

On page 1, line 1, of the House State Affairs bill, delete " create an interim committee to recommend implementation of the medical marijuana program" and insert " require the medical cannabis oversight committee to evaluate the implementation process"

On page 1, line 7, of the House State Affairs bill, after "2021;

(2)" delete "The Measure legalizes marijuana for medical use by qualifying patients, including minors. The Measure requires patients to obtain a registration card from the Department of Health, and the Measure allows the acceptance of nonresident cards. The Measure authorizes individuals to become designated caregivers and grow marijuana in their homes. The Measure authorizes cultivation, manufacture, and retail facilities if registered by the Department of Health;

(3) The Measure, however, does not include provisions for:

(a) Tracking marijuana or marijuana products;

(b) Taxing medical marijuana;

(c) Regulating the form of products, maximum potency, or appropriate dosage of products for safe human consumption;

(d) Identifying the debilitating medical conditions that qualify for lawful use and possession of medical marijuana; and"

On page 1, line 20, of the House State Affairs bill, after "and" delete "(e) Permitting, mandating, or prohibiting ownership within different tiers of the marijuana supply chain;

(4) The Measure requires the Department of Health to regulate marijuana, which conflicts with 2020 Constitutional Amendment A that gives the exclusive power to regulate marijuana to the Department of Revenue. Amendment A is presently the subject of two constitutional challenges in the state courts;

(5) The Measure does not provide a source of funding for the creation of a new state program before the work to implement the Measure may occur;

(6) Included in the Measure are policies outside the subject of a medical marijuana program in the following areas;

(a) Employment law;

(b) Landlord and tenant rights;

(c) School policy;

(d) Correctional health;

(e) Family law; and

(f) Contract law;

(7) 2020 Constitutional Amendment A passed by a vote of the people on November 3, 2020, receiving fifty-four percent of the vote. South Dakota became the first state to adopt recreational and medicinal marijuana in the same election;

(8) The constitutionality of Constitutional Amendment A is currently being challenged in two lawsuits: In the matter of election contest as to Amendment A, Sixth Circuit Case No. 32CIV20-186, and Sheriff

Kevin Thom, in his official capacity as Pennington County Sheriff and Colonel Rick Miller, in his official capacity as Superintendent of the South Dakota Highway Patrol v. Steve Barnett, in his official capacity as South Dakota Secretary of State, Sixth Circuit Case No. 32CIV20-187. On February 8, 2021, the circuit court issued its decisions in these cases, and in the latter case, held that Amendment A was unconstitutional. These decisions, however, are subject to appeal and final, nonappealable decisions are not expected during the 96th Legislative Session;

(9) The implementation, administration, and regulation of a medical marijuana program would be significantly impacted by the final outcome of the Amendment A litigation, and establishing a medical marijuana program without certainty as to the legality of adult use marijuana would waste limited taxpayers' resources;

(10) A state of emergency was declared on March 13, 2020, and continues to exist in every county of this state. The Department of Health, which the Measure charges with regulating medical marijuana, has been preparing, planning, researching, managing, communicating, and using every available resource at its disposal to fight the unprecedented, global pandemic of the novel coronavirus, which causes the severe respiratory disease, COVID-19, since January 2020, and has been developing, launching, tracking, and administering the state's vaccine distribution plan continuously since the Measure passed;

(11) The Measure requires the Department of Health to implement, administer, and regulate a new program and industry less than eight months from when the Measure passed. The time frame is insufficient to successfully launch a reliable, stable, and prudent medical marijuana program;

(12) The Measure conflicts with federal law by legalizing a substance that remains illegal under federal law, which adds further complexity to implementation;

(13) The Measure fails to adequately consider the complexities and detail needed to successfully create and operate a medical marijuana program;

(14) "

On page 3, line 21, of the House State Affairs bill, after "prudence" delete "than its current effective date of July 1, 2021"

On page 3, line 22, of the House State Affairs bill, delete "(15)" and insert "(3)"

On page 3, line 24, of the House State Affairs bill, after "necessary." delete "Section 2. Notwithstanding the provisions of § 2-1-12, §§ 34-20G-1 to 34-20G-95, inclusive, are effective July 1, 2022."

On page 4, line 1, of the House State Affairs bill, delete "2022" and insert " 2021"

On page 4, line 3, of the House State Affairs bill, delete " November 21, 2022" and insert " January 31, 2022"

On page 4, line 24, of the House State Affairs bill, delete " 2022" and insert " 2021"

On page 4, line 26, of the House State Affairs bill, after "system." delete "Within one hundred twenty days of"

On page 4, line 26, of the House State Affairs bill, delete " July 1, 2022" and insert " No later than January 31, 2022"

On page 5, after line 4, of the House State Affairs bill, insert "

Section 4. That § 34-20G-51 be AMENDED.

