

Revised

Consolidated Fiscal Note

2021-2022 Legislative Session

HF75 - 1UE - Forfeiture Limited, Innocent Owner Recovery

Chief Author: **Kelly Moller**
 Committee: **State Government Finance and Policy**
 Date Completed: **2/26/2021 4:48:55 PM**
 Lead Agency: **Public Safety Dept**
 Other Agencies:
 Natural Resources Dept Office of the Legislative Auditor
 Office of The State Auditor 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 | FY2025 |
| Office of The State Auditor | | | | | | |
| General Fund | - | 64 | 30 | 30 | 30 | 30 |
| Public Safety Dept | | | | | | |
| General Fund | - | 24 | - | - | - | - |
| Supreme Court | | | | | | |
| General Fund | - | 226 | 226 | 226 | 226 | 226 |
| State Total | | | | | | |
| General Fund | - | 314 | 256 | 256 | 256 | 256 |
| Total | - | 314 | 256 | 256 | 256 | 256 |
| Biennial Total | | | | 570 | 512 | |

| Full Time Equivalent Positions (FTE) | | Biennium | | | Biennium | |
|--------------------------------------|----------|-----------|------------|------------|------------|------------|
| | | FY2021 | FY2022 | FY2023 | FY2024 | FY2025 |
| Office of The State Auditor | | | | | | |
| General Fund | - | .8 | .35 | .35 | .35 | .35 |
| Public Safety Dept | | | | | | |
| General Fund | - | - | - | - | - | - |
| Supreme Court | | | | | | |
| General Fund | - | - | - | - | - | - |
| Total | - | .8 | .35 | .35 | .35 | .35 |

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 was revised to correct a misinterpretation of the bill by the DNR. After discussing the bill with the author, DNR determined there would be no fiscal impact to the agency

LBO Signature: Laura Cecko **Date:** 2/26/2021 4:48:55 PM

Revised

Phone: 651-284-6543 **Email:** laura.cecko@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 |
| Office of The State Auditor | | | | | | |
| General Fund | - | 64 | 30 | 30 | 30 | |
| Public Safety Dept | | | | | | |
| General Fund | - | 24 | - | - | - | |
| Supreme Court | | | | | | |
| General Fund | - | 226 | 226 | 226 | 226 | |
| Total | | - | 314 | 256 | 256 | 256 |
| Biennial Total | | | 570 | | | 512 |
| 1 - Expenditures, Absorbed Costs*, Transfers Out* | | | | | | |
| Office of The State Auditor | | | | | | |
| General Fund | | | | | | |
| Expenditures | - | 99 | 38 | 38 | 38 | |
| Absorbed Costs | - | (35) | (8) | (8) | (8) | |
| Public Safety Dept | | | | | | |
| General Fund | - | 24 | - | - | - | |
| Supreme Court | | | | | | |
| General Fund | - | - | - | - | - | |
| Total | | - | 88 | 30 | 30 | 30 |
| Biennial Total | | | 118 | | | 60 |
| 2 - Revenues, Transfers In* | | | | | | |
| Office of The State Auditor | | | | | | |
| General Fund | | | | | | |
| | - | - | - | - | - | |
| Public Safety Dept | | | | | | |
| General Fund | | | | | | |
| | - | - | - | - | - | |
| Supreme Court | | | | | | |
| General Fund | | | | | | |
| | - | (226) | (226) | (226) | (226) | |
| Total | | - | (226) | (226) | (226) | (226) |
| Biennial Total | | | (452) | | | (452) |

