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Consolidated Fiscal Note

2023-2024 Legislative Session

HF100 - 8A - Legalize Cannabis

Chief Author: **Zack Stephenson**
 Committee: **Ways And Means**
 Date Completed: **3/31/2023 8:18:31 AM**
 Lead Agency: **Office of Cannabis Management**
 Other Agencies:
 Administration Dept Administrative Hearings
 Agriculture Dept Attorney General
 Cannabis Expungement Board Commerce Dept
 Corrections Dept Education Department
 Employment and Economic Dvlpmt Governors Office
 Health Dept Human Services Dept
 Labor and Industry Dept Minn Management and Budget
 Minnesota IT Services Natural Resources Dept
 Office of Higher Education Pharmacy Board
 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	
	FY2023	FY2024	FY2025	FY2026	FY2027
Dollars in Thousands					
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	-	-	-
Agriculture Dept					
General Fund	-	411	411	338	338
Attorney General					
General Fund	-	358	358	358	358
Cannabis Expungement Board					
General Fund	-	4,880	4,687	4,687	4,687
Commerce Dept					
General Fund	-	527	1,093	1,341	1,520
Corrections Dept					
General Fund	-	(165)	(368)	(460)	(503)
Education Department					
General Fund	-	180	120	120	120
Employment and Economic Dvlpmt					
General Fund	-	10,415	6,726	6,726	6,726
Governors Office					
General Fund	-	-	-	-	-
Health Dept					
General Fund	-	9,680	8,186	8,186	8,186
State Government Special Rev	-	1,994	7,455	9,549	15,799

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Human Services Dept						
General Fund	-	1,071	972	972	972	972
Labor and Industry Dept						
General Fund	-	116	123	123	123	123
Minnesota IT Services						
Other Misc. Special Revenue	-	-	-	-	-	-
MN.IT Services	-	-	-	-	-	-
Natural Resources Dept						
General Fund	-	338	-	-	-	-
Office of Cannabis Management						
General Fund	-	17,626	11,831	13,067	11,497	11,497
Office of Higher Education						
Other Misc. Special Revenue	-	154	689	689	699	699
Pharmacy Board						
Health Related Boards	-	-	-	-	-	-
Pollution Control Agency						
General Fund	-	140	70	70	70	70
Public Safety Dept						
General Fund	-	7,945	4,543	3,551	3,551	3,551
Trunk Highway	-	6,157	2,218	2,218	2,218	2,218
Revenue Dept						
General Fund	-	3,709	3,145	3,157	3,157	3,157
Supreme Court						
General Fund	-	545	545	-	-	-
State Total						
Administrative Hearings	-	-	-	-	-	-
General Fund	-	57,776	42,442	42,236	40,802	40,802
State Government Special Rev	-	1,994	7,455	9,549	15,799	15,799
Other Misc. Special Revenue	-	154	689	689	699	699
MN.IT Services	-	-	-	-	-	-
Health Related Boards	-	-	-	-	-	-
Trunk Highway	-	6,157	2,218	2,218	2,218	2,218
	Total	-	66,081	52,804	54,692	59,518
	Biennial Total			118,885		114,210

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings					
Administrative Hearings	-	-	-	-	-
Agriculture Dept					
General Fund	-	2.5	2.5	2	2
Attorney General					
General Fund	-	1.76	1.76	1.76	1.76
Cannabis Expungement Board					
General Fund	-	40	40	40	40
Commerce Dept					

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	2.5	6	9.25	11.25
Corrections Dept					
General Fund	-	(2)	(4)	(5)	(6)
Education Department					
General Fund	-	1	.5	.5	.5
Employment and Economic Dvlpmt					
General Fund	-	3.3	2.05	2.05	2.05
Governors Office	-	-	-	-	-
General Fund	-	-	-	-	-
Health Dept					
General Fund	-	15.2	9.2	9.2	9.2
State Government Special Rev	-	(7.14)	(14.28)	(14.28)	(14.28)
Human Services Dept					
General Fund	-	9	9	9	9
Labor and Industry Dept					
General Fund	-	1	1	1	1
Minnesota IT Services	-	-	-	-	-
Other Misc. Special Revenue	-	-	-	-	-
MN.IT Services	-	8	8	8	8
Natural Resources Dept					
General Fund	-	1.49	-	-	-
Office of Cannabis Management					
General Fund	-	79.14	87.09	105.9	125.28
Office of Higher Education					
Other Misc. Special Revenue	-	.5	.5	.5	.5
Pharmacy Board	-	-	-	-	-
Health Related Boards	-	-	-	-	-
Pollution Control Agency					
General Fund	-	1	.5	.5	.5
Public Safety Dept					
General Fund	-	16.25	16.25	16	16
Trunk Highway	-	14	14	14	14
Revenue Dept					
General Fund	-	14.05	17.25	17.34	17.33
Supreme Court					
General Fund	-	2.5	2.5	-	-
Total	-	204.05	199.82	217.72	238.09

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.

LBO Signature: Jim Carlson **Date:** 3/31/2023 8:18:31 AM
Phone: 651-284-6540 **Email:** jim.carlson@lbo.mn.gov

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	
	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	-	-	-
Agriculture Dept					
General Fund	-	411	411	338	338
Attorney General					
General Fund	-	358	358	358	358
Cannabis Expungement Board					
General Fund	-	4,880	4,687	4,687	4,687
Commerce Dept					
General Fund	-	527	1,093	1,341	1,520
Corrections Dept					
General Fund	-	(165)	(368)	(460)	(503)
Education Department					
General Fund	-	180	120	120	120
Employment and Economic Dvlpmt					
General Fund	-	10,415	6,726	6,726	6,726
Governors Office					
General Fund	-	-	-	-	-
Health Dept					
General Fund	-	9,680	8,186	8,186	8,186
State Government Special Rev	-	1,994	7,455	9,549	15,799
Human Services Dept					
General Fund	-	1,071	972	972	972
Labor and Industry Dept					
General Fund	-	116	123	123	123
Minnesota IT Services					
Other Misc. Special Revenue	-	-	-	-	-
MN.IT Services	-	-	-	-	-
Natural Resources Dept					
General Fund	-	338	-	-	-
Office of Cannabis Management					
General Fund	-	17,626	11,831	13,067	11,497
Office of Higher Education					
Other Misc. Special Revenue	-	154	689	689	699
Pharmacy Board					
Health Related Boards	-	-	-	-	-
Pollution Control Agency					
General Fund	-	140	70	70	70
Public Safety Dept					
General Fund	-	7,945	4,543	3,551	3,551
Trunk Highway	-	6,157	2,218	2,218	2,218
Revenue Dept					

State Cost (Savings) = 1-2 Dollars in Thousands	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	3,709	3,145	3,157	3,157
Supreme Court					
General Fund	-	545	545	-	-
Total	-	66,081	52,804	54,692	59,518
Biennial Total			118,885		114,210
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	314	43	114	172
Agriculture Dept					
General Fund	-	411	411	338	338
Attorney General					
General Fund	-	358	358	358	358
Cannabis Expungement Board					
General Fund	-	4,880	4,687	4,687	4,687
Commerce Dept					
General Fund	-	527	1,093	1,341	1,520
Corrections Dept					
General Fund	-	(165)	(368)	(460)	(503)
Education Department					
General Fund	-	180	120	120	120
Employment and Economic Dvlpmt					
General Fund	-	10,415	6,726	6,726	6,726
Governors Office	-	-	-	-	-
General Fund					
Expenditures	-	2	-	-	-
Absorbed Costs	-	(2)	-	-	-
Health Dept					
General Fund	-	9,680	8,186	8,186	8,186
State Government Special Rev	-	(1,712)	(3,424)	(3,424)	(3,424)
Human Services Dept					
General Fund	-	1,071	972	972	972
Labor and Industry Dept					
General Fund	-	116	123	123	123
Minnesota IT Services	-	-	-	-	-
Other Misc. Special Revenue	-	3,172	2,803	2,803	2,803
MN.IT Services	-	556	460	524	591
Natural Resources Dept					
General Fund	-	338	-	-	-
Office of Cannabis Management					
General Fund	-	20,814	17,260	19,787	22,344
Office of Higher Education					
Other Misc. Special Revenue	-	154	689	689	699
Pharmacy Board	-	-	-	-	-
Health Related Boards					
Expenditures	-	8	-	-	-
Absorbed Costs	-	(8)	-	-	-

State Cost (Savings) = 1-2 Dollars in Thousands	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Pollution Control Agency					
General Fund	-	140	70	70	70
Public Safety Dept					
General Fund	-	7,945	4,543	3,551	3,551
Trunk Highway	-	6,157	2,218	2,218	2,218
Revenue Dept					
General Fund	-	3,709	3,145	3,157	3,157
Supreme Court					
General Fund	-	545	545	-	-
	Total	-	69,605	50,660	51,880
	Biennial Total		120,265		106,588
2 - Revenues, Transfers In*					
Administrative Hearings					
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	314	43	114	172
Agriculture Dept					
General Fund	-	-	-	-	-
Attorney General					
General Fund	-	-	-	-	-
Cannabis Expungement Board					
General Fund	-	-	-	-	-
Commerce Dept					
General Fund	-	-	-	-	-
Corrections Dept					
General Fund	-	-	-	-	-
Education Department					
General Fund	-	-	-	-	-
Employment and Economic Dvlpmt					
General Fund	-	-	-	-	-
Governors Office					
General Fund	-	-	-	-	-
Health Dept					
General Fund	-	-	-	-	-
State Government Special Rev	-	(3,706)	(10,879)	(12,973)	(19,223)
Human Services Dept					
General Fund	-	-	-	-	-
Labor and Industry Dept					
General Fund	-	-	-	-	-
Minnesota IT Services					
Other Misc. Special Revenue	-	3,172	2,803	2,803	2,803
MN.IT Services	-	556	460	524	591
Natural Resources Dept					
General Fund	-	-	-	-	-
Office of Cannabis Management					
General Fund					
Revenues	-	2,988	5,229	6,520	10,647
Transfers In	-	200	200	200	200

State Cost (Savings) = 1-2	Biennium			Biennium		
	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Office of Higher Education						
Other Misc. Special Revenue	-	-	-	-	-	-
Pharmacy Board						
Health Related Boards	-	-	-	-	-	-
Pollution Control Agency						
General Fund	-	-	-	-	-	-
Public Safety Dept						
General Fund	-	-	-	-	-	-
Trunk Highway	-	-	-	-	-	-
Revenue Dept						
General Fund	-	-	-	-	-	-
Supreme Court						
General Fund	-	-	-	-	-	-
	Total	-	3,524	(2,144)	(2,812)	(4,810)
	Biennial Total			1,380		(7,622)

Fiscal Note

2023-2024 Legislative Session

HF100 - 8A - Legalize Cannabis

Chief Author: **Zack Stephenson**
 Committee: **Ways And Means**
 Date Completed: **3/31/2023 8:18:31 AM**
 Agency: **Office of Cannabis Management**

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	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	17,626	11,831	13,067	11,497	
Total	-	17,626	11,831	13,067	11,497	
Biennial Total			29,457		24,564	

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	79.14	87.09	105.9	125.28
Total	-	79.14	87.09	105.9	125.28

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:** 3/30/2023 9:16:36 AM
Phone: 651-284-6540 **Email:** jim.carlson@lbo.mn.gov

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		FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	17,626	11,831	13,067	11,497	
Total	-	17,626	11,831	13,067	11,497	
	Biennial Total		29,457		24,564	
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	20,814	17,260	19,787	22,344	
Total	-	20,814	17,260	19,787	22,344	
	Biennial Total		38,074		42,131	
2 - Revenues, Transfers In*						
General Fund						
Revenues	-	2,988	5,229	6,520	10,647	
Transfers In	-	200	200	200	200	
Total	-	3,188	5,429	6,720	10,847	
	Biennial Total		8,617		17,567	

Bill Description

This bill establishes a regulatory framework for adult-use cannabis and lower-dose cannabinoid products, moves the medical cannabis program under the newly created Office of Cannabis Management (OCM), 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, provides for temporary regulation of hemp-derived edible cannabinoid products, reschedules marijuana, and appropriates money.

The Office of Cannabis Management is established to oversee the regulation of cannabis flower, cannabis products (including lower-potency cannabinoid products), and hemp-derived consumer products; 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 flower, cannabis products, and hemp-derived consumer products; and establishes the cannabis industry community renewal grant program.

Assumptions

The Office of Cannabis Management is established effective July 1, 2023. The MDA assumes it will be responsible for standing up the Office of Cannabis Management for at least the first year after passage. This will include significant time from current MDA policy, HR, leadership, legal, and finance staff as well as additional help from other agencies or new hires. An Implementation Coordinator will need to be hired on a temporary basis to oversee the standing up of the office to meet the quick deadlines set out in the legislation. It is assumed that compensation costs will be \$1,481,000 for 9.75 FTE in FY24. Activities will include the management of consultation services for organizational planning, communications and engagement, IT project management, and rulemaking implementation. It is assumed the consulting services will cost \$1,500,000 in FY24. Total OCM stand-up costs will be \$2,981,000 in FY24.

The Office of Medical Cannabis (OMC) is transferred from the Department of Health to the OCM effective January 1, 2024. It is assumed that OMC's projected compensation is \$1,410,000 (14.28 FTE) and operating expenses is \$2,795,000 for FY25-27, prorating FY24 with compensation of \$706,000 (7.14 FTE) and operating expenses of \$1,400,000.

It is assumed that the OCM will enter into interagency agreements with the Expungement Board (EB) to provide human resource, finance, general administration, and IT priority system/technical support services. It is assumed that the interagency costs will be approximately \$200,000 annually. The \$200,000 reflects the best estimates for an interagency agreement between the OCM and the EB given the temporary nature of the board. Of this amount, \$50,000 will be for IT priority system/technical support and \$150,000 for 2 FTE. OCM and the EB staff will work collaboratively to assess the

administrative/technical needs annually that will be reflected in the annual interagency agreement.

The OCM is directed to enter into interagency agreement with the Department of Agriculture to assure that edible products meet appropriate standards related to food safety.

The OCM is granted temporary expedited rulemaking authority.

The bill creates a Cannabis Advisory Council to meet monthly or at the call of the chair and provides that the meetings are subject to chapter 13D.

The estimated administrative payroll costs are \$3,037,000 in FY24 (23.75 FTE) and \$3,783,000 (30 FTE) in FY25-FY27. The estimated administrative non-payroll costs are \$918,000 in FY24, \$422,000 in FY25 and \$453,000 in FY26-FY27.

License Fees- Section 11

The fee structure includes (1) an application fee, (2) an initial licensing fee, and (3) a renewal fee. The renewal fee begins after two years; therefore, the initial licensing fee is effectively good for two years. The license fees are as follows:

Microbusiness

Application: \$500

Initial license: \$0

Renewal: \$2,000

Mezzobusiness

Application: \$5,000

Initial license: \$5,000

Renewal: \$10,000

Cultivator

Application: \$10,000

Initial license: \$20,000

Renewal: \$30,000

Manufacturer

Application: \$10,000

Initial license: \$10,000

Renewal: \$20,000

Retailer

Application: \$2,500

Initial license: \$2,500

Renewal: \$5,000

Wholesaler

Application: \$5,000

Initial license: \$5,000

Renewal: \$10,000

Transporter

Application: \$250

Initial license: \$500

Renewal: \$1,000

Testing facility

Application: \$250

Initial license: \$0

Renewal: \$0

Delivery Service

Application: \$250

Initial license: \$500

Renewal: \$1,000

Event Organizer

Application: \$750

Initial license: \$750

Lower potency hemp edible manufacturer

Application: \$250

Initial license: \$500

Renewal: \$500

Lower potency hemp edible retailer

Application: \$250

Initial license: \$500

Renewal: \$500

Medical cultivator

Application: \$250

Initial license: \$0

Renewal: \$0

Medical Processor

Application: \$250

Initial license: \$0

Renewal: \$0

Medical Retailer

Application: \$250

Initial license: \$0

Renewal: \$0

MDA assumes that application forms and procedures must be developed, and cannabis licensing software must be procured. A national criminal history check is required for all applicants.

The OCM assumes that it will collect application, initial license and renewal fee totals of \$2,988,100 in FY24, \$5,229,175 in FY25, \$6,520,025 in FY26 and \$10,646,575 in FY27. This is based on a ramp-up of 20% in FY24, 35% in FY25, 25% in FY26 and 20% in FY27.

Studies and Reports

Directs the office 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 cannabis flower and cannabinoid products on the prevalence of impaired driving. Provides that the initial reports must be made to the legislature by January 15, 2024, and final reports must be made by January 15, 2025.

Requires a study on the rate at which the state's mental health and substance use disorder programs are accessed and

requires a report by January 15, 2027.

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.

The OCM is directed to engage in research and data collection activities to inform a variety of studies related to use of cannabis products and the cannabis industry in Minnesota. OCM requires 3 FTE to develop and validate appropriate questions and methodologies to capture the requested data, coordinate with other agencies. It is assumed the cost will be \$434,000 year (FY24-FY27).

Statewide monitoring system

Directs the office to contract with an outside vendor to establish a statewide monitoring system to track all cannabis flower, cannabinoid products, and artificially derived cannabinoids from seed or immature plant to disposal or sale to a patient or customer. Minnesota Department of Health has a basic seed-to-sale system in use for its medical cannabis program. Estimated cost for the Seed to Sale inventory management system is \$370,000 annually. This is broken down by MNIT estimates vendor licensing and support at \$200,000 annually, \$50,000 is for MNIT project management support and \$120,000 for business analysis and subject matter expert (SME) support to refine, modify, and enhance the system through time. This will be essential through the initial ramp-up and on-going refinement of the system configuration. For example, MDH does not currently utilize the tax tracking module in the system, because medical cannabis is not taxed.

Other statewide IT costs include OCM Legacy System Upgrades for \$100,000 in FY24-FY27, Web Services of \$370,000 in FY24 and \$240,000 in FY25-27 and OCM MNIT Enterprise costs of \$556,000 in FY24, \$460,000 in FY25, \$524,000 in FY26 and \$591,000 in FY27.

The Medical Cannabis Registry would be considered a legacy system and that is in process of being modernized using existing funds. Eventually, the Registry would need to be integrated with other OCM systems, but that requirements is not well understood at this time.

The web services referenced above are to support the OCM, which will require a robust web services capability. Costs in this area reflect initial design and development activities, and also on-going expenses in content maintenance, hosting charges, and some limited consulting work.

Approval of cannabis flower, products, and cannabinoids

Directs the office to approve all types of cannabis flower, cannabis products, and hemp-derived consumer products other than topical products for sale by rule. Prohibits the approval of products that are, or resemble, certain candies and snacks commonly consumed by children. Prohibits the office from approving cannabis flower, cannabinoid products, or hemp-derived consumer products designed for smoking or inhaling through vapor that contains an added flavor.

