

# Bill Summary Comparison of HF400/SF751

House File 400  
(H0400-5)

Senate File 751  
(UEH0400-2)

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<b>Article 1 Name</b>	<b>House:</b> Opioid Product Stewardship <b>Senate:</b> Opiate Epidemic Response
<b>Fund/Account (R3)</b>	<b>House:</b> places it in chapter 16A <b>Senate:</b> places it in chapter 256
<b>License/ Registration Fees</b>	<b>Amount raised:</b> Both House and Senate raise \$20,000,000 annually  <b>Registration Fee Payment (R4):</b> Both House and Senate require a manufacturer of an opiate controlled substance to pay the applicable registration fee by June 1, beginning June 1, 2020. House authorizes the board to assess a late fee of ten percent per month. Senate specifies that the collected fee is to be deposited in the opiate account and specifies that a manufacturer of opiates is not required to pay a license fee for more than one facility.
<b>Registration Fee Reporting (R11-R12)</b>	<b>License fee (R1):</b> Senate increases the annual license fee for nonopiate drug wholesalers, nonopiate drug manufacturers, and medical gas distributors to \$5,000; and for manufacturers and wholesalers of opiates to \$55,000. Both House and Senate require manufacturers and wholesalers to annually report to the Board every sale, deliver, or other distribution within or into the state of any opiate during the previous calendar year, beginning March 1, 2020.  House authorizes the Board to assess an administrative penalty of \$500 per day if they fail to report.  Senate has a \$100 penalty.
<b>Registration Fee Determination (R12-R13)</b>	Both House and Senate require owners of a pharmacy with at least one location within the state to report to the Board intracompany delivery or distribution of an opiate, to the extent that they were not reported by the manufacturer or wholesaler. House also requires the name of the manufacturer or wholesaler from which the pharmacy purchased the opiate to be included in the report. House requires the Board to assess a registration fee that, in the aggregate amount, totals \$12,000,000 for manufacturers and \$8,000,000 for wholesalers that is prorated and based on the manufacturer's and wholesaler's percentage of units reported to the board.  Senate requires the board to assess an opiate product registration fee on any manufacturer of an opiate that annually sells, delivers, or distributes an opiate within or into the state 2,000,000 or more units as reported to the board. Sets the annual fee at \$250,000. The senate also defines what a unit means.  Both House and Senate require the board to notify a manufacturer or wholesaler of the amount they are required to pay by April 1 of each year, beginning April 1, 2020.  Both House and Senate allow the manufacturer or wholesaler to dispute the amount of the registration fee that the board determines the manufacturer owes.

**Board Reporting  
(R13)**

Both House and Senate require the Board to evaluate the registration fee and its impact on prescribing practices.

Senate also asks the board to evaluate whether there are any unintended consequences in the availability of opiates for the treatment of chronic or intractable pain.

**Legislative Review  
(R13-R14)**

Both House and Senate require the legislature to review the reports and make a determination about whether the registration fee should continue beyond July 1, 2023.

**Advisory Council  
(R5-R9)**

**The focus of the council and what the council shall do:** different in House and Senate

**Placement of council:** House in chapter 151; Senate in chapter 256.

**Membership of the council:**

House: 22 members

Senate: 18 voting members, plus commissioners of human services and health as ex officio nonvoting members. Senate requires one House member and one Senate member to represent a district outside the seven-county metropolitan area and one House member and one Senate member to represent a district within the seven-county metropolitan area.

Both House and Senate require the commissioner to coordinate appointments to provide geography diversity.

Senate includes a conflict of interest section (R8).

Senate (R8) requires the commissioner to submit a report of the proposed grants proposed by the advisory council to be awarded for the upcoming fiscal year and requires the commissioner to award the grants as selected by the council unless otherwise appropriated by the legislature. Senate also limits the amount for administration of a grant to 3%.

Senate (R9) requires the advisory council to annually report to the legislature on the individual projects receiving grants. Senate also requires the commissioner of MMB to report to the legislature on the evaluation study on promising practices that are selected for evaluation activities.

House (R11) requires the council to annually report to the legislature on the grants and funds awarded, and the outcomes achieved, and when the commissioner did not follow recommendations of the advisory council.

**Use of Funds (R10)**

**House:** Fiscal year 2020 funds are appropriated as specified in Article 5 from the opioid account. Fiscal year 2021 and beyond, funds are appropriated to the commissioner to distribute as grants.

