; the magnitude of the savings is not estimated by MSGC.

References/Sources

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Minn. House Research, Bill Summary, HF600 as introduced (retrieved 2/3/21 at <https://www.house.leg.state.mn.us/hrd/bs/92/HF0600.pdf>).

Email from Ben Johnson (House Research) to Nate Reitz (MSGC), 5/3/21.

MSGC Monitoring Data.

2019 Minn. Judicial Branch Data.

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Fiscal Note

2021-2022 Legislative Session

HF600 - 6E - Legalize Cannabis

Chief Author: **Ryan Winkler**
 Committee: **Commerce Finance and Policy**
 Date Completed: **5/5/2021 7:38:32 AM**
 Agency: **Supreme Court**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		
		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium	
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024
General Fund	-	545	545	-	-
Total	-	545	545	-	-
Biennial Total			1,090		-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	2.5	2.5	-	-
Total	-	2.5	2.5	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

The Supreme Court assumes that the proposed legislation may impact criminal cases, civil cases, and expungement petitions. However, the fiscal impact cannot be determined due to a lack of data and/or factors that cannot be measured.

LBO Signature: Maren Bardal **Date:** 5/4/2021 3:17:02 PM
Phone: 651-284-6429 **Email:** maren.bardal@lbo.leg.mn

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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	545	545	-	-	-
Total	-	545	545	-	-	-
Biennial Total			1,090			
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	545	545	-	-	-
Total	-	545	545	-	-	-
Biennial Total			1,090			
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			

Bill Description

HF600-6E at article 1 adds a new chapter 342 regulating adult-use cannabis, and providing for lawful use, cultivation, possession, and transportation of cannabis paraphernalia, and of cannabis in public and in a person's private residence in certain amounts for persons at least 21 years of age. At section 342.08, subd. 1(b), the bill prohibits use under the age of 21, use in a motor vehicle, use anywhere smoking is prohibited, use in a public or charter school, use in a correctional facility, operating a motor vehicle while under the influence, giving cannabis to a person under 21, and giving as a sample or promotional gift if in the business of selling goods or services. The bill imposes civil penalties for violations, and provides for the issuance of licenses and regulation of retail and medical cannabis businesses.

Article 1 includes provisions that allow for application to the district court if a person refuses to comply with a subpoena issued by the Cannabis Management Board, petitions to district court for condemnation of cannabis found by the Board to be in violation of chapter 342, and actions in district court for recovery of civil penalties imposed.

Article 1 does not include criminal penalties for most prohibitions except that the bill establishes gross misdemeanor penalties in section 342.57, subd. 2, for federal, state, and local law enforcement authorities who access the medical cannabis registry except when acting pursuant to a valid search warrant, and for board members and public employees who release data or information about an individual contained the registry or a patient enrolled in the program except as authorized in sections 342.50 to 342.59; and a misdemeanor criminal penalty in section 342.58 for a health care practitioner who knowingly refers patients to a cannabis business while holding a financial interest.

The bill in section 342.57 creates a civil action for damages by a patient against a person who violates subdivision 3 (school and rental property), 4 (medical care) and 5 (employment); and section 342.81 creates a civil action for damages against a person who caused intoxication by illegally selling cannabis, which does not preclude common law tort claims.

The bill at articles 2-4 adds and amends tax provisions, food safety provisions, and business development provisions regarding cannabis.

Article 5 amends the controlled substance criminal provisions: at section 152.022 (2nd Degree) to remove the references to marijuana from the sale and possession offenses; at section 152.023 (3rd Degree) to remove the current references to sale of marijuana and to add a provision that prohibits sale of cannabis or cannabis products to a person under 18 and to clarify the 3rd degree possession offenses; and at section 152.024 (4th Degree) and section 152.025 (5th Degree) to remove the marijuana-specific sale crimes, and to clarify the 5th degree possession offense.

The bill adds a new section 152.0263, Cannabis Possession Crimes, which includes felony, gross misdemeanor, and misdemeanor level offenses and authorizes a local unit of government to adopt an ordinance establishing a petty misdemeanor offense; a new section 152.0264, Cannabis Sale Crimes, which includes felony, gross misdemeanor, misdemeanor level offenses, and petty misdemeanor level offenses, including a petty misdemeanor offense for unlawful sale by a minor; and a new section 152.0265, Cannabis Cultivation Crimes, which includes felony and gross misdemeanor level offenses. The bill amends section 609.135 to provide that a court if consistent with the chemical use assessment may prohibit a defendant from using cannabis as a condition of a stayed sentence, and that court shall not impose an intermediate sanction that has the effect of prohibiting a defendant from participating in the registry program. The bill amends the controlled-substance forfeiture statutes to include references to sections 152.0263, .0264, and .0265, and to

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chapter 342, and to exempt cannabis from certain provisions.