Revised

Fiscal Note

2021-2022 Legislative Session

HF75 - 1UE - Forfeiture Limited, Innocent Owner Recovery

Chief Author: **Kelly Moller**
 Committee: **State Government Finance and Policy**
 Date Completed: **2/26/2021 4:48:55 PM**
 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) | Biennium | | | Biennium | |
|----------------------|----------|--------|--------|----------|--------|
| Dollars in Thousands | FY2021 | FY2022 | FY2023 | FY2024 | FY2025 |
| General Fund | - | 24 | - | - | - |
| Total | - | 24 | - | - | - |
| Biennial Total | | | 24 | | - |

| 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: Laura Cecko **Date:** 2/11/2021 3:35:23 PM
Phone: 651-284-6543 **Email:** laura.cecko@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 | - | 24 | - | - | - |
| Total | - | 24 | - | - | - |
| Biennial Total | | | 24 | | - |
| 1 - Expenditures, Absorbed Costs*, Transfers Out* | | | | | |
| General Fund | - | 24 | - | - | - |
| Total | - | 24 | - | - | - |
| Biennial Total | | | 24 | | - |
| 2 - Revenues, Transfers In* | | | | | |
| General Fund | - | - | - | - | - |
| Total | - | - | - | - | - |
| Biennial Total | | | - | | - |

Bill Description

This bill is an amendment to HF75-1E and changes a cross reference and removes some of the Auditor's duties. Forfeiture under Minnesota law follows one of two tracks: judicial forfeiture or administrative forfeiture.

Under judicial forfeiture, the prosecuting authority must institute a civil proceeding to forfeit property. Under administrative forfeiture, the law enforcement agency seizing property provides the owner with a notice that the property was seized and the owner has the burden of challenging the forfeiture. Administrative forfeiture applies to specific crimes including DWI offenses and controlled substance violations.

This bill limits the types of offenses that can result in a DWI forfeiture, limits the types of property subject to forfeiture under the controlled substances provisions, establishes a process for an individual to present an innocent owner claim, reduces the burden on individuals claiming to be innocent owners, requires law enforcement agencies and prosecuting authorities to report on each forfeiture, requires those entities to report on the use of money obtained through forfeiture, and directs the state auditor to conduct a study on the efficacy of both forfeiture and the ignition interlock program on reducing recidivism in DWI offenders.

Assumptions

BCA Assumptions

Given that there has been no historical collection of cryptocurrency at the state level, the BCA cannot know how much cryptocurrency would be collected in the future.

Minnesota State Patrol

The State Patrol will be insignificantly impacted by the changes directed in this bill should it be passed into law. Additional reporting requirements called for in the bill can be absorbed by current forfeiture staff.

Driver and Vehicle Services (DVS)

Assume no fiscal impact to DVS.

The Bureau of Criminal Apprehension (BCA) is a law enforcement agency subject to the forfeiture provisions.

Revised

The BCA operates software called eCharging that generates a forfeiture notice and property receipt for forfeitures associated with driving under the influence/driving while intoxicated offenses.

The eCharging software will need to be changed to reflect the changes made by the proposed legislation.

The technical effort will take 240 hours for analysis, development and testing at approximately \$100 per hour.

The BCA's Investigations Division seizes property under provisions included in the proposed legislation. For purposes of the change in section 11, the BCA had no seizures of \$1,500 or less during the last four (4) fiscal years.

The BCA Investigations Division will need to collect and store more data to be included in the quarterly reports.

The BCA further assumes that the analysis, development and testing will occur in FY2022 prior to implementation in FY2022.

Expenditure and/or Revenue Formula

BCA Expenditures

The cost for analysis, development and testing is 240 hours at approximately \$100 per hour for a total of \$24,000.

The BCA will not lose forfeiture proceeds due to the change in section 11.

The cost of the additional data collection and reporting will be absorbed by the BCA.

The total fiscal impact is \$24,000.

Long-Term Fiscal Considerations

Local Fiscal Impact

Local units of government are included in the forfeiture process and how the proceeds can be used. Local units of government will need to explain the impacts of the changes on their operations.

References/Sources

Agency Contact: Olivia Anderson 651-793-2713

Agency Fiscal Note Coordinator Signature: Rita Wurm

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Revised

Fiscal Note

2021-2022 Legislative Session

HF75 - 1UE - Forfeiture Limited, Innocent Owner Recovery

Chief Author: **Kelly Moller**
Committee: **State Government Finance and Policy**
Date Completed: **2/26/2021 4:48:55 PM**
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 | |
|----------------------|----------|--------|--------|----------|--------|
| | FY2021 | FY2022 | FY2023 | FY2024 | FY2025 |
| Dollars in Thousands | | | | | |
| 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.

