

To: Vermont House Committee on Appropriations
From: Brynn Hare, Executive Director, Cannabis Control Board
Date: December 17, 2021
Subject: FY 2022 Budget Adjustment request

This memo serves to explain the Cannabis Control Board's FY2022 Budget Adjustment request. The Cannabis Control Board is tasked with establishing the adult-use cannabis marketplace in Vermont. The three-member Board was seated in May 2021, and in accordance with 2019 Act No. 164, Sec. 8, the Board is on-track to issue the first adult-use cannabis business licenses in May 2022. Applications for cultivation, testing laboratories, and integrated license types are to be accepted first, with manufacturing, wholesale, and retail operation application windows opening later in the summer and fall of 2022. The Board has been working assiduously to meet our legislative deadlines and develop rules to regulate the cannabis marketplace before we are required to issue the first cannabis licenses to qualified applicants.

The Board's enabling legislation¹ established 4 full time positions to support the Board in getting off the ground: one administrative assistant, one director of operations, one general counsel, and an executive director. In the 7 months since the Board was seated, it has:

- Filled the four full time positions allocated to the Board in Acts 164 and 62
- Undertaken 30 full Board meetings, four full Advisory Committee meetings, and over 65 Advisory Committee sub-committee meetings
- Worked with a consultant to develop a market analysis model to determine annual and seasonal cannabis demand, evaluate total square feet of cultivation and production volume required to meet market demand, and project indoor and outdoor production timelines to understand seasonal trends in supply and demand
- Submitted three legislative reports, including a proposed license fee structure
- Initiated the procurement process to develop a licensing/tracking/enforcement database
- Developed and filed five administrative rules to govern the regulated marketplace²

The Board is now preparing to open the window to the first cannabis business license applicants in April. In order to adequately review these applications, issue licenses to qualified applicants, and regulate cannabis licensees to the extent prescribed by 7 V.S.A. chapters 31 and 33-37, the Board needs additional staff. The Board is requesting 11 additional FTEs to carry out its legislative mandate. It is imperative that Vermont's regulatory body have this basic level of staffing in place in order to regulate the industry in accordance with the legislature's directives. It is not possible for the Board to regulate the industry as required by statute with only four full time staff. The positions requested and their specific skill sets are described later in this memo.

¹ 2020 Act No. 164 and 2021 Act No. 62

² The Board's proposed rules can be found on its website here: <https://ccb.vermont.gov/laws-rules-and-regulations>

Cannabis policy is complex and rapidly evolving. Due to the federal Schedule 1 designation of cannabis, state regulatory frameworks vary greatly between jurisdictions, there is little federal guidance for regulatory priorities, and limited data and research is available to establish true “best practices.” Additional challenges flow from the federal prohibition. For example, limited access to banking and traditional financial services for cannabis businesses mean that the industry is largely reliant on cash transactions.

Our legislative mandate poses additional regulatory challenges. The Board was tasked with shifting the thriving illicit cannabis market in Vermont into a regulated space. A part of this mandate is to make exceptions and accommodations in our rules for small operators, except with respect to environmental, energy, and efficiency requirements. Many of our regulations are focused on ensuring the cannabis industry in Vermont is sustainable and renewable for the long term. Additionally, in accordance with statute, the Board has prioritized implementing an equitable cannabis marketplace that provides opportunities and resources to communities that have been disproportionately harmed by decades of cannabis prohibition. These examples provide just a peripheral view of the complexities involved in regulating the cannabis plant.

In the absence of a federal framework, the Board has looked to other states to evaluate how best to structure Vermont’s regulatory body. Seventeen other states have legalized adult-use cannabis. The table below provides a breakdown of the average annual budget and average amount of staffing for regulatory agencies from those 17 states. Depending on the fee structure adopted by the legislature, the Board is anticipating licensing between 180 and 460 cannabis establishments within the first 3-4 years. Our position request would achieve a total level of staffing for the Board below the average staffing levels in our counterpart agencies in other states.