Agricultural and food safety practices; rulemaking

Requires the office, in consultation with the commissioner of agriculture, to establish requirements for the methods used to grow cannabis plants and hemp plants. Prohibits approving methods that involve genetically engineered seed, cuttings, or cultures. Directs the office to consult with the commissioner of agriculture and representatives from the University of Minnesota Extension Service to establish best practices for growing cannabis plants and hemp plants. Requires the office to consult with the commissioner of agriculture to establish an edible cannabinoid product handler endorsement to assure that edible cannabinoid products are manufactured and handled in ways that are comparable to the manufacture and handling of food products. Administrative rules will need to be established through the expedited rule making process.

Establishment of environmental standards; rulemaking

Directs the OCM, in consultation with the commissioner of the Pollution Control Agency (MPCA) to establish appropriate standards for water use and disposal for cannabis businesses. Directs the office, in consultation with the commissioner of commerce, to establish standards for energy use by cannabis businesses. Directs the office to establish appropriate standards for the disposal of solid waste related to the regulated cannabis industry. Directs the office to establish

limitations on the odors produced by cannabis businesses. Establishes that rules must comply with relevant federal laws and that the office must consult with state agencies with expertise or a regulatory interest in the subject of the rule.

Rulemaking, Appeals and Hearings Costs

It is assumed the OCM will enter into interagency agreements for rulemaking with Minnesota Pollution Control Agency (MPCA) and Minnesota Department of Commerce (COMM).

Under Article 1 Section 8, subdivisions 1,3 and 4, an interagency agreement with MPCA would be needed for air, water, and solid waste is determined to be a major rulemaking for each at \$316,000 annually for a total MPCA interagency rulemaking cost of \$948,000 for FY24.

Under Article 1 Section 8, subdivision 2, an interagency agreement with COMM would be needed for rulemaking on energy use. This is determined to be a major rulemaking with a cost of \$316,000 in FY24.

All OCM rulemaking is planned to begin in FY24 with an estimated cost of \$3,072,000.

Based on similar referrals from other state agencies, the OAH estimates the OCM will refer 36 appeals to OAH under Art. 1, under Sec. 21, 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 \$245 per hour (see Minn. Stat. § 16A.126, subd. 1 (2022)). The remaining 32 matters appealed to OAH, but that are resolved before hearing average 11 hours of ALJ time. The estimated cost for appeals in FY25 is \$43,000, FY26 is \$114,000 and FY27 is \$172,000 based on a ramp-up of 25% in FY25, 66% in FY26 and 100% in FY27.

Licensing Administration Processing Systems

The bill establishes fifteen license categories and application guidance. Refer to license fees listed above. A cannabis licensing and credentialing software system will be required to track and process applications, issue licenses, annual license renewals, and to track inspection and investigation data on licensees. MNIT estimates the cost of software to be \$2,152,000 in FY24, and \$837,000 in future years.

The Cannabis Licensing and Credentialing system is the single largest IT OCM system development effort. We anticipate initially staffing the project with a full-time project manager (\$156,000), a full-time Senior business analyst (\$156,000), a junior business analyst (\$146,000), a half time quality assurance analyst (\$73,000), and a systems architect to support integration with other OCM systems and to set up a data environment for robust reporting capabilities (\$156,000). On-going costs reflect a modest project management and system integration capability. These costs are included in the MNIT software costs of \$2,152,000.

In addition to software, MNIT estimates the costs of IT support staff to be \$180,000 in FY24 and \$1,256,000 in future years.

License selection criteria

The office is directed to issue the number of licenses necessary to assure a sufficient supply of cannabis and cannabis products, provide market stability, and limit the sale of unregulated cannabis. Directs the office to score applications in multiple categories, including the status as a social equity applicant.

Establishes general ownership and operation requirements that apply to all cannabis businesses. Provides for a national

criminal history check. 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. Permits an applicant to apply for a set-aside of the prohibitions related to convictions.

It is assumed that the OCM will need the following FTE to issue and process applications and licenses.

1. 1 FTE to manage applications and licensing
2. 20 FTE to review applications for completeness and eligibility, review of background checks, and issuance of licenses.
3. 2 FTE to lead rulemaking related to applications and licensing.
4. 1 FTE to respond to data practices act requests.

It is assumed that it will cost \$3,184,000 each year (FY24-27) for 24 FTE.

Inspection; license violations; penalties

Permits the office to conduct inspections at any time. Requires the office to prioritize inspections based on suspected violations that pose an imminent danger to customers or the public. Further directs the office to prioritize inspections based on complaints from local units of government. The office may enter into laboratory analysis agreements with the commissioner of agriculture.

Assumes standard operating procedures and forms must be developed for standardized inspections of cultivation, security, retail dispensing, and other inspections as necessary and that an inspection software tool be procured for record retention and compliance management.

Requires the office to provide a business with notice and an opportunity for a hearing before revoking or not renewing a license.

License types, selection criteria, inspection, license violations and penalties staff and cost assumptions

It is assumed the OCM will need five different programs to facilitate the licensing and operation activities. It is assumed the Inspection and Enforcement activity will cost \$1,788,000 in FY24, \$2,360,000 in FY25, \$4,721,000 in FY26 and \$7,153,000 in FY27. This includes a ramp-up of 25% in FY24 (14.5 FTE), 33% in FY25 (18.81 FTE), 66% in FY26 (37.62 FTE) and 100% in FY27 (57 FTE).

It is assumed that the transfer of The Office of Medical Cannabis from the Department of Health to the OCM will cover the costs of inspections for the medical cannabis license types.

Administration of grants

Creates the CanGrow grant program, run by the office in consultation with the Department of Agriculture, to give grants to organizations who will provide farmers with (1) assistance navigating regulations, and (2) subsidized loans for expanding into legal cannabis. Loans under the program do not require matching funds, but a much higher loan amount is allowed if funds are matched by private investment, and full or partial forgiveness of loans is allowed after three years of satisfactory performance.

Creates the CanRenew program to award grants to eligible organizations for investments in communities where long-term residents are eligible to be social equity applicants.

Creates the Substance Use Treatment, Recovery and Prevention Grants program to fund substance use disorder treatment, prevention, and education of pregnant and breastfeeding women on the adverse effects of substance use.

It is assumed that 3 FTE for grant administration in FY24 is \$381,000 and 6 FTE for the out fiscal years at \$762,000.

Expenditure and/or Revenue Formula

OCM Expenditures:

OFFICE CANNABIS MGMT MNIT COSTS	FY24	FY25	FY26	FY27	Total FTE
Seed to Sale	370	370	370	370	
Cannabis Licensing and Credentialing	2,152	837	837	837	
OCM Legacy System Upgrades	100	100	100	100	
Web Services	370	240	240	240	
IT Staff Support	180	1,256	1,256	1,256	8
OCM MNIT Enterprise	556	460	524	591	
Total Office of Cannabis Mgmt IT Costs	3,728	3,263	3,327	3,394	8
OCM ADMIN AND PROGRAM STAFF					
OCM ADMIN STAFF					
Executive Director Managerial 22M	183	183	183	183	1
Deputy Executive Director Managerial SPAM PR 20M	171	171	171	171	1
Executive Asst (Exec 2)	105	105	105	105	1
Attorney Managerial 17M	157	157	157	157	1
State Program Admin - coordinator data practice act	146	146	146	146	1
State Program Admin - coordinator for rulemaking	146	146	146	146	1
HR/Accounting Staff/Contract	744	992	992	992	9
Comms Staff	352	469	469	469	4
Grant Administration Staff	381	762	762	762	6
Division of Social Equity	218	218	218	218	2
Studies and Reports	434	434	434	434	3
Subtotal OCM Admin Staff	3,037	3,783	3,783	3,783	30
OCM PROGRAM STAFF					
Applications and Licensing	3,184	3,184	3,184	3,184	24
Inspectors/Enforcement	1,788	2,360	4,721	7,153	57
Subtotal Program Staff	4,972	5,544	7,905	10,337	81
TOTAL OCM ADMIN AND PROGRAM STAFF					
	8,009	9,327	11,688	14,120	
FTE	62.25	72.81	91.62	111	111
Office of Cannabis Mgmt Ops Non-Salary/Non-MNIT Costs (000)					
					-
Lease (5000sqft * \$34.9 - FY24 rate for OLF)	175	175	175	175	
Workstation Build Out	550				
Communications (cell phone/copier)	11	25	26	26	
Equipment Start Up	50				
Travel / Meeting Costs	52	142	172	172	
Ongoing Supply/Maintenance Costs	80	80	80	80	

Total Non Salary Costs	918	422	453	453	-
Office of Cannabis Mgmt Rulemaking/OAH Costs (000)					
Art 1, sec 2, subd 5	316				
Art 1 Sect.7 Subd. 1 Certification, testing, and labeling requirements for Cannabis and HempSeed	316				
Art 1 Sect.7 Subd. 2.1 Manufacturing Practices	316				
Art 1 Sect.7 Subd. 2.2 Pesticides, fertilizers, soil amendments, and plant amendments by licensed cultivators	316				
Art 1 Sect.7 Subd. 3 Edible Cannabinoid product handler endorsement	136				
Art 1 Sect. 8 Subd. 1,3,4 (interagency agreement with MPCA, 3 large rules)	948				
Art 1 Sect. 8 Subd.2 (interagency agreement with COMMERCE)	316				
Art 1, Sec 38	136				
Art 1, Sec 61, Subd. 2 & 3	136				
Art 1, Sec 14 Subd 1	136				
Administrative Rulemaking Costs	3,072	-	-	-	
Art 1, Sec 21 -OAH Appeal and Hearing Costs		43	114	172	
Total Office Rulemaking/Hearings/OAH Costs	3,072	43	114	172	-
OFFICE OF MEDICAL CANNABIS COSTS					
OMC Compensation	706	1,410	1,410	1,410	
OMC Operating Costs	1,400	2,795	2,795	2,795	
Subtotal Office of Medical Cannabis Costs	2,106	4,205	4,205	4,205	
FTE	7.14	14.28	14.28	14.28	14.28
OCM STAND UP COSTS					
Asst Commr Agriculture	50				0.25
State Prog Admin Manager	76				0.5
Human Resources Director	88				0.5
State Program Admin Manager Sr	80				0.5
Agency Chief Financial Officer	91				0.5
Agric Unit Supervisor	69				0.5
State Prog Admin Manager Prin	88				0.5
State Prog Admin Manager Prin	88				0.5
Implementation Director	183				1
Human Resources Specialist 2	108				1
SPA Princ	127				1
SPA Intermediate	55				0.5
State Prog Admin Manager	76				0.5
Management Analyst 3	57				0.5
Planner Principal State	65				0.5
Senior IT Project Manager	180				1
Subtotal OCM Stand Up Compensation Costs	1,481	-	-	-	9.75

Consulting Services:					
Organizational Planning	200				
Communications/Engagement	300				
IT Project Management	250				
Rule Implementation	350				
Project Management (Apps & Licensing)	400				
Subtotal OCM Stand Up Consulting Services Costs	1,500				
Total OCM Stand Up Costs	2,981	-	-	-	
OCM Stand Up FTE	9.75				
-					
TOTAL OCM GENERAL FUND COSTS	20,814	17,260	19,787	22,344	125.28
Less Expungement Board Transfer for Services Rendered of \$200,000 per year	20,614	17,060	19,587	22,144	
FTE by FY	79.14	87.09	105.9	125.28	
EXPUNGEMENT BOARD TRANSFER IN	FY24	FY25	FY26	FY27	
HR Tech	75	75	75	75	
Accounting Tech	75	75	75	75	
MNIT - Priority system/technical support	50	50	50	50	
TOTAL EXPUNGEMENT BOARD TRANSFER IN	200	200	200	200	

Revenues		Rampup	20%		35%		25%		20%	
Category/License Type	Quantity	Amount \$	FY24 Qty	FY24 Amount	FY25 Qty	FY25 Amount	FY26 Qty	FY26 Amount	FY27 Qty	FY27 Amount
Microbusiness:										
Application: \$500	250	\$500	50	\$25,000	88	\$43,750	63	\$31,250	50	\$25,000
Initial license: \$0	250	\$0	50	\$0	88	\$0	63	\$0	50	\$0
Renewal: \$2,000	250	\$2,000	-	\$0	-	\$0	50	\$100,000	138	\$275,000
Mezzobusiness:										
Application: \$5,000	145	\$5,000	29	\$145,000	51	\$253,750	36	\$181,250	29	\$145,000
Initial license: \$5,000	145	\$5,000	29	\$145,000	51	\$253,750	36	\$181,250	29	\$145,000
Renewal: \$10,000	145	\$10,000	-	\$0	-	\$0	29	\$290,000	80	\$797,500
Cultivator:										
Application: \$10,000	55	\$10,000	11	\$110,000	19	\$192,500	14	\$137,500	11	\$110,000
Initial license: \$20,000	55	\$20,000	11	\$220,000	19	\$385,000	14	\$275,000	11	\$220,000
Renewal: \$30,000	55	\$30,000	-	\$0	-	\$0	11	\$330,000	30	\$907,500
Manufacturer:										
Application: \$10,000	70	\$10,000	14	\$140,000	25	\$245,000	18	\$175,000	14	\$140,000
Initial license: \$10,000	70	\$10,000	14	\$140,000	25	\$245,000	18	\$175,000	14	\$140,000
Renewal: \$20,000	70	\$20,000	-	\$0	-	\$0	14	\$280,000	39	\$770,000
Retailer:										
Application: \$2,500	210	\$2,500	42	\$105,000	74	\$183,750	53	\$131,250	42	\$105,000

Initial license: \$2,500	210	\$2,500	42	\$105,000	74	\$183,750	53	\$131,250	42	\$105,000
Renewal: \$5,000	210	\$5,000	-	\$0	-	\$0	42	\$210,000	116	\$577,500
Wholesaler:										
Application: \$5,000	509	\$5,000	102	\$509,000	178	\$890,750	127	\$636,250	102	\$509,000
Initial license: \$5,000	509	\$5,000	102	\$509,000	178	\$890,750	127	\$636,250	102	\$509,000
Renewal: \$10,000	509	\$10,000	-	\$0	-	\$0	102	\$1,018,000	280	\$2,799,500
Transporter:										
Application: \$250	10	\$250	2	\$500	4	\$875	3	\$625	2	\$500
Initial license: \$500	10	\$500	2	\$1,000	4	\$1,750	3	\$1,250	2	\$1,000
Renewal: \$1,000	10	\$1,000	-	\$0	-	\$0	2	\$2,000	6	\$5,500
Testing facility:										
Application: \$250	5	\$250	1	\$250	2	\$438	1	\$313	1	\$250
Initial license: \$0	5	\$0	1	\$0	2	\$0	1	\$0	1	\$0
Renewal: \$0	5	\$0	-	\$0	-	\$0	1	\$0	3	\$0
Delivery Service:										
Application: \$250	20	\$250	4	\$1,000	7	\$1,750	5	\$1,250	4	\$1,000
Initial license: \$500	20	\$500	4	\$2,000	7	\$3,500	5	\$2,500	4	\$2,000
Renewal: \$1,000	20	\$1,000	-	\$0	-	\$0	4	\$4,000	11	\$11,000
Event Organizer:										
Application: \$750	5	\$750	1	\$750	2	\$1,313	1	\$938	1	\$750
Initial license: \$750	5	\$750	1	\$750	2	\$1,313	1	\$938	1	\$750
Lower potency hemp edible manufacturer:										
Application: \$250	509	\$250	102	\$25,450	178	\$44,538	127	\$31,813	102	\$25,450
Initial license: \$500	509	\$500	102	\$50,900	178	\$89,075	127	\$63,625	102	\$50,900
Renewal: \$500	509	\$500	-	\$0	-	\$0	102	\$50,900	280	\$139,975
Lower potency hemp edible retailer:										
Application: \$250	5000	\$250	1,000	\$250,000	1,750	\$437,500	1,250	\$312,500	1,000	\$250,000
Initial license: \$500	5000	\$500	1,000	\$500,000	1,750	\$875,000	1,250	\$625,000	1,000	\$500,000
Renewal: \$500	5000	\$500	-	\$0	-	\$0	1,000	\$500,000	2,750	\$1,375,000
Medical cultivator:										
Application: \$250	5	\$250	1	\$250	2	\$438	1	\$313	1	\$250
Initial license: \$0	5	\$0	1	\$0	2	\$0	1	\$0	1	\$0
Renewal: \$0	5	\$0	-	\$0	-	\$0	1	\$0	3	\$0
Medical Processor:										
Application: \$250	5	\$250	1	\$250	2	\$438	1	\$313	1	\$250
Initial license: \$0	5	\$0	1	\$0	2	\$0	1	\$0	1	\$0
Renewal: \$0	5	\$0	-	\$0	-	\$0	1	\$0	3	\$0
Medical Retailer:										
Application: \$250	40	\$250	8	\$2,000	14	\$3,500	10	\$2,500	8	\$2,000
Initial license: \$0	40	\$0	8	\$0	14	\$0	10	\$0	8	\$0
Renewal: \$0	40	\$0	-	\$0	-	\$0	8	\$0	22	\$0
			2,735	\$2,988,100	4,787	\$5,229,175	4,786	\$6,520,025	6,493	\$10,646,575
**apply ramp up						\$8,217,275				\$17,166,600

Long-Term Fiscal Considerations

The size of the Office of Cannabis Management will depend on the number of applications received and licenses granted in the adult use cannabis marketplace.

Local Fiscal Impact

Within 30 days of receiving a copy of an application from the office, a local unit of government shall certify on a form provided by the office whether a proposed cannabis business or hemp business complies with local zoning ordinances and, if applicable, whether the proposed business complies with the state fire code and building code.

References/Sources

Agency Contact: Peder Kjeseth

Agency Fiscal Note Coordinator Signature: Julie Sis

Phone: 651-201-6412

Date: 3/30/2023 8:59:13 AM

Email: julie.sis@state.mn.us

Fiscal Note

2023-2024 Legislative Session

HF100 - 8A - Legalize Cannabis

Chief Author: **Zack Stephenson**
 Committee: **Ways And Means**
 Date Completed: **3/31/2023 8:18:31 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	FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
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: Susan Nelson **Date:** 3/28/2023 9:05:55 AM
Phone: 651-296-6054 **Email:** susan.nelson@lbo.mn.gov

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	FY2023	FY2024	FY2025	FY2026	FY2027	
Total	-	-	-	-	-	-
Biennial Total			-			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total	-	-	-	-	-	-
Biennial Total			-			-
2 - Revenues, Transfers In*						
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

This bill and amendments creates public bodies subject to the Open Meeting Law, Chapter 13D and classifies data collected, created, and maintained by government entities regulating cannabis pursuant to the Data Practices Act, Chapter 13. The law also allows and prohibits sharing of certain data.

Assumptions

The programs and data at issue in the proposed legislation are not administered or maintained by the Data Practices Office and would have no financial impact on the Data Practices Office within the Department of Administration (Admin).