This fiscal note was revised to correct a misinterpretation of the bill by the DNR. After discussing the bill with the author, DNR determined there would be no fiscal impact to the agency.

LBO Signature: Jim Carlson **Date:** 2/26/2021 4:31:23 PM
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 |
| Total | | - | - | - | - | - |
| Biennial Total | | | | - | | - |
| 1 - Expenditures, Absorbed Costs*, Transfers Out* | | | | | | |
| Total | | - | - | - | - | - |
| Biennial Total | | | | - | | - |
| 2 - Revenues, Transfers In* | | | | | | |
| Total | | - | - | - | - | - |
| Biennial Total | | | | - | | - |

Bill Description

The bill makes a number of changes to procedures and policies relating to DWI and criminal code forfeitures. Provides specific procedures for persons with an ownership interest in a vehicle to bring an innocent owner claim. Limits DWI forfeiture of vehicles to felony level violations, and discontinues DWI forfeiture authority for violations based only on IPS status, 'B-card' status, or failure to appear in court. The vehicle title can be surrendered to the agency to release a vehicle prior to forfeiture, instead of posting security or a bond. The vehicle will be released if the driver follows specified conditions for ignition interlock. Under controlled substance crimes, "money" is defined to include US or foreign country currency and coin, bank check, cashier's check, traveler's check, pre-paid credit card, or money order with a value of \$1500 or more.

Required reporting to the state auditor by the prosecutor and agency does not include significantly more data than is currently being collected.

Changes in the bill are generally effective January 1 2022, and apply to seizures on or after that date.

Assumptions

Forfeiture is generally not a self-funding function for law enforcement or prosecuting authorities including DNR. The net proceed funds help offset costs incurred for such activity as towing, preparation for sale, securing property, and other costs associated with processing forfeitures and their disposition, including those forfeitures that do not have cash values. DNR does not initiate prostitution of human trafficking forfeiture actions. The distribution formula of property proceeds continues under the legislation.

Net actions and proceeds are not anticipated to increase/decrease under this legislation. Electronic forfeiture notices will need to be updated to reflect the notice requirements to the operator and registered owners.

Any vehicles or property released to the innocent owner by the prosecutor will require payment of reasonable costs of towing, seizure, and storage incurred by the agency.

The reporting requirements will not result in significant additional effort, in the context of firearms, bows, and motor vehicles forfeited/confiscated under the game and fish laws (MS 97A.221.5, 97A.223.6, and 97A.225.10).

Expenditure and/or Revenue Formula

It is not anticipated that the changes in this bill will reduce or increase the number of DWI or criminal code forfeitures or the proceeds from those forfeitures initiated by DNR conservation officers. Electronic forms for notice of seizure and intent to forfeit for operators and owners can be done electronically and will not incur costs.

Revised

Long-Term Fiscal Considerations

N/A

Local Fiscal Impact

It is likely there will be local fiscal impacts similar to state agencies, but precisely what those local agency costs may be is unknown.

References/Sources

N/A

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

Agency Fiscal Note Coordinator Signature: Emily Engel

Phone: 651-259-5548

Date: 2/26/2021 4:25:35 PM

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Revised

Fiscal Note

2021-2022 Legislative Session

HF75 - 1UE - Forfeiture Limited, Innocent Owner Recovery

Chief Author: **Kelly Moller**
Committee: **State Government Finance and Policy**
Date Completed: **2/26/2021 4:48:55 PM**
Agency: **Office of the Legislative Auditor**

| 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 | | | | | |
| 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: Adam Blom **Date:** 2/10/2021 3:02:21 PM
Phone: 651-284-6542 **Email:** adam.blom@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

Section 19 of HF75-1UE requires the Office of the Legislative Auditor (OLA) to conduct a program audit on the efficacy of forfeiture and the use of the ignition interlock in cases involving an alleged violation of Minnesota Statutes, Section 169A.20. The audit must assess the financial impact of the program, the efficacy in reducing recidivism, and the impacts on public safety. The audit must be completed by August 1, 2024.