Article 6 amends expungement provisions in chapter 609A and adds a new section 609A.05 to provide for automatic expungement upon discharge and dismissal under section 152.18 for marijuana or THC-related violations of sections 152.024 (4th Degree), .025 (5th Degree) or .027 (other controlled substance offenses), if the person was convicted under section 152.027, subd. 3 (marijuana in a motor vehicle) or 4 (possession of a small amount), if the person was arrested for possession of marijuana or THC and all charges were dismissed prior to a determination of probable cause, or if all proceedings involving possession of marijuana or THC were resolved in the person's favor. The Bureau of Criminal Apprehension (BCA) is required to identify convictions that qualify and to notify the judicial branch, and upon receiving that notice or upon entering an order dismissing charges prior to a determination of probable cause the court shall issue an order vacating the conviction, if any, discharging the person from any supervision, dismissing the proceedings, and sealing records and the court administrator shall send a copy of the order to each agency and jurisdiction whose records are affected, and to the commissioner of human services and the Professional Educator Licensing and Standards Board in all cases, and to the last known address of the person whose record was expunged, identifying each agency to which the order was sent. This section is effective August 1, 2021.

The bill also adds a new section 609A.06 establishing the Cannabis Expungement Board, which includes the chief justice or designee. The Board has the powers and duties to obtain and review records relevant to conviction for possession of marijuana or THC to determine if the offense would either be a lesser offense or no longer a crime after the bill takes effect August 1, 2021, determine whether the person's conviction should be vacated, charges should be dismissed, and records should be expunged or the person resentenced, and notify the judicial branch of such individuals. The BCA is required to identify convictions and sentences that qualify for review and notify the Board. The Board has free access to all relevant records and the power to issue subpoenas to compel production; the board is required to meet at least monthly, meetings are public, and defendants are victims must be identified using anonymous identifiers in public meetings. The Board must notify the judicial branch of any cases eligible for expungement or resentencing and shall make a good faith effort to notify the subject of the record, and upon receipt of the notice the court shall issue the appropriate orders and the court administrator shall send a copy to each affected agency and jurisdiction and to the defendant, identifying each agency to which the order was sent.

The bill at article 7 adds a new section 3.9224 governing state medical cannabis compacts with Indian Tribes, and amends miscellaneous data practices provisions and provisions; adds a new section 120B.215, Education on Cannabis Use and Substance Use, directing the commissioners of education, health, and human services to identify model programs for middle and high school students; adds a new sections 144.196 and 144.197 requiring the commissioner of health to collect cannabis data and issue biennial reports, and to conduct education programs. The bill amends laws governing the use of cannabis and employment practices, and eligibility for state benefits.

The bill amends section 256.01, subdivision 18c, which requires the state court administrator to provide a report every 6 months by electronic means to the commissioner of human services including the name, address, date of birth, and if available driver's license or state ID car number, date of the sentence and county in which the conviction occurred of each person convicted of a felony, to exempt convictions under section 152.0263 and 162.0264.

The bill adds a new section 604.135 creating a civil cause of action and civil penalty for cannabis nuisance. The bill transfers the Office of Medical Cannabis from the Department of Health to the Cannabis Management Board and creates a task force on medical cannabis therapeutic research.

The bill repeals section 152.027, subd. 3 (marijuana in a motor vehicle), and subd. 4 (possession or sale of a small amount of marijuana), 152.21, and much of sections 152.22-.37 and the Minnesota Rules governing medical cannabis.

Article 8 amends Minn. Stat. § 152.02, subd. 2, to remove the paragraphs addressing marijuana and THC from Schedule I, and amends subd. 4, to add the paragraphs to Schedule III.

Article 9 appropriates money to a number of agencies, including \$500,000 in fiscal year 2022 to the Supreme Court for work related to expungement.

Assumptions

It is not clear which provisions in article 1, other than section 342.58 are intended to be criminal offenses and what penalties apply. It is assumed based on the statement in section 342.57, subd. 2(f)(2) ("in a criminal proceeding involving a criminal violation of sections 342.50 to 342.59") that all of those provisions are intended to be able to be charged as crimes. Similarly, it is unclear whether the prohibitions in many of the sections, including for example section 342.08, subdivision 1(b) are intended to be charged as criminal offenses. It is assumed that any prohibition where criminal penalties are not imposed in other statutes is intended to be able to be charged as a criminal offense, and that a number of prohibitions in article 1 would potentially need to be coded in the statute system at the BCA and the court so that e-citations and e-complaints could be successfully filed. However, because it is unclear whether they are crimes, what the level of offense is for the offenses, and what criminal penalties apply to violations, it is assumed no offenses will be proactively coded, and that offenses will only be added if and when law enforcement or a prosecutor attempts to charge a

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violation of any of the provisions. Because no penalty for the violations is included, if such a charge is filed, the violation would be coded as a petty misdemeanor under Minn. Stat. § 645.241.

Regarding the elimination of some existing offenses and the creation of new criminal offenses, it is unknown whether overall this will result in an increase, decrease, or no significant change in the number of criminal cases involving cannabis that are filed with the court. Many cases filed alleging violations of the current marijuana and THC laws often include other criminal charges so in general it cannot be assumed that the changes to the marijuana and THC laws will significantly reduce criminal case filings. The bill also creates new civil causes of actions and proceedings in district court. Thus overall the impact on case filings is unknown.