In determining there is no fiscal impact, we considered prior legislation that amends the Data Practices Act and Open Meeting Law or that relates to government data or public body meetings. Historically, amending the Data Practices Act, the Open Meeting Law, or providing additional classifications of government data in areas that do not directly impact the Data Practices Office’s core operations have had no apparent impact on the Office’s work in providing technical assistance to members of the public, government entities, and public bodies on related issues. The Office has the staff capacity and resources to answer any questions related to the proposed language in this bill.

Additionally, Admin expects to provide leasing support as needed for the new office under existing statutory authority in M.S.16B.24.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Agency Contact: Taya Moxley-Goldsmith 651.201.2502

Agency Fiscal Note Coordinator Signature: Ify Onyiah

Phone: 651-201-2387

Date: 3/27/2023 1:53:20 PM

Email: ify.onyiah@state.mn.us

NOTE: This is an earlier version of the fiscal note for HF100-8A.
The most current version is available on the Fiscal Note Search Site: <https://www.mn.gov/mmbapps/fnsearchlbo/>

Fiscal Note

2023-2024 Legislative Session

HF100 - 8A - Legalize Cannabis

Chief Author: **Zack Stephenson**
 Committee: **Ways And Means**
 Date Completed: **3/31/2023 8:18:31 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	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
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: Chloe Burns **Date:** 3/30/2023 8:33:25 AM
Phone: 651-297-1423 **Email:** chloe.burns@lbo.mn.gov

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	
	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Administrative Hearings	-	314	43	114	172
Total	-	314	43	114	172
Biennial Total			357		286
2 - Revenues, Transfers In*					
Administrative Hearings	-	314	43	114	172
Total	-	314	43	114	172
Biennial Total			357		286

Bill Description

HF100-8A is legislation intended to be codified as new chapter 342 to establish the Office of Cannabis Management (OCM) and advisory councils to oversee regulation of adult-use cannabis and cannabis products. It allows the OCM oversight to suspend or revoke a cannabis business’s license.

The legislation also authorizes the OCM to conduct rulemaking to implement the provisions of:

Rulemaking:

- Assumption #1 - 342.02, Art. 1, Sec. 2, Subd. 5, Office of Cannabis Management (establishing OCM)
- Assumption #2 342.07, Art. 1, Sec. 7, Subd. 1, Agricultural and Food Safety Practices; Rulemaking (certification, testing, and labeling)
- Assumption #3 342.07, Art. 1, Sec. 7, Subd. 2.1, Agricultural and Food Safety Practices; Rulemaking (manufacturing)
- Assumption #4 342.07, Art. 1, Sec. 7, Subd. 2.2, Agricultural and Food Safety Practices; Rulemaking (use of pesticides, fertilizers, soil amendments and plant amendments)
- Assumption #5 - 342.07, Art. 1, Sec. 7, Subd. 3, Agricultural and Food Safety Practices; Rulemaking (edible cannabinoid product handler endorsement)
- Assumption #6 342.08, Art. 1, Sec. 8, Subd. 1, 3, 4, Establishment of Environmental Standards, assume interagency agreement between OCM and the Minnesota Pollution Control Agency (MPCA) for rulemaking
- Assumption #7 342.08, Art. 1, Sec. 8, Subd. 2, Establishment of Environmental Standards, assume interagency agreement between OCM and the Department of Commerce (Commerce) for rulemaking
- Assumption #8 342.14, Art. 1, Sec. 14, Subd. 1, Cannabis License Application and Renewal
- Assumption #9 342.38, Art. 1, Sec. 38, Cannabis Testing Facility Operations
- Assumption #10 - 342.61, Art. 1, Sec. 61, Subds. 2, 3 Testing

Assumptions

Hearing Assumptions:

Based on similar referrals from other state agencies, the Office of Administrative Hearings (OAH) estimates the OCM will refer 36 appeals to OAH under Art. 1, under Sec. 21, License Suspension or Revocation; Hearing; Sec. 22, Retailers; Local Registration and Enforcement; Sec. 46, Lower-Potency Hemp Edible Retailer; and Sec. 66, Hemp-Derived Topical Products. 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 \$245 per hour (see Minn. Stat. § 16A.126, subd. 1 (2022)). The remaining 32 matters appealed to OAH, but that are resolved before hearing, average 11 hours of ALJ time.

OAH has incorporated the OCM's assumption that hearing costs will commence in FY25 at a lower amount and increase in the subsequent fiscal year culminating in the full cost in FY27. OAH is using the OCM's assumption to project that the first appeals will be filed in FY25 at \$43,120 which is 25% of the full amount; 66% in FY26 at \$113,837; and 100% in FY27 and continuing at \$172,480.

Rulemaking Assumptions:

Assumptions 1-4, and 6-7. For rulemaking assumptions 1-4, 6 and 7 identified above, OCM assumes each of these programs will require a major rulemaking at \$316,000. Based on past practices, OAH assumes that a major 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 \$316,000, \$33,075 is for the estimated 135 hours of ALJ time for a major rulemaking.

Assumptions 5 and 8-10. For rulemaking assumptions 5 and 8-10 identified above, OCM assumes each of these programs will require a medium-size rulemaking at \$136,000. 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 \$136,000, \$12,250 is for the estimated 50 hours of ALJ time for a medium-size rulemaking.

OAH currently bills ALJ time for activities related to rulemaking at the MMB-approved billable rate of \$245 per hour (see Minn. Stat. § 16A.126, subd. 1 (2022)).

Expenditure and/or Revenue Formula

Billed to the Office of Cannabis Management for the requirements related to implementing:

342.21, Art. 1, Sec. 21, License Suspension or Revocation; Hearing

Estimated 88 hours of ALJ time at \$245/hr = \$21,560

Estimated 4 appeals referred to OAH go to hearing x \$21,560 = \$86,240

Appeals resolved without hearing Estimated 11 hours of ALJ time at \$245/hr = \$2,695

Estimated 32 appeals referred to OAH and resolved without hearing x \$2,695 = \$86,240

Averaged yearly estimate - \$86,240 + \$86,240 = \$172,480

Estimated cost for appeals in FY25 is \$43,120; FY26 \$113,837; and FY27 and continuing \$172,480

Major rulemakings:	Estimated 135 hours of ALJ time @ \$245/hr = \$33,075 \$33,075 x 8 major rulemakings - \$264,600	For the requirements related to implementing the following rulemaking assumptions: #1 - 342.02, Art. 1, Sec. 2, Subd. 5 #2 342.07, Art. 1, Sec. 7, Subd. 1 #3 342.07, Art. 1, Sec. 7, Subd. 2.1 #4 342.07, Art. 1, Sec. 7, Subd. 2.2 #6 342.08, Art. 1, Sec. 8, Subds. 1, 3, 4 (interagency agreement with MPCA, 3 major rulemakings) #7 342.08, Art. 1, Sec. 8, Subd. 2 (interagency agreement with Commerce, 1 major rulemaking)
Medium rulemakings:	Estimated 50 hours of ALJ time @ \$245/hr = \$12,250 \$12,250 x 4 medium rulemakings - \$49,000	For the requirements related to implementing the following rulemaking assumptions: #5 - 342.07, Art. 1, Sec. 7, Subd. 3 #8 342.14, Art. 1, Sec. 14, Subd. 1 #9 342.38, Art. 1, Sec. 38 #10 342.61, Art. 1, Sec. 61, Subds. 2, 3
FY24 TOTAL EXPENDITURES		8 major rulemakings @ \$264,600 + 4 medium rulemakings @ \$49,000 = \$313,600
FY25 TOTAL EXPENDITURES		\$43,120
FY26 TOTAL EXPENDITURES		\$113,837

	FY27 and continuing TOTAL EXPENDITURES	\$172,480
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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

Agency Contact: Denise Collins

Agency Fiscal Note Coordinator Signature: Denise Collins

Phone: 651-3617875

Date: 3/30/2023 8:27:47 AM

Email: denise.collins@state.mn.us

Fiscal Note

2023-2024 Legislative Session

HF100 - 8A - Legalize Cannabis

Chief Author: **Zack Stephenson**
 Committee: **Ways And Means**
 Date Completed: **3/31/2023 8:18:31 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) Dollars in Thousands	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	411	411	338	338
Total	-	411	411	338	338
Biennial Total			822		676

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	2.5	2.5	2	2
Total	-	2.5	2.5	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.

LBO Signature: Chloe Burns **Date:** 3/30/2023 9:21:58 AM
Phone: 651-297-1423 **Email:** chloe.burns@lbo.mn.gov

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		FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	411	411	338	338	
Total		-	411	411	338	338
		Biennial Total			822	676
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	411	411	338	338	
Total		-	411	411	338	338
		Biennial Total			822	676
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.

Assumptions

Article 1, Section 3, Subd 1 Cannabis Advisory Council

Article 1, Section 3, Subdivision 3 Cannabis Advisory Council Officer Meetings

Article 1, Section 7, Subdivision 1 Plant Propagation Standards

Article 1, Section 7, Subdivision 2 Agriculture Best practices

Article 1, Section 7, Subdivision 3 Edible Cannabinoid Product Handler Endorsement

Article 1, Section 17, Subdivision 1-6 Inspection; License Violations

Article 1, Section 21, Subdivision 1 Cannabis Cultivator Operations - Cultivation Records

Article 1, Section 22, Subdivision 2-3 Cannabis Cultivator Operations - Ag Chemicals and Other Inputs and Cultivation Plan

Article 1, Section 22, Subdivision 4 Cannabis Cultivator Operations - Pesticides; pollinator protection

Article 1, Section 22, Subdivision 7 Cannabis Cultivator Operations Seed Limitation

It is assumed the cost associated for the Minnesota Department of Agriculture (MDA) are related to the articles above.

Based on the time estimated to establish a brand-new state Office as considered in this activity, it is assumed that the MDA will be tasked with consultation, advisory councils, and other responsibilities during an initial transition period. For example, it is likely that MDA efforts will include providing resources to assist the Office of Cannabis Management (OCM) with licensing, inspection, enforcement, surveillance of retail sales, laboratory services, outreach and other activities. Services will likely be provided each fiscal year (FY) 24-27 by the Food and Feed Safety Division (.75 FTE), Plant Protection Division (.75 FTE), Laboratory Services Division (.25 FTE), Pesticide and Fertilizer Management Division (.25 FTE), and the Agriculture Marketing and Development Division (.50 FTE) in FY 24-25, as a stop gap measure for

operating and regulating the industry until the OCM is functional.

It is also assumed that it will take multiple years for the OCM to be established and develop these programs which require the MDA to consult with the OCM on an ongoing basis.

It is assumed that inspection and enforcement activities after implementation would be addressed through Inter-agency Agreements with the MDA.

Article 1, Section 64, Subdivision 1-7 Cannabis Grower Grants - CanGrow

Article 1, Section 64, Subdivision 8 CanGrow Reporting Requirements

During the first two years, MDA will consult on grant-making based on existing models currently administered at the MDA.

It is assumed that for fiscal years 26-27 and beyond CanGrow grants and requirements would be addressed through Inter-agency Agreements with the MDA.

For all the assumptions listed above, the associated costs are estimated for each fiscal year of 24-25 is 2.5 FTE at \$394,000 and non-salary costs (travel and admin) \$17,000 totaling \$411,000 and FY26-27 is 2 FTE at \$322,000 and non-salary costs \$16,000 for total of \$338,000 annually.

Article 1 section 2 lines 18.13-18.14 direct the commissioner of agriculture to provide space and support for the Governor appointed advisory committee that will consult during the hiring process no later than June 15 and will expire on August 1, 2023. Costs for space and support is carried on the OCM fiscal note and would be addressed through Inter-agency agreements with the MDA.

Expenditure and/or Revenue Formula

		Cost in 000s				FTE			
		FY24	FY25	FY26	FY27	FY24	FY25	FY26	FY27
MDA Staff Costs - outreach and advisory to the new OCM office									
	FFSD Technical Advisor - SPAM Pr.	128	128	128	128	0.75	0.75	0.75	0.75
	PPD Technical Advisor - Ag Prog Sup	113	113	113	113	0.75	0.75	0.75	0.75
	Laboratory Technical Advisor -SPAM Pr	43	43	43	43	0.25	0.25	0.25	0.25
	PFMD Technical Advisor - Ag Prog Sup	38	38	38	38	0.25	0.25	0.25	0.25
	Grant consulting Can Grow Farm Stakeholder engagement	72	72	-	-	0.50	0.50	-	-
MDA Non-Payroll Costs									
	Travel and reimbursement for implementation/Surveillance (3 to 4 out of state meetings; 3-4 statewide meetings per month)								
	4 Outstate	5	5	6	6				
	2 Instate	1	1	1	1				
	2 Instate /overnight	1	1	1	1				
	Administrative Costs	10	10	8	8				
Total		411	411	338	338	2.50	2.50	2.00	2.00

Long-Term Fiscal Considerations

This bill establishes the need for inter-agency agreements between the OCM and the MDA, therefore, the OCM must address the cost based on the agreed upon activities.

Local Fiscal Impact

References/Sources

Agency Contact: Peder Kjeseth

Agency Fiscal Note Coordinator Signature: Julie Sis

Phone: 651-201-6412

Date: 3/30/2023 8:57:36 AM

Email: julie.sis@state.mn.us

Fiscal Note

2023-2024 Legislative Session

HF100 - 8A - Legalize Cannabis

Chief Author: **Zack Stephenson**
 Committee: **Ways And Means**
 Date Completed: **3/31/2023 8:18:31 AM**
 Agency: **Attorney General**

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	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	358	358	358	358
Total	-	358	358	358	358
Biennial Total			716		716

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	1.76	1.76	1.76	1.76
Total	-	1.76	1.76	1.76	1.76

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: Susan Nelson **Date:** 3/29/2023 9:17:47 PM
Phone: 651-296-6054 **Email:** susan.nelson@lbo.mn.gov

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	FY2023	FY2024	FY2025	FY2026	FY2027	
General Fund	-	358	358	358	358	358
Total	-	358	358	358	358	358
Biennial Total			716			716
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	358	358	358	358	358
Total	-	358	358	358	358	358
Biennial Total			716			716
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

HF100-8A includes Article 5, which generally provides for amendments to Minnesota Statutes, Chapter 609A to allow for expungement or resentencing to a lesser offense of certain cannabis offenses. Proposed section 609A.05 provides for automatic expungement of certain nonfelony cannabis offenses.

Proposed section 609A.06 provides for discretionary expungement or resentencing of felony cannabis offenses. Subdivision 1 creates the Cannabis Expungement Board (“CEB”) that is comprised of 5 members: the chief justice of the supreme court or designee, the attorney general or designee, one public defender recommended by the state public defender and appointed by the governor, the commissioner of one department of the state who is appointed by the governor, and one public member with experience as a victim’s rights advocate who is appointed by the governor. The CEB obtains and reviews records that relate to a charge for possession of a controlled substance to determine whether a person committed an act involving the possession of cannabis flower or cannabinoid products that would either be a lesser offense or no longer be a crime after August 01, 2023, and determines whether certain convictions or stays of adjudication will qualify for expungement or whether the person should be resentenced to a lesser offense. *Id.* The CEB’s work should be completed by June 30, 2028.

Subdivision 2 provides that a person is eligible for an expungement or resentencing to a lesser offense if: (1) the person was convicted of or received a stay of adjudication for a violation of any of the following involving the possession of marijuana or tetrahydrocannabinols:

- (i) section 152.021, subd. 2(a)(6)[1];
- (ii) section 152.022, subd. 2(a)(6)[2];
- (iii) section 152.023, subd. 2(a)(5)[3]; or
- (iv) section 152.025, subd. 2(1);[4]

(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 on which the charge was based would either be a lesser offense or no longer be a crime after August 01, 2023; and (4) the person did not appeal the sentence, any appeal was denied, or the deadline to file an appeal has expired. For purposes of this subdivision, a lesser offense means a nonfelony offense if the person was charged with a felony.

Subdivision 3 provides that the BCA is responsible to identify convictions and sentences with stayed adjudications that qualify for the CEB's review. Once it does, the BCA shall notify the CEB of the name and date of birth of the person whose record is eligible and the case number of the eligible conviction or stay of adjudication.

Subdivision 4 provides that the CEB will have free access to the records related to the case and may issue subpoenas for and compel production of records. Sanctions for failure to produce subpoenaed records could result in punishment such as contempt.

Subdivision 5 provides that the CEB shall meet at least monthly and shall meet whenever it takes formal action on a review of a case. All CEB meetings shall be public and subject to chapter 13D. Any victim of a crime being reviewed and any law enforcement agency may submit an oral or written statement giving a recommendation that the CEB must consider. The CEB shall assign an anonymous and unique identifier to each victim of a crime and person whose records are being reviewed by the CEB and use it in discussion open to the public and on records available to the public.

Subdivision 6 provides that the CEB shall review all available records to determine whether the conviction or stay of adjudication is eligible for expungement or resentencing to a lesser offense. An expungement is presumed to be in the public interest unless there is clear and convincing evidence that an expungement or resentencing to a lesser offense would create a risk to public safety. If the CEB determines that the expungement is in the public interest, the CEB shall determine whether the conviction should be vacated and the charges dismissed. If so, the CEB shall determine whether the limitations under section 609A.03, subd. 5a or subd. 7a(b)(4)-(5) apply. If the CEB determines that expungement is not in the public interest, it shall determine whether the person is eligible for resentencing to a lesser offense. In making a determination under this subdivision, the CEB shall consider 8 enumerated factors and other factors the CEB deems relevant. To take any action, the CEB needs the affirmative vote of three members.

Subdivision 7 provides that the CEB issue an annual report to the legislative committees and divisions with jurisdiction over public safety policy and finance upon completion of the work required under subdivision 2. The report shall contain summary data and must include the total number of cases reviewed the previous year; the total number of cases in which the CEB determined that an expungement is in the public interest; the total number of cases in which the CEB determined that resentencing to a lesser offense is appropriate, the original sentence in those cases, and the lesser sentence recommended by the CEB; the total number of cases the CEB determined that no change to the original sentence was appropriate; and the total number of cases remaining to be reviewed.

Subdivision 8 provides that the CEB identify any conviction or stay of adjudication that qualifies for an order of expungement or resentencing to a lesser included offense and notify the judicial branch of the name and date of birth of the person whose conviction or stay of adjudication is eligible; the case number of the eligible conviction or stay of adjudication; whether the person is eligible for an expungement, and if so whether the conviction should be vacated and the charges dismissed; if the person is eligible for expungement, whether there exists good cause to restore the offender's right to possess firearms and ammunition; whether the limitations under section 609A.03, subdivision 7a(4) or (5) apply; and if the person is eligible for resentencing to a lesser offense, the lesser sentence to be imposed. The CEB shall also make reasonable and good faith efforts to notify any person whose conviction or stay of adjudication qualifies for an order of expungement that the offense qualifies, and the judicial branch is being sent notice. The notice shall also inform the person that any records of an arrest, conviction, or incarceration should not appear on any background check or study.

Subdivision 9 provides that all data the CEB reviews is classified as private data on individuals.