Assumptions

OLA assumes the program audit referenced in section 19 of the bill would be a program evaluation. Because the due date of the required report isn't until August 2024, OLA would have time to include the evaluation in the regular topic selection process and it would take the place of one of the evaluations typically authorized by the Legislative Audit Commission. No additional funding would be necessary.

Expenditure and/or Revenue Formula

N/A

Long-Term Fiscal Considerations

N/A

Local Fiscal Impact

N/A

References/Sources

Judy Randall (judy.randall@state.mn.us or 651-296-4708)

Jim Nobles (james.nobles@state.mn.us or 651-296-4708)

Agency Contact: Judy Randall (651-296-4708)

Agency Fiscal Note Coordinator Signature: Eric Jacobson

Date: 2/9/2021 2:40:17 PM

Revised

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Revised

Fiscal Note

2021-2022 Legislative Session

HF75 - 1UE - Forfeiture Limited, Innocent Owner Recovery

Chief Author: **Kelly Moller**
 Committee: **State Government Finance and Policy**
 Date Completed: **2/26/2021 4:48:55 PM**
 Agency: **Office of The State Auditor**

| 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 | - | 64 | 30 | 30 | 30 | 30 |
| Total | - | 64 | 30 | 30 | 30 | 30 |
| Biennial Total | | | 94 | | | 60 |

| Full Time Equivalent Positions (FTE) | | Biennium | | | Biennium | |
|--------------------------------------|---|----------|--------|--------|----------|--------|
| | | FY2021 | FY2022 | FY2023 | FY2024 | FY2025 |
| General Fund | - | .8 | .35 | .35 | .35 | .35 |
| Total | - | .8 | .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: Adam Blom **Date:** 2/9/2021 3:47:55 PM
Phone: 651-284-6542 **Email:** adam.blom@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 | - | 64 | 30 | 30 | 30 | 30 |
| Total | - | 64 | 30 | 30 | 30 | 30 |
| Biennial Total | | | 94 | | | 60 |
| 1 - Expenditures, Absorbed Costs*, Transfers Out* | | | | | | |
| General Fund | | | | | | |
| Expenditures | - | 99 | 38 | 38 | 38 | 38 |
| Absorbed Costs | - | (35) | (8) | (8) | (8) | (8) |
| Total | - | 64 | 30 | 30 | 30 | 30 |
| Biennial Total | | | 94 | | | 60 |
| 2 - Revenues, Transfers In* | | | | | | |
| General Fund | - | - | - | - | - | - |
| Total | - | - | - | - | - | - |
| Biennial Total | | | - | | | - |

Bill Description

HF75-1UE requires law enforcement agencies to report additional information about forfeiture incidents to the State Auditor including collecting information about forfeitures pursued under federal law. HF75-1UE changes the frequency of reporting from monthly to quarterly. In addition, the bill requires law enforcement agencies and prosecuting authorities to report to the State Auditor proceeds of forfeited property under state and federal law each year along with the use of such funds.

Assumptions

The OSA assumed the following when determining the fiscal impact of HF75-1UE.

All agencies and authorities will report electronically as they have in the past. The State Auditor currently has a web based reporting system that allows law enforcement agencies to login and report forfeitures continuously throughout the year.

The OSA will make its best effort to collect information from all law enforcement agencies and prosecuting authorities that are required to report. It will be the agencies' and authorities' responsibility to comply with the requirements.

Entities will be responsible for reporting accurate information. The OSA will review reported information and follow-up on information that seems unusual.