**Senate:** Fiscal year 2020 appropriations from the general fund (R31), fiscal year 2021 appropriations from the opiate account (R10).

**Settlement; sunset  
(R1 and R14)**

**Senate (R1):** If the state receives a settlement, payout, or judgment from any lawsuit brought by the state against opiate drug manufacturers in an amount of \$20,000,000 or greater, the license fee and registration fee for opiate manufacturers and wholesalers are reduced to \$5,000 and remains at that amount until reviewed and adjusted, restored, or repealed by the legislature. The first \$20,000,000 of any settlement funds received are to be deposited in the opiate account, and the rest deposited in a separate account in the state treasury.

**House (R1)** requires any money received from a settlement or order from litigation brought by the attorney general against an opiate manufacturer related to consumer fraud or other illegal actions that contribute to the excessive use of opioids to be deposited in the opioid stewardship fund.

## Article 2 Health Plan Company Requirements

House	Senate	Comparison
§ 1 R15 Requires health plans to cover acupuncture services for pain management.		House only provision.
	§ 1 R15 Allows pharmacists to administer certain medications to treat alcohol or opioid dependence and mental illness.	Senate only provision.
§ 2 R17 Prohibits a health plan company or PBM from requiring a consumer to pay more than the copayment or out-of-pocket price for a drug at the point of sale.		House only provision.
	§ 3 R18 Drug collection receptacles	See comparison across from House Article 3, § 3
	§ 7 R18 Required use by prescribers of Prescription Monitoring Program (PMP).	Senate only provision.
	§ 8 R22 Board of Pharmacy vendor contract and fee related to linking PMP and electronic health records.	Senate only provision.
	§ 10 R23 Health Services Policy Committee to evaluate and make recommendations on the integration of nonpharmacologic pain management.	Senate only provision.
	§ 12 R24 MMB to transfer \$2,803,000 from the opiate response account to the general fund.	Senate only provision.

## Article 3 Prevention and Education

House	Senate	Comparison
§ 1 and 2 R24 Allows a health care directive to instructions on use of opioids		House only provision.
§ 3 R25 Allows county sheriffs to fulfill the requirement of maintaining a collection receptacle through use of an alternative disposal method, that may include at-home drug deactivation and disposal.	Art. 2 § 3 R18 Allows county sheriffs to fulfill the requirement by implementing a medicine disposal program.	Similar intent. House specifically mentions at-home deactivation and disposal.
	§ 4 R26 Timelines to fill a prescription.	Compared across from House § 5 on R28.
§ 4 R27 Extends I.D. requirement when purchasing a controlled substance to include schedules IV and V	§ 5 R27 (Same as House)	Identical

	§ 6 R27 Quantity limits for controlled substance prescriptions	Compared across from House § 6 on R28
§ 5 R28 Requires controlled substance prescriptions to be filled within 30 days of the prescription date, and for schedules III to V, refilled within 30 days of last dispensing.	§ 4 R26 Requires controlled substance prescriptions to be filled within 30 days of the prescription date, and for schedules III to V, refilled within 30 days of last dispensing. Requires a new prescription, once authorized refills have been used.	Similar intent. Different phrasing and coding. Senate also requires a new prescription once refills have been used.
§ 6 R28 Limits opioid prescriptions for acute pain due to a major trauma or surgical procedures to a seven-day supply. Allows an override of this limit based on professional clinical judgment. Retains current law limiting opioids to a four-day supply for dental pain or pain from refractive surgery.	§ 6 R27 Limits opioid prescriptions for acute pain to a seven-day supply for adults and a five-day supply for persons under 18. Limits opioids for wisdom teeth extraction to a four-day supply. Allows an override based on professional judgment.	Different coding, Senate modifies current law on limits for dental pain and pain from refractive surgery, and substitutes a general standard; House retains current law and four-day limit on dental pain and pain from refractive surgery. Senate has a separate four-day limit for wisdom tooth extraction.  House and Senate use same definition of acute pain, but House refers to acute pain associated with a major trauma or surgical procedure.
§ 7 R29 Requires two hours of continuing education on prescribing opioids, for licensees of the boards of medical practice, nursing, dentistry, optometry and podiatric medicine, including non-pharmacological alternatives for treatment of pain. Section expires 1-1-23.	§ 9 R29 Similar but does not include non-pharmacological alternatives. Also includes an exemption from CE requirement for licensees who participate in the DHS opioid prescribing improvement program. Section expires 1-1-24.	CE language identical, except for House inclusion of non-pharmacological alternatives. Exemption for participants in DHS opioid prescribing program is Senate only. Different expiration dates – House 1-1-23 and Senate 1-1-24.