Subdivisions 10 and 11 identify the judicial branch's responsibilities upon receiving notice from the CEB that a person is eligible for an expungement or resentencing.

Assumptions

The Attorney General's Office estimates that it will expend 1,440 hours of attorney time and 1,200 hours of legal assistant time per fiscal year.

There is no provision in the 609A.06 for staff to the CEB.

The BCA indicates that it has identified more than **230,000** records of dismissals, convictions, and sentences where adjudication was stayed that may qualify for review by the CEB.

The work of the Attorney General or his designee on the CEB will require a close review of those records and all underlying documents and procedural processes involving the record including the investigation, arrest, trial, plea, and appeal. Records to be reviewed would include but are not limited to: all matters, files, documents, and papers incident to arrest, indictment, information, trial, appeal, or dismissal and discharge that relate to a charge and conviction or stay of adjudication for possession of a controlled substance held by law enforcement agencies, prosecuting authorities, and court administrators.

Attorney work would include without limitation reviewing records, conducting interviews, drafting subpoenas, and moving the court for orders to compel. The attorney will likely draft a factual and procedural summary of the record and accompanying file, memorandum, and recommendation. The work of legal assistants involving the record review would include but not be limited to obtaining documents, preparing the individual records, and preparing files.

Assuming the work to review each record involves 6 hours of attorney time and 5 hours of legal assistant time; and

Assuming the CEB would hear 20 such records at each monthly meeting;

Expenditure and/or Revenue Formula

The Office of the Attorney General uses billing rates to calculate revenue and costs. The billing rates effective from July 1, 2023-June 30, 2025 are \$163/hour for attorneys and \$103/hour for legal assistants (including investigators, paralegals, mediators, financial analysts, and support staff). The billable hour rate reflects the cost of providing legal services. One FTE is 1500 billable hours per year.

	Hourly Billing Rate	Hours	Total Cost to AGO
Attorney, [division]	\$163	1,440	\$234,720
Legal assistant, [Investigator/other non-attorney staff]	\$103	1,200	\$123,600
<i>Other</i>			
Total	N/A	2,640	\$358,320

Long-Term Fiscal Considerations

Technology Costs

There may be technology costs in the form of database use or document review systems to upload the records for review.

Local Fiscal Impact

n/a

References/Sources

[1] Possession of one or more mixtures, 50 kilograms or more of marijuana or tetrahydrocannabinols or 500 or more plants.

[2] Possession of one or more mixtures, 25 kilograms of marijuana or tetrahydrocannabinols or 100 plants

[3] One or more occasions within 90 days of possession of one or more mixtures, 10 kilograms of marijuana or tetrahydrocannabinols

[4] Possession of a mixture containing a controlled substance classified in Schedule IIV, except a small amount of marijuana.

Agency Contact: Laura Sayles

Agency Fiscal Note Coordinator Signature: Laura Capuana

Date: 3/29/2023 6:19:49 PM

Phone: 651-402-2213

Email: laura.capuana@ag.state.mn.us

Fiscal Note

2023-2024 Legislative Session

HF100 - 8A - Legalize Cannabis

Chief Author: **Zack Stephenson**
 Committee: **Ways And Means**
 Date Completed: **3/31/2023 8:18:31 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	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	4,880	4,687	4,687	4,687
Total	-	4,880	4,687	4,687	4,687
Biennial Total			9,567		9,374

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	40	40	40	40
Total	-	40	40	40	40

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:** 3/29/2023 2:39:35 PM
Phone: 651-284-6436 **Email:** christian.larson@lbo.mn.gov

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	FY2023	FY2024	FY2025	FY2026	FY2027	
General Fund	-	4,880	4,687	4,687	4,687	4,687
Total	-	4,880	4,687	4,687	4,687	4,687
			9,567			9,374
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	4,880	4,687	4,687	4,687	4,687
Total	-	4,880	4,687	4,687	4,687	4,687
			9,567			9,374
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total	-	-	-	-	-	-
			-			-

Bill Description

The following summarizes bill language related to the establishment and operations of the Cannabis Expungement Board.

Article 5, Section 5 pertaining to Expungement and Resentencing of Felony Cannabis Offenses, establishes the Cannabis Expungement Board and defines membership, powers, and duties of the board, eligibility for expungement or resentencing, records access, reporting requirements, notice requirements, and data classification requirements.

Subdivision 1(b) establishes the Cannabis Expungement Board. The Board is composed of five members, including:

- The Chief Justice of the Supreme Court or a designee
- The Attorney General or designee
- One public defender, appointed by the governor upon recommendation of the state public defender
- The commissioner of one department of the state government as defined in section 15.01, appointed by the governor
- One public member with experience as an advocate for victim’s rights, appointed by the governor

Subdivision 1(c) directs the Board to complete the following work by June 30, 2028:

- Obtain and review records which relate to a charge for possession of a controlled substance
- Determine whether a person committed an act involving the possession of cannabis flower or cannabinoid products that would either be a lesser offense or no longer be a crime after August 1, 2023
- Determine whether a person’s conviction should be vacated, charges should be dismissed, and records should be expunged, or whether the person should be resentenced to a lesser offense
- Notify the judicial branch of individuals eligible for an expungement or resentencing to a lesser offense

Subdivision 2 identifies under what circumstances an individual is eligible for expungement or resentencing to a lesser offense.

Subdivision 3 directs the Bureau of Criminal Apprehension (BCA) to identify eligible records and notify the Board.

Subdivision 4 stipulates that the Board shall have free access to records that relate to a charge and conviction or stay of adjudication for possession of a controlled substance. The Board may issue subpoenas for records if necessary.

Subdivision 5 specifies Board meeting terms and frequency. The Board is required to hold public meetings at least monthly.

Subdivision 6 outlines Board case review duties and process.

Subdivision 7 requires the Board to issue an annual report by January 15 of each year.

Subdivision 8 requires the Board to notify those who have been identified as eligible for an order of expungement or resentencing to a lesser offense.

Subdivision 9 specifies data classification requirements.

Subdivision 10 and 11 stipulate expungement and resentencing actions that must or may be taken by the judicial branch upon receiving notice from the Board that an offense qualifies for expungement.

Article 5, Section 5 is effective August 1, 2023.

Assumptions

- It is assumed that since the proposed Board does not currently exist, the Legislative Budget Office (LBO) will be responsible for estimating costs related to Board establishment and ongoing operations.
- It is assumed that the Board will begin operation on August 1, 2023, and cease operation on June 30, 2028.
- It is assumed that the process of expungement outlined in Article 5 specific to review by the Board will be a similar but expedited version of the current manually intensive expungement process overseen by the Minnesota judicial branch in coordination with the district courts. For example, since the Board will initiate expungement proceedings rather than the current petitioner-initiated process, various information that would normally be provided by the petitioner may not be required. The Board may determine that an expungement hearing which is currently required (*Hearing and Petition for Expungement*) may not be necessary if expedited expungement proceedings as overseen by the Expungement Board occur. These are illustrative examples that may expedite the expungement process as described by the bill; the actual process, protocols, and procedures would be determined by the Cannabis Expungement Board.
- It is assumed that the Board will work collaboratively with the judicial branch to develop repeatable protocols and procedures for various scenarios to address the expungement process. The scenarios might include variable such as age of the case, the death of individual, the individual has moved to another state or country, or in some cases there may be insufficient information available for the board to proceed with a recommendation to expunge or resentence a case.
- It is assumed that pursuant to Article 5, the Board will have free-of-charge access to any necessary electronic databases, paper records, or other information sources. It is assumed that the Board will not be required to pay any expungement-related filing fees to the judicial branch.
- It is assumed that work to expunge records on behalf of a petitioner will not be significantly impacted or prohibited due to any outstanding court debt of the petitioner such as fines or restitution.
- It is assumed that Expungement Board legal staff will have full, free-of-charge access to the variety of electronic databases that store official criminal records. This access includes but is not limited to the Minnesota Government Access (MGA) database, information maintained by the <https://dps.mn.gov/divisions/bca/Pages/default.aspx> and Department of Public Safety (DPS), as well as any other records managed by state agencies, the judicial branch, state and local law enforcement or any other entity with criminal case data or documentation that would support the work of the Cannabis Expungement Board. This may also include access to death records managed by the Minnesota Department of Health, should the board determine that is a critical data element in case review for expungement/resentencing consideration. Relevant data is more likely to be available electronically for more recent/newer cases than older cases. The case documentation for older cases is more likely to exist only in paper form and require manual efforts to ascertain, review and store within a case management tracking system to support the board determination for expungement/resentencing consideration.
- It is assumed that the Board will develop and utilize a case management tracking system. However, since this process is not an ongoing effort, the fiscal note assumes utilizing much of the existing judicial branch manual expungement process with portions expedited as determined by the board to track and manage caseload.
- The costs included in the note are based on the timing within the language of the bill and a review of published literature and input from various subject matter experts.
- Other approaches to estimating the costs of the board could be considered as an example, the entire process could be

fully outsourced and supported by contract attorney staff that would cost an estimated \$75-\$100 per hour.

Board Related Cost Assumptions

- The bill requires the Cannabis Expungement Board to meet a minimum of once per month to review petitions for expungement, convictions, and stays of adjudication beginning August 1, 2023. The Cannabis Expungement Board will meet a minimum of eleven (11) times in FY24 and twelve (12) times in FY 25 and moving forward.
- It is assumed that the board will consist of five members as specified in Article 5, Section 5, Subdivision 1.
- It is assumed that the Board will meet within the Capitol Complex near the newly created Office of Cannabis Management. The following formulas are used to calculate the Board member costs for one eligible public board member:
 - \$55 per diem
 - \$99.56/ 152 miles round trip mileage reimbursement
 - \$42 meal reimbursement
 - \$175 lodging reimbursement for one member of the board
- The Chief Justice of the Supreme Court or designee, the Attorney General or designee, the Commissioner of one state department of the state government, and the appointed public defender will have their expenses covered by their respective agencies.

Staffing Assumptions

- This 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 estimate level of staffing and operational costs that would be necessary to support the work of the Board. The operational needs of the Board, including staffing, will need to be reviewed to determine if the board is able to complete the work as outlined in the bill since the sunset of the work for expungement per this bill is June 30, 2028.
- The Bureau of Criminal Apprehension (BCA) currently estimates that 230,388 cases are designated as felony related drug offenses eligible for expungement/resentencing consideration under the language contained within this bill. The estimated number of cases includes all data for felony drug crimes possibly dating back to 1936, when the BCA first began compiling crime data for the state.
- There are potentially more cases that will be identified until the August 1, 2023, date when cannabis related criminal penalties are decriminalized based upon the bill language.
- Information from the BCA will be submitted to the Cannabis Expungement Board in an electronic form and will include the name, date of birth of a person whose record is eligible for review, and the case number of the case as specified in Article 5.
- A technical note about data limitations: The ability to identify cases and corresponding documentation required by the board may exist in separate systems and/or may not be accessible to any of the entities responsible for identifying those eligible. The Bureau of Criminal Apprehension (BCA) may have some of the data, the Judicial branch (courts) may have some of the data, as well as local County District Courts may have records stored both digitally and on paper.
- The Cannabis Expungement Board may need to develop more precise methodologies in coordination with BCA and/or the courts to identify eligible cases for consideration. The estimates in this fiscal note are based upon the limited data currently available that can directly inform the work estimated expungement workload of the board.
- It is estimated that the Cannabis Expungement Board will need 34 FTEs per year for the direct legal case review to collect information on convictions and stays of adjudication that involved a controlled substance, research and prepare information for consideration of the board, ensure the protection of private data, submit board decisions to the judicial branch for their review, and advise individuals of board decisions.
- An initial review of all 230,388 cases submitted by the BCA will be required to determine if the case is related to cannabis. It is estimated that it will take a paralegal an estimated 45 minutes or .75/hours per case to make that determination.
- For purposes of applying a reasonable estimate of cannabis related cases, this fiscal note assumes 11% of the total cases initially reviewed will involve cannabis based upon data analysis provided by the Minnesota Sentencing Guidelines Commission utilizing the Minnesota Offences Code (MOC) in reviewing all felony drug cases sentenced from 2001-2021. Thus, 25,343 of the 230,388 cases identified by the BCA could have the potential need to be further reviewed for expungement/resentencing eligibility.
- The board would need 17 full time equivalent paralegals (AFSCME 67M) for 5 fiscal years that on average spend .75

hours per case to determine if a case was cannabis related. The paralegal would update a case management tracking system with the proper information to document this determination.

- A secondary review of all cannabis related cases estimated at 25,343 will need to determine if the case meets the additional criteria for expungement/resentencing consideration as defined in the bill. To be eligible for expungement/resentencing consideration under the bill, the offense must not involve a dangerous weapon, intentional infliction of bodily harm, attempt to inflict bodily harm or involve an act committed with the intent to cause fear in another of immediate bodily harm or death. Determining the criteria will require case records review and analysis of files that are both stored electronically and in paper form.
- For purposes of applying a reasonable estimate of cases that meet the additional criteria for further consideration, this fiscal note assumes that 97% of the cases would move on for further review and only around 3% would be eliminated from further review due to the criteria described above again, based on data analysis of all felony drug cases sentenced from 2001-2021 provided by the Minnesota Sentencing Guidelines Commission.
- Each case will require a review by a paralegal at an estimated 2.0 hours per case to make that determination to move to the next phase for expungement/resentencing consideration.
- The board would need 5 full time equivalent paralegals (AFSME 67M) for 5 fiscal years that spend on average 2.0 hours per case to complete the secondary review and determine if the case meets the criteria for expungement/resentencing. The paralegal would update a case management tracking system with the proper information to document their determination.
- Based upon the criteria as stated, the paralegal will review case documents and eliminate cases involving violent crimes against persons (murder, rape, robbery or aggravated assault), cases with crimes involving a weapon and all assault relates crimes.
- Applying 97% to the 25,343 estimated cannabis-related cases, an estimated 24,582 cases would be eligible for the expungement process or resentencing consideration.
- It is estimated that an Attorney would spend approximately 5 hours per case for the 24,582 cases identified as eligible for expungement/resentencing consideration. The attorney would prepare expungement case documents/forms as prescribed by the judicial branch or draft resentencing recommendations or determined if neither apply.
- The board would need 12 full time equivalent attorneys (MAPE 18L) for 5 fiscal years that spend on average 5.0 hours per case to prepare the expungement case documents/forms, draft resentencing recommendations or determine if neither apply. The attorney would update the case management tracking system with the proper information to document this determination.

The estimated direct FTE impact is displayed in the chart below:

Expungement Caseload/Direct Case Review FTE Estimates						
Current Total Number of Felony Drug Cases Subject to Review as Provided by BCA		230,388				
Steps in the Review Process / Staff in Full Time Equivalents (FTE)	2024	2025	2026	2027	2028	
1. Initial Review of all Cases to Identify Cannabis Related Case						
Total Number of Hours for Initial Paralegal Review per Fiscal Year Formula = (230,388*.75 hours / 5 years)	34,558	34,558	34,558	34,558	34,558	
Assume Paralegal Review at .75 hours Per Case / Per Fiscal Year in FTE's*	17	17	17	17	17	
Estimated Number of Cases Identified as Cannabis Related is 11%	25,343					
2. Secondary Review of all Cases to Identify Expungement Eligible Case Criteria						
Total Number of Hours for Paralegal Review per Fiscal Year Formula = (25,343 * 2.0 hours / 5 years)	10,137	10,137	10,137	10,137	10,137	
Assume Paralegal Review at 2.0 hours Per Case / Per Fiscal Year in FTE's*	5	5	5	5	5	
Estimated Number of Cases Identified as	24,582					

Expungement Eligible is 97%					
3. Third Level Review of all Cases to Prepare for Expungement Process/Resentencing					
Total Number of Hours for Attorney Review/Case Prep per Fiscal Year Formula = (24,582 * 5.0 hours / 5 years)	24,582	24,582	24,582	24,582	24,582
Assume Attorney Review / Case Prep at 5.0 hours Per Case / Per Fiscal Year in FTE's*	12	12	12	12	12
Total Estimated Number of FTE's for Direct Caseload of Expungement Cases FY2024-28	34	34	34	34	34

* Assumes 2080 hours per FTE in FY2024 and 2088 hours in FY2025-28 evenly distributed for the 5 fiscal years of the Expungement Board existence.

- It is assumed that in addition to the FTEs identified above, there will be indirect/support staffing of 6 FTEs required to sufficiently support the board's functions including:
 - 1.0 FTE Executive Director is assumed at the 18M level managerial plan to oversee all operations.
 - 1.0 FTE Business Manager 2 is assumed at a managerial level 13M who will serve as business and financial lead.
 - 2.0 FTE Information Technology Specialist (ITS) 3 are assumed at a MAPE level 14O to support day-to-day technical needs of the staff as well as serving as system expert for the case management tracking system. The ITS positions will work collaboratively with the IT professionals from the OCM board and mutually determine if and when additional technical support needs are deemed necessary by the OCM.
 - 2.0 FTE legal secretaries (AFSME 67L) would be needed to provide support for the entire office staff including more specific needs of the Executive Director and Business Manager I managing office operations. The support staff may rotate duties and fill behind other staff as needed in addition to providing administrative support to the Board, receptionist/front desk support for office tasks, phone and email inquiries, and other duties as assigned. The legal secretaries will also coordinate with the legal team and board to produce the annual legislative report required in subd. 7.
 - The assumptions for staffing in this note assume a simplified approach with the board fully staffed starting in FY2024 through FY2028, however it is likely the staffing will likely fluctuate to align with status of the caseload and current conditions of the employment market.
 - It is assumed that the staff employed for the purpose of service to the Board need a certain level of expertise and experience in the field of criminal law, MN statutes, and/or drug related offenses to be effective in their roles.
 - It is also assumed that the roles of legal secretaries, paralegals, and attorneys be licensed or certified in the State of Minnesota.
 - All roles are assumed to have experience in confidentiality compliance, recordkeeping regulations and data practices.
 - Due to the temporary nature of the board and the limited number of support staff, it is assumed that the Board will enter into an interagency agreement with the Office of Cannabis Management (OCM) to provide human resource, finance, general administrative and information technology priority system/backup/technical support services. The estimated cost for the interagency agreement is \$200,000 incurred annually for support services as needed. The \$200,000 reflects the best estimate of the interagency agreement assumed for HR/finance needs of \$150,000 (2 OCM FTE) and an estimated \$50,000 annually for IT priority system/technical support and backup. The board will work collaboratively with the OCM to assess the needs annually that will be reflected in the annual interagency agreement.
 - The amount of time assumed per case for the review process described above reflects a number of hours per case based upon a review of existing expungement processes within the Judicial branch and input/consultation provided by Mitchell Hamline Law Practice Center, University of Minnesota Law School and The New Justice Law Center.
- For the purpose of this fiscal note, it is assumed that all costs will end by June 30th, 2028, as stated in the bill. Given the unknown variables of the expungement review and resentencing consideration process, it is unknown if the Cannabis Expungement Board will complete its duties by the deadline stated in the bill language.