Expenditure and/or Revenue Formula

The OSA expects it to take more time to collect and report on the new forfeiture reporting requirements than in subsequent years. In the first year, the OSA will need to spend extra time planning and developing the reporting method, updating and creating the report formats, educating agencies and authorities, testing forms, and reviewing the report. We estimate the hours and costs to be as follows:

| Position | Planning | Development | Collection | Reporting | Total Hours | Hourly Rate | FICA/ Benefits | Total Cost |
|----------|----------|-------------|------------|-----------|----------------|----------------|-------------------|---------------|
| | | | | | | | | |

Revised

| | | | | | | | Factor | |
|---------------------------------|-----|-------|------|-------|-------|-------|--------|----------|
| Legal Staff | - | 112 | - | 80 | 192 | 52.83 | 1.24 | 12,578 |
| Supervisor | 4 | 105 | 44 | 140 | 293 | 42.33 | | 15,379 |
| Technology Staff | 5 | 134 | 1 | - | 140 | 38.98 | | 6,767 |
| Analyst | 20 | 98 | 20 | 310 | 448 | 35.24 | | 19,577 |
| Analyst | 36 | 192 | 604 | 310 | 1,142 | 31.70 | | 44,890 |
| Total | 65 | 641 | 669 | 840 | 2,215 | | | 99,191 |
| Less Cost that can be absorbed: | | | | | | | | |
| Legal Staff | | (112) | | (80) | (192) | 52.83 | 1.24 | (12,578) |
| Supervisor | (4) | (105) | (44) | (140) | (293) | 42.33 | | (15,379) |
| Technology Staff | (5) | (134) | (1) | - | (140) | 38.98 | | (6,767) |
| Net Costs | 56 | 290 | 624 | 620 | 1590 | | | 64,467 |

In subsequent years, it will not be necessary for the OSA to spend time on planning and development. All of the time will be spent collecting the required information and reporting on it. We estimate the hours and costs to be as follows:

| Position | Collection | Reporting | Total Hours | Hourly Rate | FICA/ Benefits Factor | Total Cost |
|---------------------------------|------------|-----------|-------------|-------------|-----------------------|------------|
| Legal Staff | 24 | 24 | 48 | 52.83 | 1.24 | 3,144 |
| Supervisor | 59 | 28 | 87 | 42.33 | | 4,567 |
| Technology Staff | 2 | - | 2 | 38.98 | | 97 |
| Analyst | 48 | 144 | 192 | 35.24 | | 8,390 |
| Analyst | 420 | 134 | 554 | 31.70 | | 21,777 |
| Total | 553 | 330 | 883 | | | 37,975 |
| Less Cost that can be absorbed: | | | | | | |
| Legal Staff | (24) | (24) | (48) | 52.83 | 1.24 | (3,144) |
| Supervisor | (59) | (28) | (87) | 42.33 | | (4,567) |
| Technology Staff | (2) | - | (2) | 38.98 | | (97) |
| Net Costs | 468 | 278 | 746 | | | 30,167 |

Long-Term Fiscal Considerations

The actual costs will increase in the future as salary, benefits, and other costs increase.

Local Fiscal Impact

Local Governments may have additional costs reporting the added information required by HF75-1UE.

References/Sources

Agency Contact: Matthew Lindemann

Agency Fiscal Note Coordinator Signature: Matthew Lindemann

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Revised

Fiscal Note

2021-2022 Legislative Session

HF75 - 1UE - Forfeiture Limited, Innocent Owner Recovery

Chief Author: **Kelly Moller**
 Committee: **State Government Finance and Policy**
 Date Completed: **2/26/2021 4:48:55 PM**
 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 | FY2025 |
| General Fund | | - | 226 | 226 | 226 | 226 |
| Total | | - | 226 | 226 | 226 | 226 |
| Biennial Total | | | | 452 | | 452 |

| 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: Maren Bardal **Date:** 2/24/2021 12:31:59 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 | - | 226 | 226 | 226 | 226 | 226 |
| Total | - | 226 | 226 | 226 | 226 | 226 |
| Biennial Total | | | 452 | | | 452 |
| 1 - Expenditures, Absorbed Costs*, Transfers Out* | | | | | | |
| General Fund | - | - | - | - | - | - |
| Total | - | - | - | - | - | - |
| Biennial Total | | | - | | | - |
| 2 - Revenues, Transfers In* | | | | | | |
| General Fund | - | (226) | (226) | (226) | (226) | (226) |
| Total | - | (226) | (226) | (226) | (226) | (226) |
| Biennial Total | | | (452) | | | (452) |