	States that have legalized adult-use cannabis within one year	States with an established adult-use cannabis marketplace	CCB request; assuming between 180 and 460 cannabis licensees
Average number of FTEs employed by state regulatory agency	22	76	15
Average ratio of licensing FTEs to licensees	1:15	1:100	1:107
Average ratio of compliance FTEs to licensees	1:40	1:60	1:64
Average budget of state regulatory agency	\$14,000,000	\$17,750,000	\$3,000,000



The Board is requesting the following 11 full time positions:

- One full time compliance director to coordinate compliance and enforcement operations across the state, oversee compliance personnel training and development, oversee and assist with complex investigations, and directly supervise compliance personnel. This role will also work with the seed to sale traceability system vendor to ensure the system is meeting the requirements of the contract and applicable rule, handle issues relating to lab testing of cannabis products, food processing facility inspections, pesticide action levels, extraction methods for cannabis, and work cooperatively with the Department of Health, the Agency of Agriculture, Food and Markets and the Agency of Natural Resources to ensure compliance and program integrity.
- Five full time compliance personnel to conduct compliance investigations across the state, receive complaints, and plan and conduct investigations of alleged violations of Vermont statute or rule to determine if administrative or disciplinary actions are warranted. These personnel will use risk-based analytic investigative processes, proactively conduct offsite monitoring and onsite inspections of cannabis businesses to consistently interpret and assess compliance with statute and rule, monitor those businesses that have had violations, and develop intervention strategies designed to achieve immediate on-site correction and long-term compliance including recommendations to effect corrective action and monitor progress.
- One full time licensing director to manage the Board's licensing program and to provide regulatory oversight and education to ensure licensees are compliant with rule and statute. This role will supervise, plan and direct the work of the licensing administrators and certify that license applicants are qualified and competent to operate an adult use cannabis establishment in Vermont consistent with the applicable statutes and rules established by the Board. The position will also oversee all aspects of licensing cannabis establishments and vetting cannabis establishment agents and employees for registration with the Board.
- Two full time licensing administrators to accept, review, and process cannabis business license applications and issue statutorily mandated cannabis business licenses, review and process applications regarding changes of ownership, modification of premises, changes of trade name, or changes of location after the investigations have been completed. Review is done for completeness and accuracy, and if applicant is missing required documentation, provide the applicant with the information necessary to obtain the required documentation. These positions also review the results of background checks to determine whether to issue a license or employee or agent registration, and accept and process application and licensing fees and funds, prepare daily deposits, and maintain licensing and registration files.
- One full time financial manager to monitor financial operations to ensure compliance with budgets and state policies, rules and regulations. This role will manage all accounts payable processes including account reconciliation, prepare and process invoices, vendor updates, and other transactions, oversee compliance with records retention schedule on all fiscal documents, contribute to fiscal reporting requirements and audit support, assist with preparation and monitoring of the Board's annual budget and spending plans, and perform annual end of fiscal year close-out activities.



- One full time data and information project manager to serve as the Board’s lead cannabis data analyst. This position will be responsible for reporting and providing data analysis that is used to make policy and financial decisions. Areas of focus include economic analysis of the data for industry viability, data that will support enforcement activities, and any other analyses to benefit the Board’s work, including performance measures.

If the Board were to onboard these 11 positions in May 2022, the cost of salaries and benefits for the remainder of FY2022 would be \$185,110. After factoring in budgetary inflation and other cost variables, we believe that if the Board can bring in annual fee revenue of at least \$3 million by FY25, the fees would cover costs and be on track to pay off the agency’s deficit within 10 years. The fee structure proposed in the Board’s October 15 legislative report³ would not generate sufficient application and license fees to cover the Board’s operating expenses. In that report, we recommended filling the gap by allocating approximately 15%–20% of adult-use excise tax revenue over the first 12 months of sales to the Board to cover the costs to regulate the market.⁴ All participants in the regulated cannabis market, especially consumers, will benefit from its safe and effective operation. For this reason, it's reasonable for consumers to share in the cost of managing the market by assigning a portion of the excise tax revenue to support the Board's regulatory function.

³ The October 15 report to the General Assembly can be found on the Board’s website here: <https://ccb.vermont.gov/october-15th-report-market-and-fee-structure>

⁴ Pursuant to Act 62, 30% of the excise tax revenues, not to exceed \$10,000,000.00 per FY, shall be used to fund substance misuse prevention programming. Pursuant to Act 164, sales and use tax revenue shall be used to fund a grant program to start or expand afterschool and summer learning programs. Tax projections can be found on page 60 of the Board’s October 15 legislative report.