34-20G-51. [Effective July 1, 2021] Medical purpose defense to prosecution involving cannabis.

Except as provided in § 34-20G-18 and this section, a person may assert the medical purpose for using cannabis as a defense to any prosecution involving cannabis, and such defense is presumed valid where the evidence shows that:

- (1) A practitioner has stated that, in the practitioner's professional opinion, after having completed a full assessment of the person's medical history and current medical condition made in the course of a bona fide practitioner-patient relationship, the patient has a debilitating medical condition and the potential benefits of using cannabis for medical purposes would likely outweigh the health risks for the person;
- (2) The person was in possession of no more than ~~three ounces of cannabis, the amount of cannabis products allowed by department rules, six cannabis plants minimum or as prescribed by a physician, and the cannabis produced by those plants;~~
 - (a) Three ounces of cannabis;
 - (b) A quantity of cannabis products containing no more than twenty-four grams of cannabis concentrate or a greater amount if allowed by department rules;
 - (c) Six cannabis plants kept in or on the grounds of a single residence at one time and any cannabis produced by those six plants provided that the cannabis is located at the same property where the plants were cultivated;
or
 - (d) Any combination of subsections (a), (b), or (c) thereof;
- (3) The person was engaged in the acquisition, possession, use, manufacture, cultivation, or transportation of cannabis, paraphernalia, or both, relating to the administration of cannabis to treat or alleviate the person's debilitating medical condition or symptoms associated with the person's debilitating medical condition; and
- (4) Any cultivation of cannabis and storage of more than three ounces of cannabis occurred in a secure location that only the person asserting the defense could access.

On page 5, line 6, of the House State Affairs bill, delete " 2022" and insert " 2021"

On page 5, line 8, of the House State Affairs bill, delete " October 31, 2022" and insert " January 31, 2022"

On page 7, after line 26, of the House State Affairs bill, insert "

Section 6. That § 34-20G-92 be AMENDED.

34-20G-92. [Effective July 1, 2021] Oversight committee membership.

A medical cannabis oversight committee shall be appointed. The Executive Board of the Legislative Research Council shall appoint an oversight committee comprised of: one member of the House of Representatives, one member of the Senate, one Department of Criminal Investigation agent, one staff member from the Office of the Attorney General, two representatives of local law enforcement, one representative from the department, one practitioner with experience in medical cannabis issues, one nurse, one board member or principal officer of a cannabis testing facility, one person with experience in policy development or implementation in the field of medical cannabis, two representatives of tribal governments, and three qualifying two advocates for medical cannabis patients. The speaker shall appoint two members of the House of Representatives. The president pro tempore shall appoint two members of the Senate. The attorney general shall appoint one attorney from the Office of the Attorney General. The Governor shall appoint one representative from each of the Departments of Health, Revenue, and Public Safety, and one representative from local government.

"

On page 7, after line 26, of the House State Affairs bill, insert "

Section 7. That § 34-20G-93 be AMENDED.

34-20G-93. [Effective July 1, 2021] Oversight committee duties.

The oversight committee shall ~~meet at least two times per year~~ hold a public meeting once per month for the purpose of evaluating the medical cannabis program established by this chapter and making recommendations to the Legislature and the department regarding:

- (1) The ability of qualifying patients in all areas of the state to obtain timely access to high-quality medical cannabis;

- (2) The effectiveness of the dispensaries and cultivation facilities, individually and together, in serving the needs of qualifying patients, including the provision of educational and support services by dispensaries, the reasonableness of their prices, whether they are generating any complaints or security problems, and the sufficiency of the number operating to serve the state's registered qualifying patients;
- (3) The effectiveness of the cannabis testing facilities, including whether a sufficient number are operating;
- (4) The sufficiency of the regulatory and security safeguards contained in this chapter and adopted by the department to ensure that access to and use of cannabis cultivated is provided only to cardholders;
- (5) Any recommended additions or revisions to the department regulations or this chapter, including ~~relating but not limited to regulations governing cultivation, business operations, testing, dosing, potency, security, safe handling, packaging, labeling, and nomenclature; and~~
- (6) Any research studies regarding health effects of medical cannabis for patients;
- (7) The ability of the department and other state agencies to meet the deadlines in this chapter while ensuring that the implementation of medical cannabis does not cause public health issues, public safety issues, or other adverse effects to the state;
- (8) The ability of local governments to regulate medical cannabis establishments; and
- (9) Any other public policy issues related to the medical cannabis policy.