It is assumed that the provisions requiring the judicial branch to vacate convictions and expunge certain case records would require Supreme Court review and approval. The Legislature has long acknowledged that access to judicial-branch records "is governed by rules adopted by the Supreme Court." Minn. Stat. § 13.90, subd. 2 (2020). It is also assumed that if the court implements some or all of the provisions of this bill, the court may implement additional limitations regarding the cases that qualify for expungement. For example, if a misdemeanor case was dismissed after a finding of incompetency to proceed under Minn. R. Crim. P. 20.01, subd. 6(b), the case would qualify for automatic expungement under the provisions of the bill, but the court would likely retain a public record of the case to ensure the record remains accessible in response to any firearms eligibility background check of the National Instant Criminal Background Check System (NICS).

Regarding the expungement provisions, it is assumed that because single charges cannot be readily expunged from a case, and expungement is a remedy and process that applies to an entire case, a person is only entitled to vacation of conviction and expungement under these provisions if the only offenses charged and the dispositions imposed are covered by the provisions of this bill. If any non-marijuana offenses were charged in the complaint or citation, or any disposition does not qualify, the case remains public unless an expungement upon petition under section 609A.03 is granted.

The bill is silent on which entity is required to identify the cases that would qualify under the provisions of the bill that did not result in conviction or adjudication. It is assumed that the judicial branch has no affirmative obligation to identify qualifying cases in its case management system and is only required to issue an expungement order under the provisions of this bill if the BCA notifies the judicial branch that the case qualifies, or a party to the case identifies the case as qualifying, requests that the court issue such an order, and the court agrees that the case qualifies and issues an order accordingly. It would be virtually impossible to ever identify all of the cases that qualify for "automatic" expungement under the provisions of this bill. There is no way to automate the identification of eligible cases.

It is assumed that the judicial branch would make simplified forms available for defendants to file with the court requesting review of a case they believe qualifies for "automatic" expungement and that a judge would review and determine whether to grant the requested expungement.

It is also assumed that the court would need to coordinate with the BCA to implement automated expungement processes, which will require a significant amount of work, much of it as part of a joint project with the BCA. To the extent there are qualifying criteria in the bill that are not clear, the court and the BCA would have to agree regarding the resolution of the issues in order to ensure full and consistent implementation of the expungement relief. It is also assumed that even if processes are put in place to try and ensure all cases that qualify are expunged, errors may occur and additional litigation and/or processes will be needed to correct any such errors.

The processes and automation needed to implement the provisions of this bill could not be fully implemented by August 1, 2021, when the bill takes effect. Work between the BCA and the courts to implement these provisions would likely require a 1 to 2 year project at a minimum. It is assumed the cost of such a project would be comparable to a similar project where the court established criteria to identify and destroy records that have reached the district court record retention period.

It is assumed that the provisions of this bill could reduce the number of expungement petitions filed with the district courts under section 609A.03. However, it is assumed that the provisions for "automatic" expungement will require significant staff and judge time to review cases that are identified by the BCA or the defendant as qualifying, determine whether they qualify, and issue and process orders. It is assumed that cases determined not to qualify under the automatic provisions may result in a defendant filing a section 609A.03 petition. Thus it is unknown whether overall the provisions of the bill will increase or decrease the amount of time and resources the judicial branch spends on expungement matters. Similarly, the impact on expungement filing fee revenue is also unknown.

It is unclear which agency is providing administrative support and funding for the work of the Cannabis Expungement Board. For purposes of this fiscal note it is assumed the judicial branch is not responsible for providing any support or funding. Assuming that the work will prove very time consuming, at least in the early months and possibly years, it is assumed the chief justice may delegate the work to a Senior Judge.

Expenditure and/or Revenue Formula

Based on information from a prior, similar project, the cost to design and implement the processes necessary to expunge cases under the provisions of this bill, including both the costs associated with contractors and the necessary judicial

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branch staff time, is anticipated to be:

\$440,000 for contractor time (approximately 4000 hours x \$110/hour), and

\$650,000 worth of internal judicial branch staff time (approximately 10,000 hours x \$65 per hour)

For a total cost of \$1,090,000.

Using a 2,080 hour staff time year (40 hours/week x 52 weeks/year), and assuming a 2-year project, the internal staff time work would require 2.5 judicial branch staff FTE each year ($10,000 / 2,080 = 5 / 2 = 2.5/\text{year}$).

Although it is possible that expungement filing fee revenue may be reduced, it is unknown whether that will occur and if so by how much. Based on 3 years of judicial branch data (not including 2020 which had an unprecedented decrease in case filings and fee revenue), an average of \$277,431 in filing fee revenue is generated annually from the filing of expungement petitions.

Long-Term Fiscal Considerations

None

Local Fiscal Impact

None

References/Sources

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