Office Establishment and Operational Costs

- It is assumed that the Board will spend \$50,000 annually to purchase and maintain a case management tracking software program to document the status of decisions as cases under review move from one review phase to another.

The case management tracking system will have case management tracking, workflow capabilities, document storage and reporting capacity sufficient to serve as the system of record for the status of all cases under the purview of the Cannabis Expungement Board. It is assumed that this will be an off-the-shelf product, with limited customization that meets standards for user authentication and security provisions to ensure the protection of data. It is assumed that each of the staff will need an annual license for the software.

- In addition to the case management tracking system, additional information technology (IT) costs include standard computer hardware and software with annual costs incurred starting in FY 2024 for rented laptops from MNIT and purchased computer monitors.
- It is assumed that annual costs will also be incurred for additional equipment such as printers, scanners, copiers and conference rooms to accommodate both in-person and remote meetings.
- It is assumed that the build-out of rented space will need to be arranged to support the CEB and the overall operations of the board staff.
- It is assumed that costs will be incurred in FY24 for staff workstations and common space build out within the capitol complex.
- Office space rental costs will be ongoing and will include common meeting space for the board. The space will accommodate an estimated 20 staff while the remaining staff are assumed to work remotely throughout the state.
- It is assumed that the legal team members working remotely throughout the state will work with local Judicial branch entities nearest them to limit travel expenses when collecting and reviewing legal documents necessary to conduct the work of the board.
- It is assumed that the board administrative office will utilize state payroll/HR, timecard and statewide accounting systems. Additional ancillary operating costs for the board will include office supplies, postage, training, general office equipment (phones, printers, copiers, etc.) and travel for staff beginning FY2024.
- Estimates in this fiscal note should be considered preliminary in nature and subject to change as several aspects of the bill depend on future decisions of the board. The current estimates support the analysis of the initial needs to establish a board and the duties as outlined in the bill.

Expenditure and/or Revenue Formula

Board Member Meeting Participation Cost Summary

Board Members	FY23	FY 24	FY25	FY26	FY27
Board Member Per Diem	0	605	660	660	660
Board Member Mileage Reimbursement	0	1,095	1,195	1,195	1,195
Board Member Lodging Reimbursement	0	1,925	2,100	2,100	2,100
Board Member Meal Reimbursement	0	462	504	504	504
Total	0	4,087	4,459	4,459	4,459

Formula: the appointed Public Member is eligible for per diem, mileage, lodging, and meals.

Per diem: \$55 per diem per day x 1 members x 11 meetings = \$605 in FY24 and \$55 per diem per day x one member x 12 meetings = \$660 in FY25 and thereafter

Mileage reimbursement formula: 0.655 mileage rate x 152 miles round trip x 1 member x 11 meetings = \$1,095 in FY24 and 0.655 mileage rate x 152 miles round trip x 1 member x 12 meetings = \$1,195 in FY25 and thereafter

Lodging reimbursement formula: \$175 room cost x 1 member x 11 meetings in FY24 for \$1,925 and 12 meetings/year in FY25 and thereafter for \$2,100/year

Meal reimbursement formula: \$42/day meal cost x 1 member x 11 meeting in FY24 for \$462 and 12 meetings/year in FY25 and thereafter for \$504/year

Staff Support (Salary + Fringe) and Interagency Staffing Agreement Cost Summary (rounded)

Cost Category	FY23	FY24	FY25	FY26	FY27
1.0 FTE - Executive Director (1.0 FTE/2080 Hrs FY24, 1.0 FTE/2088 Hrs in FY25 & beyond) Managerial 18M	0	143,000	146,000	146,000	146,000
17.0 FTE's - Paralegal (initial case review) (1.00 FTE/2080 Hrs FY24, 1.0 FTE/2088 Hrs in FY25 & beyond) AFSME 67M	0	1,531,000	1,564,000	1,564,000	1,564,000
5.0 FTE's - Paralegal (secondary case review) (1.00 FTE/2080 Hrs FY24, 1.0 FTE/2088 Hrs in FY25 & beyond) AFSME 67M	0	450,290	460,000	460,000	460,000
12.0 FTE's - Attorney (1.00 FTE/2080 Hrs FY24, 1.0 FTE/2088 Hrs in FY25 & beyond) MAPE SPAC 18L	0	1,491,000	1,527,000	1,527,000	1,527,000
1.0 FTE - Business Manager 2 (1.0 FTE/2080 Hrs FY24, 1.0 FTE/2088 Hrs in FY25 & beyond)	0	121,000	124,000	124,000	124,000
2.0 FTE - IT3 System & Technical Support (1.0 FTE/2080 Hrs FY24, 1.0 FTE/2088 Hrs in FY25 & beyond)	0	237,000	242,000	242,000	242,000
2.0 FTE's - Legal Secretary (1.00 FTE/2080 Hrs FY24, 1.0 FTE/2088 Hrs in FY25 & beyond) AFSME 67L	0	169,000	173,000	173,000	173,000
Total Staff Support	0	4,142,290	4,236,000	4,236,000	4,236,000
Annual Interagency Agreement with OCM for Staff Support	0	200,000	200,000	200,000	200,000
Total Staff and Interagency Staffing Cost	0	4,342,290	4,436,000	4,436,000	4,436,000

Office Build-Out, Operation, and Support Costs Summary (rounded)

Cost Category	FY23	FY24	FY25	FY26	FY27
Office Space Rental (4,072 square feet at \$22.00 per square foot)	0	90,000	90,000	90,000	90,000
Office Space Build-Out	0	203,000	0	0	0
Equipment (computer rental, monitors, phones, copiers)	0	121,000	37,000	37,000	37,000
Operations (standard office software, supplies, case management system, VoIP, copier maintenance, equipment repairs, staff travel)	0	120,000	120,000	120,000	120,000
Total Office Space Rental, Equipment, Build-Out & Operation Cost	0	534,000	247,000	247,000	247,000

Total Cost Summary (rounded)

Cost Category	FY23	FY24	FY25	FY26	FY27
Board Member Participant Cost	0	4,000	4,000	4,000	4,000
Total Staffing & Interagency Agreement Cost	0	4,342,000	4,436,000	4,436,000	4,436,000
Total Office Operational Cost	0	534,000	247,000	247,000	247,000
Total Cost	0	\$ 4,880,000	\$ 4,687,000	\$ 4,687,000	\$ 4,687,000

Full Time Equivalents (FTE)

	FY23	FY24	FY25	FY26	FY27
New Total FTEs	0	40	40	40	40

Long-Term Fiscal Considerations

The Cannabis Expungement Board will exist for 5 fiscal years, FY2024 through FY2028. Since the board is newly established, the overall staffing and support resources needed to successfully carry out the work of the board should be considered preliminary at this time. Since much of the work is based upon estimated caseload and the number of cases that will ultimately be expunged, costs will need to be re-assessed as the expungement caseload is the significant driving factor in developing the cost estimates and corresponding staff and support estimates within the fiscal note.

Local Fiscal Impact

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

References/Sources

Staffing, Salaries, Board and Council Expenses

- 2021-2023 MAPE Contract, https://mn.gov/mmb-stat/000/az/labor-relations/mape/2021-2023/2021-2023_MAPE_Contract.pdf
- 2021-2023 Managerial Plan, <https://mn.gov/mmb-stat/000/az/labor-relations/managerial-plan/contract/21-23/Managerial%20Plan%202021-23.pdf>
- Minnesota Statutes 15.059, Advisory Councils and Committees, <https://www.revisor.mn.gov/statutes/cite/15.059>

Operations and Office Space

- Real Estate Management Office, Department of Administration
- Legislative Coordinating Commission (LCC) costing data on office equipment, office build out, software, supplies, and ancillary items.

MN Sentencing Guidelines Commission, data request and consultation, 2023

- Sentencing guidelines and statistics on crime in the state of Minnesota including felony drug offenses, percent of felony drug offenses involving marijuana, and percent of felony drug offense involving felony marijuana and a weapon

MN Department of Public Safety and Bureau of Criminal Apprehension, 2023

- Meeting on the process of determining an estimated number of cases eligible for expungement and the process of finding those cases, files, and documents.

Restoration of Rights Project, *50-State Comparison: Marijuana Legalization, Decriminalization, Expungement, and Clemency*, January 2023 <https://ccresourcecenter.org/state-restoration-profiles/50-state-comparison-marijuana-legalization-expungement/>

Historical Research from Missouri and Colorado on Expungement with the legalization of cannabis

- Committee on Legislative Research Oversight Division, Missouri State Government, April 2019
- General Assembly for the State of Colorado, 2022
- Missouri State Auditor's Office, September 2021

Expungement and Processes / Timelines: Interviews and research on the process of expungement the timelines of each

case

- MN Judicial branch, 2023, Expungement Process and Expungement Forms
- https://www.youtube.com/playlist?list=PLomt_dFtXFonsN45MSBMfLpkkhjAFneau
- Mitchell Hamline School of Law, Legal Practice Center, Saint Paul, MN, 651-695-7672, 2/3/2023
<https://mitchellhamline.edu/legal-practice-center/>
- Neighborhood Justice Center, Cullin Smith ED, Saint Paul, MN <https://www.njcinc.org/>
- University of Minnesota Law School, Minneapolis, MN <https://law.umn.edu/>
- Gallagher Criminal Defense, Thomas Gallagher, Minneapolis, MN, <https://gallagherdefense.com/>

Bureau of Criminal Apprehension MN Crime Statistics <https://dps.mn.gov/divisions/bca/bca-divisions/mnjjs/Pages/uniform-crime-reports.aspx>

Agency Contact:

Agency Fiscal Note Coordinator Signature: Kristi Schroedl

Date: 3/29/2023 11:56:07 AM

Phone: 651-284-6544

Email: kristi.schroedl@lbo.mn.gov

Fiscal Note

2023-2024 Legislative Session

HF100 - 8A - Legalize Cannabis

Chief Author: **Zack Stephenson**
 Committee: **Ways And Means**
 Date Completed: **3/31/2023 8:18:31 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		
	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	527	1,093	1,341	1,520	
Total	-	527	1,093	1,341	1,520	1,520
Biennial Total			1,620			2,861

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	2.5	6	9.25	11.25
Total	-	2.5	6	9.25	11.25

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: Jim Carlson **Date:** 3/31/2023 8:16:42 AM
Phone: 651-284-6540 **Email:** jim.carlson@lbo.mn.gov

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	FY2023	FY2024	FY2025	FY2026	FY2027	
General Fund	-	527	1,093	1,341	1,520	
Total	-	527	1,093	1,341	1,520	
Biennial Total			1,620			2,861
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	527	1,093	1,341	1,520	
Total	-	527	1,093	1,341	1,520	
Biennial Total			1,620			2,861
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	
Total	-	-	-	-	-	
Biennial Total			-			-

Bill Description

House File 100-8A legalizes recreational adult-use cannabis in Minnesota.

The bill creates a Office of Cannabis Management 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 8 requires the Cannabis Management Board to establish appropriate energy standards for cannabis businesses

Article 1, Sections 30, 48, and 49 require that cannabis, and cannabis products, medical cannabis products and edible hemp products be properly packaged and labeled with the net contents.

Assumptions

HF 100-8A requires the Office of Cannabis Management to consult with the Commerce Department’s Division of Energy Resources in the development of energy standards as outlined in Article 1, Section 8. 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, cannabis products, medical cannabis and hemp products between licensed businesses will need to be packaged and labeled with a net weight. Each of these businesses will need at least one commercial scale.

Commercial scales and inspections are needed to facilitate accurate statewide monitoring as cannabis moves through the marketplace for both licensed cannabis businesses and medical cannabis businesses. The scales used to determine those weights will be regulated by the Commerce Department through the Weights & Measures Division (Minn. Stat. §239.011 Subd.2. (10) and inspected annually.

Retails sales of cannabis, medical cannabis, and hemp derived products to the customer or patient will be labeled with a net weight and may be packaged and weighed at the time of sale. Each retailer will need at least one commercial scale. Annual inspection of scales used to determine those weights will be regulated by the Weights & Measures Division. Package inspections will also need to be conducted to ensure packages contain the net content declared on the label.

The Office of Cannabis Management has estimated the number of business licenses that may be issued.

Commerce assumes 11 FTE, to inspect scales, net content on packaging, and investigate weighing, net content, and labeling complaints at the licensed businesses as well as provided education on selection of suitable scales.

The table below reflects sites for inspection added each year:

	FY24	FY25	FY26	FY27	Total
Cannabis Cultivators	11	19	14	11	55
Cannabis Manufacturer	14	25	18	14	71
Cannabis Wholesaler	102	178	127	102	509
Cannabis Microbusinesses	50	88	63	50	251
Cannabis Mezzobusinesses	29	51	36	29	145
Cannabis Retailers	42	74	53	42	211
Medical Cultivators	1	2	1	1	5
Medical Processors	1	2	1	1	5
Medical Retailers	8	14	10	8	40
Hemp Manufacturer	102	178	127	102	509
Hemp Retailer	1000	1750	1250	1000	5000

FY24

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.

Scale inspection at 1360 site will take approximately 1750 hours.
 Scale reinspections for rejections will take approximately 1300 hours

Packages at retail sites will need to be inspected to ensure net content declarations are correct.

Package inspections at 1050 retail sites will take approximately 1050 hours
 Package reinspections for rejections will take approximately 125 hours
 Total hours 4225 hours
 FTE 2

FY25

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.

Scale inspection at 2381 site will take approximately 3100 hours.

Scale reinspections for rejections will take approximately 2250 hours

Packages at retail sites will need to be inspected to ensure net content declarations are correct.

Package inspections at 1838 retail sites will take approximately 1800 hours

Package reinspections for rejections will take approximately 200 hours

Total hours 7350 hours

FTE 3.5

FY26

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.

Scale inspection at 1360 site will take approximately 2200 hours.

Scale reinspections for rejections will take approximately 1600 hours

Packages at retail sites will need to be inspected to ensure net content declarations are correct.

Package inspections at 1313 retail sites will take approximately 1300 hours

Package reinspections for rejections will take approximately 150 hours

Total hours 5250 hours

FTE 2.5

Add a Weights and Measures Assistant Director

for supervisions of the additional inspection staff FTE 1

Total FTE 3.5

FY27

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.

Scale inspection at 1360 site will take approximately 1750 hours.

Scale reinspections for rejections will take approximately 1300 hours

Packages at retail sites will need to be inspected to ensure net content declarations are correct.

Package inspections at 1050 retail sites will take approximately 1050 hours

Package reinspections for rejections will take approximately 125 hours

Total hours 4225 hours

FTE 2

Expenditure and/or Revenue Formula

Division of Energy Resources:

.5FTE (17L or senior engineer level) for year 1 and year 2. .25FTE for year 3 and ongoing.

			FY24	FY25	FY26	FY27
Salary			49,747	49,747	24,873	24,873
Fringe			14,924	14,924	7,462	7,462
Other Personnel Related Costs			17,190	17,190	8,595	8,595
			81,861	81,861	40,930	40,930

Inspection:

FY 24 Add 2 FTE for inspectors, purchase test equipment, and vehicle fuel/maintenance/depreciation costs.

FY 25 Add 3.5 FTE for inspectors, purchase test equipment, and vehicle fuel/maintenance/depreciation costs.

FY 26 Add 1 FTE for a Weights and Measure Assistant Director and 2.5 FTE for inspectors, purchase test equipment, and vehicle fuel/maintenance/depreciation costs.

FY 27 Add 2 FTE for inspectors, purchase test equipment, and vehicle fuel/maintenance/depreciation costs.

- FTE cost per inspector \$104,838
- Test Equipment cost will be incurred for each FTE in the FY that the FTE is added - \$106,113
- Fuel/maintenance/depreciations cost - \$11,411 per FTE per year.

	FY24	FY25	FY26	FY27	Ongoing
Salary	\$117,346	\$322,702	\$528,057	\$645,403	\$645,403
Fringe	\$35,204	\$96,811	\$158,418	\$193,622	\$193,622
Other Personnel Related Costs	\$57,126	\$157,097	\$257,067	\$314,193	\$314,193
	\$209,676	\$576,609	\$943,542	\$1,153,218	\$1,153,218
Equipment	\$212,226	\$371,396	\$265,283	\$212,226	
Fuel/Maint/Depreciation	\$22,822	\$62,759	\$91,286	\$114,108	\$114,108
Total	\$444,724	\$1,010,764	\$1,300,111	\$1,479,552	\$1,267,326

Long-Term Fiscal Considerations

The 11.25 FTE will be ongoing.

Local Fiscal Impact

References/Sources

Agency Contact:

Agency Fiscal Note Coordinator Signature: Amy Trumper

Phone: 651-539-1517

Date: 3/30/2023 10:00:04 PM

Email: amy.trumper@state.mn.us

Fiscal Note

2023-2024 Legislative Session

HF100 - 8A - Legalize Cannabis

Chief Author: **Zack Stephenson**
 Committee: **Ways And Means**
 Date Completed: **3/31/2023 8:18:31 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	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	(165)	(368)	(460)	(503)	
Total	-	(165)	(368)	(460)	(503)	
Biennial Total			(533)		(963)	

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	(2)	(4)	(5)	(6)
Total	-	(2)	(4)	(5)	(6)

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: Karen McKey **Date:** 3/30/2023 12:29:18 AM
Phone: 651-284-6429 **Email:** karen.mckey@lbo.mn.gov

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	FY2023	FY2024	FY2025	FY2026	FY2027	
General Fund	-	(165)	(368)	(460)	(503)	
Total	-	(165)	(368)	(460)	(503)	
			(533)		(963)	
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	(165)	(368)	(460)	(503)	
Total	-	(165)	(368)	(460)	(503)	
			(533)		(963)	
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	
Total	-	-	-	-	-	
			-		-	

Bill Description

H.F. 100-8A establishes a new Office of Cannabis Management to oversee the sale and use of cannabis and cannabinoid products.

The bill establishes in statute what the department’s Hearings and Release Unit already does in policy and makes changes that would affect the department’s Fugitive Apprehension Unit and Sentencing Administration Unit.

Other changes deal with criminal penalties and affect the department’s bed capacity and the capacity of local jails and county probation resources

Assumptions

The Minnesota Sentencing Guidelines Commission assumes the following:

- Of the 364 felony marijuana offenses sentenced in 2019, 141 (39%) would no longer be crimes and 136 (41%) would become nonfelony-level offenses.
- The cases that received a mitigated dispositional departure in 2019 (no prison when the Guidelines recommended prison) would continue to receive a departure if they were still recommended a prison sentence under the bill. In 2019, 47 of the 364 marijuana cases sentenced were recommended prison sentences. Of those, 32 (68%) received a stayed, nonprison sentence.
- Of the 364 cases sentenced in 2019, 38 received a prison sentence. Of the 326 cases that received a nonprison sentence: 26 (7%) received a misdemeanor or gross misdemeanor sentence; 320 were placed on probation for longer than a day with an average pronounced length of stay of 51.4 months; and 283 (87%) received local confinement as a condition of their probation (local jail time) with an average pronounced time to serve of 71 days.