Bill Description

HF75-1UE at section 1 amends Minn. Stat. § 169A.63, subd. 1, by adding a definition for the term “asserting person” which is a person other than the driver claiming an ownership interest in a seized vehicle, and by amending the definition of “designated offense” to eliminate 2nd degree driving while impaired (DWI) from the definition, to eliminate DWI offenders with a certain driver’s license status, and to add a DWI within 10 years of 2 qualified prior offenses; at section 2 amends Minn. Stat. § 169A.63, subd. 7, the limitations on DWI-related motor vehicle forfeiture, to eliminate the driver’s failure to appear in court on the designated offense as presumptive grounds for forfeiture, and to eliminate the paragraph providing that a vehicle is not subject to forfeiture if an owner can establish they had no actual or constructive knowledge the vehicle would be operated contrary to law; and at section 3 adds a new subdivision 7a to section 169A.63 governing innocent owner claims and providing that an asserting person must provide notice of such a claim to the prosecutor within 60 days of service of the notice of seizure, that if the prosecutor decides to proceed the prosecutor must file a petition in conciliation or district court within 30 days of receipt of the notice, that no filing fee is required, and that to the extent practicable a hearing shall be held within 30 days, at or after which the judge must determine whether the vehicle is or is not subject to forfeiture.

The bill at section 4 amends Minn. Stat. § 169A.63, subd. 8, to require that the notice of forfeiture include information about innocent owner claims, to require that if notice is not served the vehicle must be returned to the owner rather than the person from whom it was seized, and to eliminate the filing fee and the requirement to serve the agency that initiated the forfeiture; at section 5 amends Minn. Stat. § 169A.63, subd. 9, to eliminate the reference to the court ordering reimbursement of filing fees; at section 6 amends Minn. Stat. § 169A.63, subd. 10, disposition of forfeited vehicles, to expand the permitted use of the proceeds from the sale of forfeited property and to change the distribution; at section 7 amends Minn. Stat. § 169A.63, subd. 13, to limit the situations where forfeiture proceedings are stayed and a vehicle returned for ignition interlock participants to those who have committed a violation other than 1st degree DWI or who are participants in treatment court, and eliminates the option for the seizing agency to require a bond and instead allows the agency to require the driver to surrender title pending forfeiture; and at section 8 adds a new subdivision 14 to section 169A.63, which provides criminal and civil immunity for any office or agency that returns a vehicle in good faith.

The bill at section 9 amends Minn. Stat. § 609.531, subd. 1, to add a definition of “asserting person;” at section 10 adds a new subdivision 9 to section 609.531 to prohibit indirect transfers of forfeited property to a federal agency; at section 11 amends Minn. Stat. § 609.531, subd. 2, to modify the description of property subject to forfeiture, to exempt homestead property, and to provide for recovery of money used by the agency in a controlled substance purchase; at section 12 amends Minn. Stat. § 609.531, subd. 3, the limitations on controlled substance-related forfeiture, to increase the minimum value of a conveyance device from \$75 to \$100 and to eliminate the requirement that it is associated with a felony-level offense and instead require that it was used in the transportation or exchange of a controlled substance intended for distribution or sale, and to provide for the forfeiture of money in the amount of \$1,500 or more if there is probable cause to believe it was exchanged for the purchase of a controlled substance; at section 13 amends Minn. Stat.