**Article 4 Intervention, Treatment, and Recovery**

House	Senate	Comparison
§ 1-2 R29 MDH grants to FQHCs, substance use disorder treatment programs, and other entities for community-based programs to treat, prevent, and raise awareness of opioid addiction.		House only provision.
§ 3 R30 Allows the following to administer opioid antagonists: -- probation or supervised release officer -- volunteer firefighter -- school nurses	§ 2 R30 Allows the following to administer opioid antagonists: -- state or local government correctional employees	Differences in groups allowed to administer opioid antagonists.  Different effective dates – House default 7-1-19; Senate day following final enactment.

**Article 5 Appropriations (also see bill tracking)**

House	Senate	Comparison
<p>§ 1 R31 \$288,000 in FY20 and \$288,000 in FY 21 from the opioid stewardship fund to the Bureau of Criminal Apprehension for two additional special agents.</p>	<p>§ 11 (a) R31 \$2,000,000 in FY20 and \$2,000,000 in FY21 from the general fund to public safety for violent crime enforcement team grants.</p> <p>(h) \$384,000 in FY20 from the general fund to public safety for BCA drug scientists and lab supplies.</p>	
<p>§ 2 R31 (a) \$8.283 million in FY20 from the opioid stewardship fund to DHS, to be distributed according to this section in consultation with the advisory council.</p> <p>(b) At least 30 percent for county and tribal agencies for child placement.</p> <p>(c) At least 10 percent for grants to county to prevent and treat opioid addiction.</p> <p>(d) Up to 5 percent for DHS administration and supporting the advisory council.</p> <p>(e) The remaining appropriation for grants to nonprofit organizations for prescriber education, public awareness, and purchase of opiate antagonists.</p> <p>(f) Requires each grant recipient to report to DHS and the advisory council.</p>	<p>R32 (f) \$249,000 in FY20 from the general fund to DHS to support the advisory council and to administer grants under (h).</p>	
	<p>(i) \$800,000 in FY20 from the general fund to DHS for grants to St. Gabriel’s and Hennepin Health Care for project ECHO.</p>	
	<p>(j) \$200,000 in FY20 from the general fund to DHS for a grant to a nonprofit that has provided overdose prevention programs in at least 60 counties and meets other criteria.</p>	
<p>§ 3 R32 Grants to MDH from the opioid stewardship fund for the following:</p>		
<p>Subd. 1. \$2 million in FY20 for grants to FQHCs and other entities under Article 4, § 2</p>		
<p>Subd. 2. \$2.4 million in FY20 to continue and expand opioid abuse</p>		

prevention pilot projects using controlled substance care teams, under Laws 2017.		
Subd. 3. \$1.25 million in FY20 for assessment and demonstration projects related to non-narcotic pain management.		
Subd. 4. \$4.520 million in FY20 and \$4.520 million in FY21 for grants to tribal governments and American Indian organizations for opioid addiction prevention and treatment programs.		
Subd. 5. \$890,000 in FY20 and \$702,000 in FY21 for MDH to administer the programs in this section.		
§ 4 R33 Subd. 1-5 Funding to the boards of dentistry, nursing, optometry, podiatric medicine, and medical practice, for continuing education.	R34 (k) to (o) provide the same amounts of funding to the health boards.	House includes references to continuing education on nonpharmacological alternatives. Also differences in phrasing and formatting.
Subd. 6 provides funding to the Board of Pharmacy to collect the registration fee.	(g) provides funding to the board for the same purpose.	Dollar amounts differ. House appropriates for FY 20 and 21; Senate for FY20. House makes the appropriation ongoing.
	(b) \$244,000 in FY20 from the general fund to the Board of Pharmacy for licensing activities under § 151.066.	
	(c) \$500,000 in FY20 from the general fund to the Board of Pharmacy for operations under chapter 151.	
	(d) \$500,000 in FY21 from the opiate epidemic response account for Board of Pharmacy for operations under chapter 151.	
	(e) \$300,000 in FY20 from the general fund to MMB for evaluations under § 256.042.	