The Department of Corrections assumes the following:

- Prison bed costs are based on a marginal cost per diem of \$42.50 for FY2024, \$48.55 for FY2025, \$50.67 for FY2026 and \$50.58 for FY2027 and each subsequent year. This includes marginal costs for all facility, private and public bed rental, health care and support costs.
- The annual cost is estimated by multiplying the number of prison beds needed by the subsequent annual per diem. Unless otherwise noted, prison beds are phased in on a quarterly basis.
- Prison bed FTE impact for the increase in the offender population assumes 80 percent of the ongoing bed impact is personnel-related and the average salary per FTE is \$72,000 per year including benefits.

Expenditure and/or Revenue Formula

Cost of Prison Beds

Fiscal Year	2024	2025	2026	2027
Number of Prison Beds	-17	-23	-26	-28
Cost of Prison Beds (in 000s)	(165)	(368)	(460)	(503)
FTE	-2	-4	-5	-6

Long-Term Fiscal Considerations

The commission estimates an eventual estimated **decrease of 34 beds**: 17 fewer beds will be needed in FY 2024, 23 fewer in FY 2025, 26 fewer in FY 2026, 28 beds fewer in FY 2027, 30 fewer in FY 2028, 32 fewer in FY 2029, and 34 fewer in FY 2030 and every year thereafter.

Local Fiscal Impact

There will be a savings in local correctional resources in two ways. First, cases that are no longer crimes will not be on supervision caseloads and will not take up space in local correctional facilities. Second, cases that move from the felony level to a nonfelony level may receive shorter probation terms and less local jail time than they did as felonies.

There will be 152 cases with a pronounced probation term greater than one day with an average term of 41 months, resulting in a statewide total of 6,220 months of supervision.

There will be 133 cases with pronounced local jail time with an average term of 66 days (serve 2/3 = 44.2 days) resulting in the need for 16 local jail beds statewide; a savings of 21 jail beds.

References/Sources

Department of Corrections Staff
 Minnesota Sentencing Guidelines Commission

Agency Contact:

Agency Fiscal Note Coordinator Signature: Kwesi Pasley

Phone: 651-259-3667

Date: 3/29/2023 8:37:31 PM

Email: kwesi.pasley@state.mn.us

Fiscal Note

2023-2024 Legislative Session

HF100 - 8A - Legalize Cannabis

Chief Author: **Zack Stephenson**
 Committee: **Ways And Means**
 Date Completed: **3/31/2023 8:18:31 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	
	FY2023	FY2024	FY2025	FY2026	FY2027
Dollars in Thousands					
General Fund	-	180	120	120	120
Total	-	180	120	120	120
Biennial Total			300		240

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	1	.5	.5	.5
Total	-	1	.5	.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: Alyssa Holterman Rosas **Date:** 3/29/2023 2:13:49 PM
Phone: 651-284-6439 **Email:** alyssa.holterman.rosas@lbo.mn.gov

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	FY2023	FY2024	FY2025	FY2026	FY2027	
General Fund	-	180	120	120	120	120
Total	-	180	120	120	120	120
Biennial Total			300			240
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	180	120	120	120	120
Total	-	180	120	120	120	120
Biennial Total			300			240
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

The bill legalizes cannabis and establishes regulatory structures and educational programs related to its use.

The bill requires the commissioner to consult with local school district and school health education specialists, the commissioners of health and human services and other qualified experts to identify one or more model cannabis and substance use education programs for use with middle and high school students. The commissioner must publish a list of model programs and materials by June 1, 2025.

School districts and charter schools must implement a comprehensive education program on cannabis and substance abuse for middle and high school students starting in the 2026-27 school year.

A school district must have a procedure for parental review of the cannabis and substance use instructional materials provided to their children. There must also be an option for the parents or guardians to opt their children out of receiving the instruction without academic or other penalty.

Districts may establish one or more youth councils for the purpose of youth training and peer-to-peer education.

Assumptions

MDE will need 1.0 FTE (Education Specialist II) in FY24 for the extensive consultation and planning work need to identify model cannabis/substance use education programs.

In FY25 and later, MDE will need 0.5 FTE (Education Specialist II) for ongoing training and support for schools around these model programs.

In addition, MDE will need funds for travel and training starting in FY24.

Expenditure and/or Revenue Formula

	FY24	FY25	FY26	FY27
Education Specialist II (1.0/0.5/0.5/0.5)	150,000	75,000	75,000	75,000

Travel and training	30,000	45,000	45,000	45,000
Total	180,000	120,000	120,000	120,000

Long-Term Fiscal Considerations

The 0.5 FTE position and travel/training expenses will be ongoing.

Local Fiscal Impact

Districts and charter schools will incur unknown costs for implementing new cannabis/substance use curriculum beginning in the 2026-27 school year.

References/Sources

Agency Contact: Jennifer Dugan, 651-582-8654

Agency Fiscal Note Coordinator Signature: Melissa Stirn

Phone: 651-582-8690

Date: 3/29/2023 2:11:24 PM

Email: melissa.stirn@state.mn.us

Fiscal Note

2023-2024 Legislative Session

HF100 - 8A - Legalize Cannabis

Chief Author: **Zack Stephenson**
 Committee: **Ways And Means**
 Date Completed: **3/31/2023 8:18:31 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) Dollars in Thousands	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	10,415	6,726	6,726	6,726
Total	-	10,415	6,726	6,726	6,726
Biennial Total			17,141		13,452

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	3.3	2.05	2.05	2.05
Total	-	3.3	2.05	2.05	2.05

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: Karl Palm **Date:** 3/30/2023 8:54:35 AM
Phone: 651-296-6055 **Email:** karl.palm@lbo.mn.gov

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	FY2023	FY2024	FY2025	FY2026	FY2027	
General Fund	-	10,415	6,726	6,726	6,726	
Total	-	10,415	6,726	6,726	6,726	6,726
			17,141			13,452
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	10,415	6,726	6,726	6,726	6,726
Total	-	10,415	6,726	6,726	6,726	6,726
			17,141			13,452
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total	-	-	-	-	-	-
			-			-

Bill Description

This bill establishes the Office of 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 Article 3 of the bill, those sections related to Business Development. Article 3 Section 1 of the bill establishes Cannabis Industry Startup Financing Grants. This program awards 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.

Article 3 Section 2 of the bill establishes 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.

Article 3 Section 3 of the bill establishes Cannabis Industry Training Grants. Grants are awarded to eligible organizations that may be used for developing training programs 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 and does the same as it relates to individual grant recipients.

Article 9 Section 1 Subdivision 7 of the bill appropriates to DEED the following funding for the programs delineated. Unencumbered balances remaining in the first year do not cancel and are available in the second year. Up to 4% may be used for administrative purposes.

- CanNavigate - \$2,000,000 in FY2024 and \$1,884,000 in FY2025 (\$3,884,000)
- CanStartup - \$4,000,000 in FY2024 and \$2,619,000 in FY2025 (\$6,219,000)
- CanTrain - \$4,400,000 in FY2024 and \$2,197,000 in FY2025 (\$6,597,000)
- Total = \$17.1 million

Total Admin allowed per law - \$17.1 million * .04 = \$684,000 (\$416,000 in FY2024 & \$268,000 in FY2025).

Assumptions

This industry would be completely new to Minnesota and while there may will be delays in implementation, start-up costs during FY2024 will be greater than expenditures needed to sustain the industry in FY2025. Per language in the draft bill, DEED assumes for this fiscal note that we would be allowed to carry unused FY24 appropriation into FY25 to complete the program implementation and disbursement (e.g., Any unencumbered balances remaining in the first year do not cancel but are available for the second year).

CanNavigate estimates use the department's business competitiveness grants as a model for providing grants. This note assumes 18 grants will be provided to organizations. 0.5 FTE will be needed to develop the Request for Proposal (RFP) and select the organizations that will receive the grants. 0.2 FTE will be needed for on-going grant management in FY 2025.

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 this bill. DEED's ETP division estimates that 1.3 FTE (\$159,268) will be needed to develop the initial RFP and implement the grant making process in FY 2024 and 0.85 FTE (\$130,729) will be needed for on-going grant support and monitoring in FY 2025.

This note also assumes that the department is limited, as noted in the legislation, to using four (4) percent of the appropriation for administrative expenses or \$416,000 in FY2024 and \$268,000 in FY2025. Administering the programs at full capacity will require more staff than available through these funds so program activity will be less than if the program administration was fully funded.

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 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 40 to 50 loans processed annually through 1.0 FTE. In addition, it is assumed that an additional 0.5 FTE will be needed in FY 2024 to implement the program, including managing the RFP process to select lenders. 1 FTE will be needed for on-going grant support and monitoring in FY 2025.

Expenditure and/or Revenue Formula

FY2024

CanNavigate 0.5 FTE (14L) to manage RFP process, complete 18 grant agreements and disburse \$2,000,000 in grants to the organizations (\$67,928 actual for .5 FTE)

CanStartup 1.5 FTE (14L) to manage RFP process and implement program, including grant agreements to the selected organizations, development of program documents, and approve loans by lenders enrolled in the program--approximately 38 loans @ \$100,000 average loan = \$3.8 million in loans. \$203,785 actual for 1.5 FTE

CanTrain 1.3 FTE (10L, 12L, 13L, 15L, 18K combined for a total of \$159,268) to manage the RFP process, implement the training program, and disperse \$4,224,000 of grant agreements to approximately 60 grant organizations and/or individuals. The appropriation is adequate in that it provides for 100% of the cost of providing these services based upon conservative estimates.

Total: \$430,981

FY2025

CanNavigate 0.2 FTE (14L) to management the grant agreements with 18 organizations (\$27,171 actual)

CanStartup 1.0 FTE (14L) to approve loans by lenders enrolled in program (25 loans X \$100,000 average loan = \$2.5 million in loans), do monitoring, closeouts, and reporting, and administer workouts and write-offs. (\$135,857 actual)

CanTrain - 0.85 FTE (10L, 12L, 13L, 15L, 18K combined for a total of \$130,729) will provide program support and monitoring of dispersal of an additional \$2,109,200 worth of grant agreements to the existing organizations and/or individuals. The appropriation is adequate in that it provides for 100% of the cost of providing these services based upon conservative estimates.

Total: \$288,518

		<u>FY24</u>	<u>FY25</u>	<u>Total</u>
<u>CanNavigate</u>	<u>FTE Needed</u>	<u>0.50</u>	<u>0.20</u>	<u>0.70</u>
	<u>Admin Needed</u>	<u>67,928</u>	<u>27,171</u>	<u>95,099</u>
	<u>FTE Allowed</u>	<u>0.58</u>	<u>0.55</u>	<u>1.13</u>
	<u>Admin Allowed</u>	<u>80,000</u>	<u>75,360</u>	<u>155,360</u>
	<u>Grants</u>	<u>1,920,000</u>	<u>1,808,640</u>	<u>3,728,640</u>
<u>CanStartup</u>	<u>FTE Needed</u>	<u>1.50</u>	<u>1.00</u>	<u>2.50</u>
	<u>Admin Needed</u>	<u>203,785</u>	<u>135,857</u>	<u>339,641</u>
	<u>FTE Allowed</u>	<u>1.15</u>	<u>0.75</u>	<u>1.90</u>
	<u>Admin Allowed</u>	<u>160,000</u>	<u>104,760</u>	<u>264,760</u>
	<u>Loans</u>	<u>3,840,000</u>	<u>2,514,240</u>	<u>6,354,240</u>
<u>CanTrain</u>	<u>FTE Needed</u>	<u>1.3</u>	<u>0.85</u>	<u>2.15</u>
	<u>Admin Needed</u>	<u>159,268</u>	<u>130,729</u>	<u>289,997</u>
	<u>FTE Allowed</u>	<u>1.3</u>	<u>0.65</u>	<u>1.95</u>
	<u>Admin Allowed</u>	<u>176,000</u>	<u>87,800</u>	<u>263,880</u>
	<u>Grants</u>	<u>4,224,000</u>	<u>2,109,200</u>	<u>6,333,200</u>
<u>Total</u>	<u>FTE Needed</u>	<u>3.3</u>	<u>2.05</u>	<u>5.35</u>
	<u>Admin Needed</u>	<u>430,981</u>	<u>293,757</u>	<u>727,737</u>
	<u>FTE Allowed</u>	<u>3.14</u>	<u>2.00</u>	<u>5.14</u>
	<u>Admin Allowed</u>	<u>416,000</u>	<u>268,000</u>	<u>684,000</u>
	<u>Grants/Loans</u>	<u>9,984,000</u>	<u>6,432,000</u>	<u>16,416,000</u>
	<u>Total Needed</u>	<u>10,414,981</u>	<u>6,725,757</u>	<u>17,140,737</u>

Long-Term Fiscal Considerations

None.

Local Fiscal Impact

None.

References/Sources

Agency Contact: Jeff Nelson

Agency Fiscal Note Coordinator Signature: Rebecca Wernett

Phone: 651-259-7056

Date: 3/30/2023 8:42:32 AM

Email: rebecca.wernett@state.mn.us

Fiscal Note

2023-2024 Legislative Session

HF100 - 8A - Legalize Cannabis

Chief Author: **Zack Stephenson**
 Committee: **Ways And Means**
 Date Completed: **3/31/2023 8:18:31 AM**
 Agency: **Governors Office**

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	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
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: Susan Nelson **Date:** 3/29/2023 2:37:44 PM
Phone: 651-296-6054 **Email:** susan.nelson@lbo.mn.gov

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	FY2023	FY2024	FY2025	FY2026	FY2027	
General Fund	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund						
Expenditures	-	2	-	-	-	-
Absorbed Costs	-	(2)	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

This bill establishes the Office of Cannabis Management and creates a director position, advisory councils and various other regulations regarding the legalization of cannabis.

Assumptions

The Appointments team and members of the Policy team will prepare appointments for the director and members listed in the bill.

The impact to the Governor’s Office will be 60 hours of work for the Director of Appointments, 24 hours of work for the Jr Appointments Coordinator and 12 hours of work for the relevant Policy Advisors in the first year. The future appointments will be absorbed as part of the work of the Appointments team.

Expenditure and/or Revenue Formula

The Governor’s Office will absorb the costs of the appointments in this bill.

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Agency Contact: Alyssa Haugen (651-201-3416)

Agency Fiscal Note Coordinator Signature: Alyssa Haugen

Date: 3/29/2023 2:35:01 PM

NOTE: This is an earlier version of the fiscal note for HF100-8A.
The most current version is available on the Fiscal Note Search Site: <https://www.mn.gov/mmbapps/fnsearchlbo/>

Phone: 651-201-3416

Email: alyssa.haugen01@state.mn.us

Fiscal Note

2023-2024 Legislative Session

HF100 - 8A - Legalize Cannabis

Chief Author: **Zack Stephenson**
 Committee: **Ways And Means**
 Date Completed: **3/31/2023 8:18:31 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	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	9,680	8,186	8,186	8,186
State Government Special Rev	-	1,994	7,455	9,549	15,799
Total	-	11,674	15,641	17,735	23,985
Biennial Total			27,315		41,720

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	15.2	9.2	9.2	9.2
State Government Special Rev	-	(7.14)	(14.28)	(14.28)	(14.28)
Total	-	8.06	(5.08)	(5.08)	(5.08)

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: Kate Schiller **Date:** 3/29/2023 10:09:42 PM
Phone: 651-296-6052 **Email:** kate.schiller@lbo.mn.gov

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	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	9,680	8,186	8,186	8,186
State Government Special Rev	-	1,994	7,455	9,549	15,799
Total	-	11,674	15,641	17,735	23,985
Biennial Total			27,315		41,720
1 - Expenditures, Absorbed Costs*, Transfers Out*					
General Fund	-	9,680	8,186	8,186	8,186
State Government Special Rev	-	(1,712)	(3,424)	(3,424)	(3,424)
Total	-	7,968	4,762	4,762	4,762
Biennial Total			12,730		9,524
2 - Revenues, Transfers In*					
General Fund	-	-	-	-	-
State Government Special Rev	-	(3,706)	(10,879)	(12,973)	(19,223)
Total	-	(3,706)	(10,879)	(12,973)	(19,223)
Biennial Total			(14,585)		(32,196)

Bill Description

This bill establishes a regulatory framework for adult-use cannabis and lower-dose cannabinoid products, moves the medical cannabis program out of the Department of Health into the newly created Office of Cannabis Management, 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, provides for temporary regulation of hemp-derived edible cannabinoid products, reschedules marijuana, and appropriates money.

The bill specifically tasks the Department of Health with health-related research and data collection activities to measure use of cannabis products in Minnesota by persons under 21, and 21 and over, development and delivery of cannabis education programs for youth and young adults, and education for pregnant and breastfeeding women; women who may become pregnant; and home visiting programs and tribal home visiting programs.

This bill directs the Department of Health to temporarily regulate products containing hemp-derived cannabinoids, including products that contain CBD and edible products that contain up to 5 milligrams of THC per serving.

Additionally, the bill grants expungements to anyone who has committed certain cannabis possession offenses, from which, an increase in petitions to expunge MDH records is expected to occur.

There is a blank appropriation in the bill for MDH.

Technical Comment

The bill requires the department to submit a completed initial assessment that reports on the prevalence of cannabis flower use and the use of cannabinoid products in the state to the legislature by July 1, 2024. The current existing data collection tools that the department uses to measure consequential health outcomes in the state does not collect all the required data elements, so the department will not be able to include all required elements in the July 1, 2024, report.

Assumptions

Office of Cannabis Management

Effective January 1, 2024, the powers and duties of The Office of Medical Cannabis are transferred to the Office of Cannabis Management and becomes the Division of Medical Cannabis. This transfer will result in an elimination in base authority in the general fund and state government special revenue fund for the Office of Medical Cannabis within the department which can be viewed in the Minnesota Management and Budget February 2023 state economic forecast and the 2024-25 Governor's Biennial Budget book for health.

Cannabis Advisory Council

The bill names the Cannabis Advisory Council names the Commissioner of Health of a designee as a member of the Council. MDH assumes that service will be part of regular duties and there will be de minimis costs.

Studies; Reports

The Office of Cannabis Management will submit an annual report to the legislature. As part of the annual report, the office will recommend funding levels for a coordinated education program to address and raise public awareness about the top three adverse health effects, as determined by the commissioner of health, associated with the use of cannabis flower or cannabinoid products by individuals under 21 years of age. The department assumes no cost for making these determinations.

Cannabis Cultivator Operations

A licensed cultivator must present cultivation records to the office, the commissioner of agriculture, or the commissioner of health upon request. The department assumes no cost for this provision.