Revised

§ 609.5311, subd. 4, to eliminate the provision authorizing forfeiture of all property that represents proceeds related to use described in section 609.5311, subdivision 2; and at section 14 amends Minn. Stat. § 609.5314, subd. 1, property subject to forfeiture, to eliminate the presumption, setting a minimum amount of money at \$1,500 and requiring probable cause that the money, precious metals, or stones represent the proceeds of a controlled substance offense, adding a provision for the forfeiture of all money found in proximity to controlled substances when there is probable cause to believe that the money was exchanged for the purchase of a controlled substance, to eliminate the requirement that a conveyance device be associated with a felony-level offense and instead require that it was used in the transportation or exchange of a controlled substance intended for distribution or sale, and to provide for recovery of money used by an agency in a controlled substance purchase.

The bill at section 15 adds a new subdivision 1a to Minn. Stat. § 609.5314, governing innocent owner claims for seized vehicles, providing that an asserting person must provide notice of such a claim to the prosecutor within 60 days of service of the notice of seizure, that if the prosecutor decides to proceed the prosecutor must file a petition in conciliation or district court within 30 days of receipt of the notice, that no filing fee is required, and that to the extent practicable a hearing shall be held within 30 days, at or after which the judge must determine whether the vehicle is or is not subject to forfeiture; at section 16 amends Minn. Stat. § 609.5314, subd. 2, to require that the notice of forfeiture include information about innocent owner claims; at section 17 amends Minn. Stat. § 609.5314, subd. 3, to eliminate the references to the court filing fee and the court ordering reimbursement of the filing fee; at section 18 amends Minn. Stat. § 609.5315, subd. 5, distribution of forfeited money, to expand the permitted use of the proceeds; at sections 19 and 20 amends Minn. Stat. § 609.5315, subds. 5b and 6 to modify the public safety and agency reporting requirements and audit requirements; at section 21 requires the legislative auditor to conduct a recidivism study; at section 22 appropriates money to the State Auditor, and at section 23 repeals Minn. Stat. § 609.5317, which governs controlled substance related real property seizures.

Assumptions

It is assumed that the provisions of this bill could impact case filings but it is unknown whether the bill would overall increase or decrease case filings. Because the current law, as well as the provisions of this bill, authorize multiple petition filings for the same seized property it is unknown how many of the current or any future court filings are actually separate cases and how many are consolidated and resolved as a single case. It is assumed that many innocent owners of vehicles subject to forfeiture will continue to file petitions in court because a claim must be filed within 60 days. If the innocent owner provides notice within 60 days to the prosecutor of the intent to assert such a claim, the prosecutor has 30 days to file a petition. Even if the prosecutor responds to the innocent owner within the 60 days allowed to file a claim, if the prosecutor has not yet filed and served a petition or returned the vehicle, the innocent owner will likely still file a petition to preserve their right to challenge the forfeiture in court.

It is assumed that the provisions of this bill eliminating the filing fee for forfeitures will reduce filing fee revenue.

Expenditure and/or Revenue Formula

Given the major impact the pandemic had on district court filings and fee collection in 2020, data from the prior 3 years is used to calculate the averages in this formula.

According to Judicial Branch data, an average of \$226,022 in forfeiture filing fee revenue is collected each fiscal year. This revenue is eliminated by the provisions of this bill.

Also according to judicial branch data, the average conciliation court forfeiture case requires 8 minutes of judge time. Based on a 3-year average of 1,047 conciliation court forfeiture cases per year, the judge time required is 8,376 minutes per year. Additionally, the average civil forfeiture case requires 44 minutes of judge time. Based on a 3-year average of 1,052 civil forfeiture cases per year, the judge time required is 46,288 minutes per year, for a total of 54,664 judicial minutes required for forfeiture cases per year. The overall judge time required is likely less as some percent of the cases are likely regarding the same property and are consolidated. Based on a 78,000 judicial year in minutes, all forfeiture cases statewide do not require a judge FTE. Thus any moderate increase or decrease in case filings would not require or save a judge FTE statewide.

The provisions of this bill are not anticipated to have a significant fiscal impact on the judicial branch.

Revised

Long-Term Fiscal Considerations

None

Local Fiscal Impact

None

References/Sources

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