"

On page 7, line 28, of the House State Affairs bill, delete " 2022" and insert " 2021"

On page 7, line 32, of the House State Affairs bill, remove the overstrikes from " This policy shall be implemented "

On page 7, line 33, of the House State Affairs bill, after "chapter. " insert "no later than January 31, 2022. "

On page 10, line 1, of the House State Affairs bill, delete "identical" and insert " similar"

On page 8, line 3, of the House State Affairs bill, after "2019." delete "Section 7. That a NEW SECTION be added:"

On page 8, line 4, of the House State Affairs bill, after "added:" delete "Interim marijuana committee membership. "

On page 8, line 5, of the House State Affairs bill, after "membership." delete "An interim marijuana committee shall be appointed. The speaker may appoint five members of the House of

Representatives. The president pro tempore may appoint five members of the Senate. The attorney general may appoint one state's attorney and one attorney from the Office of the Attorney General. The Governor may appoint one representative from each of the Departments of Health, Revenue, and Public Safety. The Governor may also appoint one representative of law enforcement, one health care practitioner with knowledge of medical marijuana issues, one nurse, two representatives from the medical marijuana cultivators or manufacturers or retail industry, one patient with a debilitating condition who intends to use medical marijuana, or one representative of local governments. Any consultant hired by the state may serve in an advisory, non-voting capacity. If there is a vacancy on the committee, the vacancy may be filled in the same manner as the original appointment under this Act. The committee shall be under the supervision of the Executive Board of the Legislative Research Council and staffed and funded as an interim legislative committee."

On page 8, line 19, of the House State Affairs bill, after "committee." delete "Section 8. That a NEW SECTION be added:"

On page 8, line 20, of the House State Affairs bill, after "added:" delete "Interim marijuana committee duties."

On page 8, line 21, of the House State Affairs bill, after "duties." delete "The interim marijuana committee created pursuant to § 34-20G-96 may:

- (1) Research best practices from other medical marijuana programs;
- (2) Determine details of a licensing system that specifies privileges and authorized activities, and the implementation thereof;
- (3) Evaluate policies that reduce unlawful access, availability, and use by youths and prevent diversion to illicit markets;
- (4) Explore policy measures that balance adequate regulation that ensure safe products and support the development of a fair market;
- (5) Study legal consequences and litigation of policy decisions challenged in other states;
- (6) Investigate criminal justice and public safety concerns of establishing a marijuana market while guarding against drugged driving or performing tasks under impairment;
- (7) Advise on regulations for cultivation of marijuana without contaminants, pesticides, or heavy metals, for manufacturing of marijuana products without hazardous substances, and for sales of marijuana and marijuana products only to verified patients in appropriate amounts;
- (8) Seek input on appropriate local controls that allow sufficient access;
- (9) Examine appropriate rules or restrictions on the structure, ownership, management, fiscal stability, and practices of marijuana business entities;
- (10) Determine market demand, production management, product tracking, and necessary fees to support the medical marijuana program;
- (11) Review testing advisability and capability, forms of product, and how each product should be approved for human consumption;
- (12) Determine appropriate taxing scheme;
- (13) Provide an opportunity for public input of policy decisions; and
- (14) Determine implementation benchmarks.

The interim marijuana committee shall report to the Legislature by January 15, 2022. The interim marijuana committee may present any recommended legislation."

On page 9, after line 16, of the House State Affairs bill, insert "

Section 9. That a NEW SECTION be added:

34-20G-96. Personal cultivation limits.

Notwithstanding any provision of this chapter, a cardholder may not cultivate more than six cannabis plants kept in or on the grounds of a single residence at one time.

"

On page 9, after line 16, of the House State Affairs bill, insert "

Section 10. That a NEW SECTION be added:

34-20G-97. Department and oversight committee reporting requirements.

The following reporting requirements are established:

(1) Until January 31, 2022, the department shall provide a monthly report to the medical cannabis oversight committee describing the status of the implementation process of the medical cannabis program and describing the actions taken to meet the deadlines in this chapter;

(2) No later than December 15, 2021, the medical oversight committee shall provide a report to the Legislature including but not limited to any recommended legislation;

(3) Beginning March 1, 2022 and in every other month thereafter, the department shall provide a report to the medical marijuana oversight committee describing the current status of the medical cannabis program; and

All reports under this section shall be made available to the public upon transmittal.

"

On page 9, line 17, of the House State Affairs bill, after "legislation." delete "Section 9. This Act is effective June 30, 2021."