Automatic Expungement of Certain Cannabis Offenses

This section grants expungements to anyone who has committed certain cannabis possession offenses and requires an expungement order to be sent to "each agency and jurisdiction whose records are affected by terms of the order" The Background Study Act, Minnesota Statutes, section 245C.03, subdivision 5a (6)d, requires petitions and orders for expungement to be served upon and directed toward the commissioner in order for the expungement order to affect records obtained or sought to be obtained by the Department of Health for background study purposes. MDH currently receives and processes expungement petitions and orders in a joint effort with the Department of Human Services.

Expungement and Resentencing of Felony Cannabis Offenses

Cannabis Expungement Board

This section establishes a Cannabis Expungement Board whose duties are to review records and notify the judicial branch of individuals that qualify for expungement and instructs the Board to complete its work by June 30, 2028.

MDH assumes expungement orders will be issued in marijuana-only possession cases charged under Minnesota Statutes, sections 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; and 152.027, subd. 3 or 4. MDH assumes data on adult criminal cases filed from 2017 to 2019 that have no charges other than marijuana possession is representative of historical cases since adoption of the offenses eligible for expungement.

MDH assumes a total of 132,000 expungement orders will be issued pursuant to Section 4, subdivision 3, and Section 5, subdivision 10. Data from the Court Services Division of the Minnesota Judicial Branch indicate that the three-year average cited in Assumption 2 is 4,000 marijuana possession charges per year. The relevant crimes eligible for expungement have existed for 34 years since 1989.

MDH assumes that, because the Cannabis Expungement Board is required to complete its work by June 30, 2028, the Board will process 26,400 orders each year for five years. MDH assumes 20% of individuals who receive expungement orders will petition to have the records held by MDH expunged.

According to data obtained from the Department of Human Services, MDH currently receives and processes approximately 1,000 expungement orders and petitions per year. The department requires 0.7 FTE staff to perform these additional expungement-related administrative tasks.

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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 years of age and persons 21 years of age and over. The activity includes a baseline statewide assessment report due by July 1, 2024, with subsequent reports with updated data to be issued beginning January 1, 2025, and every two years thereafter. The report may also include data to inform interventions to discourage cannabis use persons under 21 and pregnant or breastfeeding women and prevent access by young children.

The data required in the initial assessment includes: the current age of the customer; the age at which the customer began consuming cannabis flower or cannabinoid products; whether the customer consumes cannabis flower or cannabinoid products, and by type of cannabinoid product if applicable; the amount of cannabis flower or cannabinoid product typically consumed at one time; the typical frequency of consumption; and other criteria specified by the commissioner.

MDH utilizes several existing data collection tools that are 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 collection tools by adding additional questions and work with contracted surveying organizations when applicable. The baseline assessment for 2024 would be based on the existing limited question set for cannabis use, but future reports would include additional required data once questions are added.

MDH will work with the Office of Cannabis Management (OCM) to use data from the International Cannabis Policy Study to assess and monitor cannabis use in the state. Minnesota has participated in this study and has two years of baseline data collected. We assume the OCM will work with the study organizers to possibly add additional questions to ensure there is a comprehensive picture of cannabis use in Minnesota. Any costs associated with this study will be budgeted by the OCM.

Current available data (and potentially future biennial reports) come with the following limitations. 1) MDH does not currently collect data on age of onset; 2) it will be difficult to measure the amount of product used based on multiple delivery methods available; 3) there is not a clear definition of what is considered a cannabis product or a cannabinoid of interest (e.g., delta-8, HHC, or THC).

The following existing survey tools would allow MDH to collect the data listed above: Behavioral Risk Factors Surveillance System (BRFSS); Pregnancy Risk Assessment Monitoring System (PRAMS); Minnesota Student Survey (MSS) grades 5, 8, 9, 11, in schools every 3 years (next one in 2025); and the Minnesota Youth Tobacco Survey (MYTS) grades 6-12, in schools every 3 years (next one in 2026).

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 to develop and validate appropriate questions and methodologies to capture the requested data, coordinate with other data owners to develop recommendations, and 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.

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 Institutional Review Board (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.

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 over 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. Going forward, the additional PRAMS and BRFSS questions will serve as the ongoing adult (21 years of age and older) cannabis data required for subsequent biennial reports.

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 and MYTS) and adults (BRFSS and 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 survey 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, however MDH assumes that collection of data only based on the assumptions above. Additionally, MDH will review national data on drug use to determine if data are available that may provide information on cannabis use among adults and youth in Minnesota.

Cannabis Education Programs

This section requires MDH to develop and implement multiple cannabis education efforts. MDH must raise public awareness about and address the top three adverse health effects associated with cannabis use among persons under age 21. It is assumed that health effects include physiologic, psychological, spiritual, and social health is assessed holistically. Health effects likely will vary over time. To accomplish this, MDH assumes it will need to develop contracts with media experts in messaging, mode delivery, media buys, etc. Contractors and staff members will be recruited with expertise in youth messaging, delivery, evaluation, data visualization, effective program design, and health impact measurement. In the first two years, the contractors will test messaging, test mode and channel delivery, and evaluate reception, and change over time.

The focus for MDH is to complement the school-age focus of Minnesota Department of Education. In addition, MDH reach will emphasize the non-school (or out of school) populations and those immediately post high school.

MDH expertise will focus on collaboration, coordination, best practice implementation, short and long cycle evaluation. MDH must remain nimble and responsive to real-time data. Based on our understanding of how substance use among one generation impacts the next generation, it will also be imperative to address adult use education, awareness, and prevention. This will reduce Adverse Childhood Experiences (ACEs) and help to interrupt the cycle of addiction.

MDH requires 3.0 FTE staff to implement the youth education program.

In addition to a youth education program, this section of the bill requires education for pregnant and breastfeeding women; women who may become pregnant; and home visiting programs and tribal home visiting programs.

The bill directs MDH to conduct a long-term, coordinated program to educate pregnant women, breast-feeding women and women who may become pregnant on the adverse effects of prenatal exposure to cannabis products and adverse effects experienced by exposed infants and children.

MDH assumes that we will direct and administer an annual contract that includes identification, development, evaluation, and dissemination of evidence-based strategies for a digital marketing and 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 and for use in home visiting programs.

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. MDH assumes a total of ten grants for community-based coordination and educational messaging and eleven grants to tribal communities. An additional contract would be established with external partners who are maternal and child health experts to advise and guide MDH on appropriate cannabis screening tools to use in various community-based public health settings.

3.5 FTE 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 and contribute to reporting requirements.

Temporary Regulations of Certain Products

MDH assumes this section of the bill is effective the day following enactment and that MDH is granted regulatory authority over the sale of any product that contains cannabinoids extracted from hemp and that is an edible cannabinoid product or is intended for human or animal consumption by any route of administration. The legislation clarifies this responsibility may transfer to the new office.

The commissioner is to enforce this section under the Health Enforcement Consolidation Act and is expected to perform inspections and take enforcement action as necessary.

To ensure compliance with product laboratory testing, labeling, packaging, age-verification, and all other statutory requirements MDH will require staff to establish an edible cannabinoid product enforcement unit. The unit will require twelve FTE staff, which will include a supervisor, three registration staff, a laboratory testing expert, and seven field inspectors. In addition, MDH assumes the need to procure a contractor to provide temporary support for application processing during the initial months of registration and during the annual renewal periods. Inspection staff will incur costs related to statewide travel, which includes mileage, fleet vehicles, and associated business expenses.

Businesses selling edible cannabinoid products are required to register with the commissioner of health by October 1, 2023. MDH is prohibited from charging a fee for registration. MDH estimates that there are currently approximately 9,000 retailers selling edible cannabinoid products and assumes that number will continue to grow. MDH assumes that an IT solution will need to be built for retailers to submit applications for registration. MNIT estimates the cost to build an automated registry for retailers and annual maintenance. MDH assumes the need for a communications plan and associated campaign to educate retailers on the requirements and process for becoming registered with the state.

We assume that enforcement of this article will transition to the new office effective January 1, 2024.

Expenditure and/or Revenue Formula

Fiscal Tracking

FUND	BACT	DESCRIPTION	FY 2024	FY 2025	FY 2026	FY 2027
		Total Expenditures Only	7,968	4,762	4,762	4,762
		GF Expenditures Only	9,680	8,186	8,186	8,186
		SGSR Total Expenditures Only	(1,712)	(3,424)	(3,424)	(3,424)
GF	1	Pregnant and Breastfeeding Edu. - Grants	210	210	210	210
GF	1	Pregnant and Breastfeeding Edu. - Admin	3,690	3,690	3,690	3,690
GF	1	Data Collection and Reports	493	493	493	493
GF	1	Youth Prevention Edu. - Grants	1,500	1,500	1,500	1,500
GF	1	Youth Prevention Edu. - Admin	3,003	3,003	3,003	3,003
GF	3	Background Studies/Expungement	71	71	71	71
GF	1	OMC regulation of TCH	1,107	0	0	0
GF	1	GF Estimated Cancellation	(394)	0	0	0

SGSR	1	SGSR Estimated Cancellation	(1,712)	0	0	0
GF	1	GF Base Eliminated	0	(781)	(781)	(781)
SGSR	1	SGSR Base Eliminated	0	(3,424)	(3,424)	(3,424)
SGSR	Rev.	SGSR Revenue Loss	(3,706)	(10,879)	(12,973)	(19,223)

Full-Time Equivalent Staff

FUND	BACT	DESCRIPTION	FY 2024	FY 2025	FY 2026	FY 2027
		TOTAL FTE	8.06	(5.08)	(5.08)	(5.08)
GF	1	Pregnant and Breastfeeding Edu.	3.50	3.50	3.50	3.50
GF	1	Data Collection and Reports	2.00	2.00	2.00	2.00
GF	1	Youth Prevention Edu.	3.00	3.00	3.00	3.00
GF	1	Background Studies/Expungement	0.70	0.70	0.70	0.70
GF	1	OMC regulation of TCH	6.00	0.00	0.00	0.00
SGSR	1	OMC to OCM	(7.14)	(14.28)	(14.28)	(14.28)

Health Improvement Cancellation and Base Reduction

The forecast base in the Health Improvement budget program at MDH for Medical Cannabis is \$781,000 per year in the general fund and \$3,424,000 per year in the state government special revenue fund. For purposes of this fiscal note, we estimate the cancellation of half of this budget authority in fiscal year 2024. In fiscal year 2025 and ongoing, the Medical Cannabis base at the department would be eliminated.

Forecast revenue to the state government special revenue fund for Medical Cannabis is \$7,411,000 in 2024, \$10,879,000 in 2025, \$12,973,000 in 2026, and \$19,223,000 in 2027. The revenue loss to MDH credited to the state government special revenue fund in fiscal year 2024 is projected a half of the forecast amount, with the full forecasted amount reduced ongoing.

Expenditures Youth Prevention

Expenditure (Actual Dollars)	Amount	FY 2024	FY 2025	FY 2026	FY 2027
Salary & Fringe:		FTE	FTE	FTE	FTE
Planner Principal State	129,602	1.00	1.00	1.00	1.00
Management Analyst 2	107,318	1.00	1.00	1.00	1.00
State Program Admin Principal	129,602	1.00	1.00	1.00	1.00
	FTE	3.00	3.00	3.00	3.00
	Subtotal	366,522	366,522	366,522	366,522
Other Operating Costs:					
Contract to evaluate grant program and campaign effectiveness; outcomes (1 contract @ \$100K)		100,000	100,000	100,000	100,000
Contract for statewide youth education program which may include an awareness campaign (1 contract @ \$2M)		2,000,000	2,000,000	2,000,000	2,000,000
Contract(s) for youth engagement and consultation; testing messages and communication strategies for different ages, culturally specific groups, including tribal communities (12 contract @ \$25K)		300,000	300,000	300,000	300,000

	Subtotal	2,400,000	2,400,000	2,400,000	2,400,000
Grants, Aids & Subsidies:					
15 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 (15 grants @ \$100K)	100,000	1,500,000	1,500,000	1,500,000	1,500,000
	Subtotal	1,500,000	1,500,000	1,500,000	1,500,000
Indirect (20.3% Eligible Costs)	Subtotal	236,804	236,804	236,804	236,804
Expenditure	Total	4,503,326	4,503,326	4,503,326	4,503,326
Fiscal Tracking (Dollars in Thousands)		FY 2024	FY 2025	FY 2026	FY 2027
Health Improvement BACT 01		4,503	4,503	4,503	4,503
Administration		3,003	3,003	3,003	3,003
Grants		1,500	1,500	1,500	1,500

Expenditures Pregnant/Breastfeeding Education

Expenditure (Actual Dollars)	Amount	FY 2024	FY 2025	FY 2026	FY 2027
Salary & Fringe:		FTE	FTE	FTE	FTE
State Prog Admin Prin	129,602	1.00	1.00	1.00	1.00
Health Educator 2	107,318	1.00	1.00	1.00	1.00
Student Worker Para Prof Sr	75,368	0.50	0.50	0.50	0.50
Planner Intermediate	107,318	1.00	1.00	1.00	1.00
	FTE	3.50	3.50	3.50	3.50
	Subtotal	381,922	381,922	381,922	381,922
Other Operating Costs:					
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
	Subtotal	2,650,000	2,650,000	2,650,000	2,650,000
Grants, Aids & Subsidies:					
Community Prevention Grants (10 grants)		100,000	100,000	100,000	100,000
Tribal Prevention Grants (10 grants)		110,000	110,000	110,000	110,000

	Subtotal	210,000	210,000	210,000	210,000
Indirect (20.3% Eligible Costs)	Subtotal	658,110	658,110	658,110	658,110
Expenditure	Total	3,900,032	3,900,032	3,900,032	3,900,032
Fiscal Tracking (Dollars in Thousands)		FY 2024	FY 2025	FY 2026	FY 2027
Health Improvement BACT 01		3,900	3,900	3,900	3,900
Administration		3,690	3,690	3,690	3,690
Grants		210	210	210	210

ExpendituresData Collection

Expenditure (Actual Dollars)	Amount	FY 2024	FY 2025	FY 2026	FY 2027
Salary & Fringe:		FTE	FTE	FTE	FTE
Research Scientist 3	145,917	1.00	1.00	1.00	1.00
Planner Principal State	129,602	1.00	1.00	1.00	1.00
	FTE	2.00	2.00	2.00	2.00
	Subtotal	275,519	275,519	275,519	275,519
Other Operating Costs:					
PRAMS Printing and Supplies		7,000	7,000	7,000	7,000
BRFSS Contract Supplement		50,000	50,000	50,000	50,000
PRAMS Contract Supplement		12,000	12,000	12,000	12,000
MYTS, MSS, and other Contract Supplement		50,000	50,000	50,000	50,000
PRAMS Survey Participant Incentives		15,000	15,000	15,000	15,000
	Subtotal	134,000	134,000	134,000	134,000
Indirect (20.3% Eligible Costs)	Subtotal	83,132	83,132	83,132	83,132
Expenditure	Total	492,651	492,651	492,651	492,651
Fiscal Tracking (Dollars in Thousands)		FY 2024	FY 2025	FY 2026	FY 2027
Health Improvement BACT 01		493	493	493	493
Administration		493	493	493	493
Grants		0	0	0	0

ExpendituresBackground Studies/Expungement

Expenditure (Actual Dollars)	Amount	FY 2024	FY 2025	FY 2026	FY 2027
Salary & Fringe:		FTE	FTE	FTE	FTE
<i>Background Studies/Expungement</i>					
Office & Admin Specialist	81,902	0.60	0.60	0.60	0.60
Office Services Supervisor	98,851	0.10	0.10	0.10	0.10
	FTE	0.70	0.70	0.70	0.70

	Subtotal	59,026	59,026	59,026	59,026
Indirect (20.3% Eligible Costs)	Subtotal	11,982	11,982	11,982	11,982
Expenditure	Total	71,009	71,009	71,009	71,009
Fiscal Tracking (Dollars in Thousands)		FY 2024	FY 2025	FY 2026	FY 2027
Health Protection BACT 03		71	71	71	71
Administration		71	71	71	71
Grants		0	0	0	0

Expenditures Temporary Regulations of Certain Products

Expenditure (Actual Dollars)	Amount	FY 2024	FY 2025	FY 2026	FY 2027
Salary & Fringe:		FTE	FTE	FTE	FTE
State Prog Admin Sr	116,165	0.50			
Management Analyst 3	116,165	0.50			
Management Analyst 2	107,318	1.00			
State Prog Admin Prin (Supervisor)	129,602	0.50			
Planner Principal State (lead worker)	129,602	0.50			
State Prog Admin	101,848	3.00			
	FTE	6.00	0.00	0.00	0.00
	Subtotal	658,629	0	0	0
Information Technology:					
MNIT Registry for Retailers		68,700		0	0
	Subtotal	68,700	0	0	0
Other Operating Costs:					
Rose temp (5) full time staff contract		160,000			
Contract for communications		25,000			
Mileage		9,000			
Fleet Vehicles (2)		8,530			
Parking for Fleet (2)		1,000			
Legal Fees		12,000			
	Subtotal	215,530	0	0	0
Indirect (20.3% Eligible Costs)	Subtotal	163,995	0	0	0
Expenditure	Total	1,106,854	0	0	0
Fiscal Tracking (Dollars in Thousands)		FY 2024	FY 2025	FY 2026	FY 2027
Health Improvement BACT 01		1,107	0	0	0
Administration		1,107	0	0	0
Grants		0	0	0	0

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Minnesota Youth Tobacco Survey:
<https://www.health.state.mn.us/data/mchs/surveys/tobacco/index.html>

Minnesota Pregnancy Risk Assessment Monitoring System (PRAMS):
<https://www.health.state.mn.us/people/womeninfants/prams/index.html>

Behavioral Risk Factor Surveillance System (BRFSS):
<https://www.health.state.mn.us/data/mchs/surveys/brfss/index.html>

Minnesota Student Survey:
<https://www.health.state.mn.us/data/mchs/surveys/mss/index.html>

Minnesota Adult Tobacco Survey (MATS):
<https://www.health.state.mn.us/data/mchs/surveys/mats/index.html>

International Cannabis Policy Study

2024-2025 Governor's Biennial Budget:
<https://mn.gov/mmb-stat/documents/budget/2024-25-biennial-budget-books/governors-recommendations-january/health.pdf>

Minnesota Management and Budget February 2022 Economic Forecast:
<https://mn.gov/mmb-stat/000/az/forecast/2023/budget-and-economic-forecast/february.pdf>

Agency Contact:

Agency Fiscal Note Coordinator Signature: Char Kimber

Date: 3/29/2023 6:51:49 PM

Phone: 651-201-4685

Email: health.fiscalnotes@state.mn.us

Fiscal Note

2023-2024 Legislative Session

HF100 - 8A - Legalize Cannabis

Chief Author: **Zack Stephenson**
 Committee: **Ways And Means**
 Date Completed: **3/31/2023 8:18:31 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	
	FY2023	FY2024	FY2025	FY2026	FY2027
Dollars in Thousands					
General Fund	-	1,071	972	972	972
Total	-	1,071	972	972	972
Biennial Total			2,043		1,944

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	9	9	9	9
Total	-	9	9	9	9

LBO Analyst's Comment

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

There are multiple sections in this bill that DHS would be unable to implement and therefore unable to provide a cost estimate for. The amounts in the DHS fiscal note only include costs for the sections that DHS would be able to implement. The following are sections that DHS is unable to estimate: Article 1, Section 4, Studies; Reports: This section as written is not able to be priced by DHS. Per the DHS fiscal note, the language is unclear as to what is needed for the data for rates in which people enter the states mental health and substance use disorder (SUD) systems. It is unclear as to whether or not the data is only for tracking people entering state operated facilities. If the study is for a larger scope of data, additional funding will be needed to determine data on people entering mental health systems. Article 1, Section 69 [342.72] Substance Use Treatment, Recovery, and Prevention Grants: This section as written is not able to be priced by DHS. Per the DHS fiscal note, this section notes that the Office of Cannabis Management will administer the grants while Section 71 under the Substance Use Advisory Council implies that DHS will be making recommendations on grants and projects to the advisory council. In addition, the language does not indicate how the grant funding appropriation will be determined. Finally, the provider rate increases are administered through the DHS forecast and cannot be provided through a special revenue grant program. If the grants are appropriated to DHS, there will be administrative costs to this section.

LBO Signature: Steve McDaniel **Date:** 3/30/2023 12:15:28 PM
Phone: 651-284-6437 **Email:** steve.mcdaniel@lbo.mn.gov

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	FY2023	FY2024	FY2025	FY2026	FY2027	
General Fund	-	1,071	972	972	972	972
Total	-	1,071	972	972	972	972
Biennial Total			2,043			1,944
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	1,071	972	972	972	972
Total	-	1,071	972	972	972	972
Biennial Total			2,043			1,944
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

This fiscal note is based on the 7th engrossment with the A83 and A72 amendments.

Article 1, Section 4, Studies; Reports

This section requires the Office of Cannabis Management (OCM) to report on rates that people enter the state’s mental health and substance use disorder (SUD) systems: At a minimum, the report shall include information about the number of people admitted to emergency rooms for treatment of a mental illness or substance use disorder, ordered by a court to participate in mental health or substance use programming, and who voluntarily agreed to accept mental health or substance use treatment or admission to a state-operated treatment program or treatment facility. The office shall submit the report by January 15, 2027, and the report may be combined with the annual report submitted by the office.

Article 1, Sec. 69 [342.72] Substance Use Disorder Treatment and Prevention Grants

A substance use disorder treatment and prevention grant account is created in the special revenue fund. Money in the account, including interest earned, is appropriated to the Office of Cannabis Management for the purposes specified in this section.

Subd 2: Allows for the acceptance of gifts and grants.

Subd 3: Specifies how the grant funding can be distributed and expended:

75% of the funding is for substance use disorder treatment under section 245G.01, subdivision 24 including substance use disorder provider rate increases. The Office of Cannabis Management shall consult with the Department of Human Services on the rate increases or modifications.

20% of the funding is for substance use disorder prevention.

5% of the funding is for educating pregnant women, breastfeeding women and women who may become pregnant on the adverse health effects of substance abuse.

The Department of Human Services, the Department of Health and the Substance Use Disorder Advisory Council will coordinate in developing an application process, grant requirements, and eligibility and reporting requirements for grant recipients.

Article 1, Sec. 71 Substance Use Advisory Council

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, MDH, and MMB 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.

Article 1, Section 74 Substance Use Disorder Advisory Council First meeting

This subdivision directs the Commissioner of human services to direct the first meeting of the Council no later than October 1, 2023.

Article 5, Section 4 (adds 609A.05, AUTOMATIC EXPUNGEMENT OF CERTAIN CANNABIS OFFENSES)

Subd. 1: Establishes eligibility for an order of expungement.

Subd. 2: Establishes when and how records will be sealed and how DHS will receive data on expungements.

Effective August 1, 2023.

Article 5, Section 5 (adds 609A.06, EXPUNGEMENT AND RESENTENCING OF FELONY 182.20 CANNABIS OFFENSES)

Subd. 1: Establishes the Cannabis Expungement Board, including membership, powers, and duties.

Subd. 2: Outlines eligibility for cannabis expungement.

Subd. 3: Requires the Bureau of Criminal Apprehension (BCA) to identify records that are eligible for expungement.

Subd. 4: Outlines the Cannabis Expungement Board's access to records.

Subd. 5: Establishes parameters for board meetings, including handling of private data.

Subd. 6: Describes the processes for the board to conduct reviews and make determinations.

Subd. 7: Requires the board to submit an annual report.

Subd. 8: Describes notifications that the board is required to give to the judicial branch and to the person whose conviction or stay of adjudication qualifies for an order of expungement. that the offense qualifies and notice is being sent to the judicial branch. Requires the notice sent to the individual to inform them that, following the order of expungement, any records of an arrest, conviction, or incarceration should not appear on any background check or study.

Subd. 9: Classifies as private data any data in which each victim of a crime and person whose conviction or stay of adjudication that the board reviews that can be identified as the subject of the data.

Subd. 10: Establishes the process for issuing an order of expungement.

Subd. 11: Details parameters for resentencing.

Effective August 1, 2023.

Article 9: Appropriations:

Subd. 9: Specifies the appropriations for the Department of Human Services for background services, the Substance Use Advisory Council and systems costs.

Assumptions

Office of Inspector General Background Studies

Implementation of the bill will result in a substantial increase in workload beyond the existing high volume of background studies, requiring 8.0 FTEs within the DHS Office of Inspector General Background Studies and Chief Legal Counsel divisions, as well as modifications to the NETStudy 2.0 IT system.

Implementation of the bill will result in an increase in:

Amount of time legal staff spend processing expungement orders, which includes opening mail, looking up the person to see if they have a record in our system, analyzing the expungement order, and documenting the expungement.

Phone calls and emails coming into the call center;

Amount of time background study and legal staff review records for cannabis-related crimes before records are expunged. Once records are expunged, there will be an increase in the number of people who will qualify for employment providing care for or having direct contact with vulnerable adults and children.. While this may result in an increase of new background study applications, the fiscal impact described herein does not account for this potential increase in volume, which is assumed to be offset by fee revenue.

Number of police and court records requested for controlled substance crimes.

8 OIG FTEs required to implement the requirements of this bill are as follows:

Background Studies Division

- o 1 FTE for the Contact Center
 - 1 Human Services Program Specialist 1 (MAPE 05L)
- o 1 FTE for the research team
 - 1 Human Services Program Representative 1 (MAPE 11L)
- o 2 FTE for systems development and maintenance
 - 2 Management Analyst 4 (MAPE 15L)

Chief Legal Counsel Division

- o 1 FTE Attorneys (MAPE 19L)
- o 2 FTE Senior Legal Process Coordinators (MAPE 11L)
- o 1 FTE Legal Process Coordinators (MAPE 8L)

FTE costs are assumed to begin October 1, 2023, and require an up-front administrative cost of \$17,744, and ongoing monthly administrative costs of \$2,228. Fringe benefits are estimated using the most recent union contracts.

IT systems changes would be required for the NETStudy 2.0 system, including

Establishing the ability to NOT disqualify for certain cannabis-related crimes point-forward.

Establishing a data feed from the MN Bureau of Criminal Apprehension (BCA) which allows for the creation of an integrated expungement registry based on BCA data to identify individuals who have expungements for one or more of the cannabis offenses.

Ability to record new expungements in NETStudy 2.0

Changes to the NETStudy 2.0 system will be completed by DHS's external vendor. They are expected to take 1,040 hours to complete at an estimated cost of \$322,380, which includes a 20% contingency. .

Finally, the estimated number of police and court records for controlled substances will increase, costing the about \$20,000. DHS pays an average of \$13 each time it needs to request police and court records from other states. Currently DHS requests an average of 195 out-of-state records each month (for all types of crimes).

Article 1, Section 4, Studies; Reports:

This section as written is not able to be priced. The language is unclear as to what is needed for the data for rates in which people enter the state's mental health and substance use disorder (SUD) systems. It is unclear as to whether or not the data is only for tracking people entering state operated facilities. If the study is for a larger scope of data, additional funding will be needed to determine data on people entering mental health systems.

Article 1, Sec. 69 [342.72] Substance Use Disorder Treatment and Prevention Grants:

This section as written, cannot be priced. This section notes that the Office of Cannabis Management will administer the grants while Section 65 under the Substance Use Advisory Council implies that the Department of Human Services will be making recommendations on grants and projects to the advisory council. In addition, the language does not indicate how the grant funding appropriation will be determined. Finally, the provider rate increases are administered through the Department of Human Services forecast and cannot be provided through a special revenue grant program.

If the grants are appropriated to the Department of Human Services, there will be administrative costs to this section.

Article 1, Sec. 71 Substance Use Advisory Council

DHS will also be 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)
- 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.

FTE costs are assumed to begin October 1, 2023, and require an up-front administrative cost of \$17,744, and ongoing monthly administrative costs of \$2,228. Fringe benefits are estimated using the most recent union contracts.

Expenditure and/or Revenue Formula

Fiscal Tracking Summary (\$000's)						
Fund	BACT	Description	FY2024	FY2025	FY2026	FY2027
GF	11	OIG 8 FTEs	1,023	1,175	1,175	1,175
GF	11	P/T Contract NETStudy 2.0 Vendor	322	-	-	-
GF	11	Police and Court Record Expenses	20	20	20	20
GF	REV1	OIG Admin FFP @32%	(430)	(376)	(376)	(376)
GF	15	Substance Abuse Advisory Council 1 FTE	141	165	165	165
GF	15	Substance Abuse Advisory Council Admin	60	60	60	60
GF	REV1	BHDH Admin FFP @32%	(64)	(72)	(72)	(72)
		Total Net Fiscal Impact	1,071	972	972	972
		Full Time Equivalents	9	9	9	9

*There are multiple sections in this bill that DHS would be unable to implement and therefore unable to provide a cost estimate for. Those sections have been identified in the assumptions section. The amounts in this table only include costs for those sections DHS would be able to implement.

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Agency Contact:

Agency Fiscal Note Coordinator Signature: Chris Zempel

Date: 3/30/2023 11:42:02 AM

NOTE: This is an earlier version of the fiscal note for HF100-8A.
The most current version is available on the Fiscal Note Search Site: <https://www.mn.gov/mmbapps/fnsearchlbo/>

Phone: 651-247-3698

Email: christopher.zempel@state.mn.us

Fiscal Note

2023-2024 Legislative Session

HF100 - 8A - Legalize Cannabis

Chief Author: **Zack Stephenson**
 Committee: **Ways And Means**
 Date Completed: **3/31/2023 8:18:31 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) Dollars in Thousands	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	116	123	123	123
Total	-	116	123	123	123
Biennial Total			239		246

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
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: Karl Palm **Date:** 3/30/2023 7:45:24 AM
Phone: 651-296-6055 **Email:** karl.palm@lbo.mn.gov

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	FY2023	FY2024	FY2025	FY2026	FY2027	
General Fund	-	116	123	123	123	123
Total	-	116	123	123	123	123
Biennial Total			239			246
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	116	123	123	123	123
Total	-	116	123	123	123	123
Biennial Total			239			246
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

This bill relates to cannabis, requiring reports related to cannabis use and sales, legalizing and limiting the possession and use of cannabis by adults, providing for the licensing, inspection, and regulation of cannabis businesses, requiring testing of and labeling of cannabis flower and cannabinoid products, limiting the advertisement of cannabis flower, cannabinoid products, and cannabis businesses, providing for the cultivation of cannabis in private residences, transferring regulatory authority for the medical cannabis program, taxing the sale of adult-use cannabis, establishing grant and loan programs, amending criminal penalties, establishing expungement procedures for certain individuals, establishing labor standards for the use of cannabis by employees and testing of employees, providing for the temporary regulation of certain edible cannabinoid products, amending the scheduling of marijuana and tetrahydrocannabinols, classifying data, making miscellaneous cannabis-related changes and additions, making clarifying and technical changes, appropriating money, and amending various Minnesota statutes.

Establishment of the Cannabis Advisory Council, which includes the commissioner of labor or a designee.

Revises Minnesota statutes 175.45 to include occupations in the legal cannabis industry for development of competency standards for dual-training programs.

This bill appropriates \$121,000 in fiscal year 2024 and \$121,000 in fiscal year 2025 from the general fund to the Commissioner of Labor and Industry (DLI) to identify occupational competency standards and provide technical assistance for developing dual-training programs under Minnesota Statutes, section 175.45, for the legal cannabis industry.

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 these laws. When it does receive an inquiry, the Department 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.

The commissioner of Labor & Industry or a designee shall sit on the cannabis advisory council. DLI assumes the Office of Cannabis Management will incur most of the costs related to the board, such as space, supplies, refreshments, IT support, and per-diems. DLI does not anticipate the amount of time the Commissioner, or designee, would spend while participating on council duties would amount to any material costs or FTE.

Dual-Training Program Development:

This bill appropriates money for occupational competency model development and dual-training program consulting and technical assistance, specific to the legal cannabis industry.

DLI assumes that consistent with its current four industries, the Commissioner would consult with the Commissioner of the Department of Employment and Economic Development (DEED) in identification and development of competency standards (175.45) to support employers in building their own earn-and-learn dual-training programs. This consultation would encompass coordination with the proposed CanTrain program, which would award grants to eligible organizations to train people for work in the legal cannabis industry and eligible individuals to acquire such training. DLI assumes Minnesota Dual-Training Pipeline and CanTrain would support one another in the launch of occupational competency models and the creation of new related instruction which would result in the achievement of an industry-recognized credential.

DLI estimates 1.0 FTE (State Program Admin Sr MAPE 10L) is needed to develop new competency models for the legal cannabis industry. The individual in this role would also assist the Minnesota Office of Higher Education in promoting the expanded dual training grant program as well as provide technical assistance to employers looking to implement dual training for their employees. The staff member will be responsible for convening industry experts, representative employers, higher education institutions, representatives of the disabled community, and representatives of labor to assist in identifying credible competency standards for occupations in the legal cannabis industry.

Expenditure and/or Revenue Formula

State Program Admin Sr (MAPE-10L)	2024	2025	2026	2027
FTE	1	1	1	1
Salary per FTE (midpoint)	64,720	68,659	68,659	68,659
Fringe Benefits (35% of Salary)	22,652	24,031	24,031	24,031
Indirect (22.89% of Salary/Fringe)	19,999	21,217	21,217	21,217
Salary / Fringe / Indirect	107,371	113,906	113,906	113,906
Non-Personnel Services	8,881	8,881	8,881	8,881
Cumulative Cost	116,251	122,787	122,787	122,787

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Agency Contact: Kate Perushek, 651-284-5018

Agency Fiscal Note Coordinator Signature: Jacob Gaub

Date: 3/30/2023 5:51:41 AM

NOTE: This is an earlier version of the fiscal note for HF100-8A.
The most current version is available on the Fiscal Note Search Site: <https://www.mn.gov/mmbapps/fnsearchlbo/>

Phone: 652-284-5812

Email: jacob.gaub@state.mn.us

Fiscal Note

2023-2024 Legislative Session

HF100 - 8A - Legalize Cannabis

Chief Author: **Zack Stephenson**
 Committee: **Ways And Means**
 Date Completed: **3/31/2023 8:18:31 AM**
 Agency: **Minn Management and Budget**

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	FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
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: Susan Nelson **Date:** 3/29/2023 3:23:55 PM
Phone: 651-296-6054 **Email:** susan.nelson@lbo.mn.gov

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	FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-
Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Total	-	-	-	-	-
Biennial Total			-		-
2 - Revenues, Transfers In*					
Total	-	-	-	-	-
Biennial Total			-		-

Bill Description

Bill HF100 relates to oversight of cannabis within the state. Specifically, this bill establishes the Office of Cannabis Management and identifies other actions related to management of cannabis.

Article 1 Sec. 65 Subd. 1 Item 5 establishes The Substance Use Disorder Advisory Council to develop and implement a comprehensive and effective statewide approach to substance use disorder prevention and treatment. Part 5 articulates that consultation will occur with the commissioners of human services, health, and management and budget to develop measurable outcomes to determine the effectiveness of programs, projects, and initiatives.

Article 5 Sec. 5 Subd. 4 requires that the Cannabis Expungement Board have free access to records, including but not limited to all matters, files, documents, and papers incident to the arrest, indictment, information, trial, appeal, or dismissal, and discharge that related to a charge and conviction or stay of adjudication for possession of a controlled substance held by law enforcement agencies, prosecuting authorities, and court administrators. If any person fails or refuses to produce the above referenced records, the commissioner of management and budget or commissioner of administration, shall be compelled to comply or be punished for disobedience by any district court judge in county where subpoena was made returnable.

Article 5 Sec 5 Item B 4 articulates that the commissioner of one department of state government be appointed by the governor to the Cannabis Expungement Board. MMB assumes that the commissioner of management and budget will not be appointed.

Assumptions

MMB asserts that the impact of this bill is not easily quantifiable.

Article 1 Sec. 65 Subd. 1 Item 5 as currently drafted does not result in us anticipating additional resources as work can be accomplished within existing duties. However, if scope is expanded from original language additional costs may be incurred.

Compelling compliance with a subpoena would require expenditure of resources in either in Legal Services or through the AGO as written in Article 5 Sec. 5 Subd. 4.

Article 5 Sec 5 Item B 4 articulates that the commissioner of one department of state government be appointed by the governor to the Cannabis Expungement Board. MMB assumes that the commissioner of management and budget will not be appointed. If such an appointment were to occur, there could be fiscal impact.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Agency Contact: Ronika Rampadarat 651-201-8115

Agency Fiscal Note Coordinator Signature: Ronika Rampadarat

Phone: 612-659-6873

Date: 3/28/2023 5:14:17 PM

Email: ronika.rampadarat@state.mn.us

Fiscal Note

2023-2024 Legislative Session

HF100 - 8A - Legalize Cannabis

Chief Author: **Zack Stephenson**
 Committee: **Ways And Means**
 Date Completed: **3/31/2023 8:18:31 AM**
 Agency: **Minnesota 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	FY2023	FY2024	FY2025	FY2026	FY2027
Other Misc. Special Revenue	-	-	-	-	-	-
MN.IT Services	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Other Misc. Special Revenue	-	-	-	-	-
MN.IT Services	-	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: Susan Nelson **Date:** 3/30/2023 8:26:33 AM
Phone: 651-296-6054 **Email:** susan.nelson@lbo.mn.gov

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	FY2023	FY2024	FY2025	FY2026	FY2027	
Other Misc. Special Revenue	-	-	-	-	-	-
MN.IT Services	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Other Misc. Special Revenue	-	3,172	2,803	2,803	2,803	2,803
MN.IT Services	-	556	460	524	591	591
Total	-	3,728	3,263	3,327	3,394	3,394
Biennial Total			6,991			6,721
2 - Revenues, Transfers In*						
Other Misc. Special Revenue	-	3,172	2,803	2,803	2,803	2,803
MN.IT Services	-	556	460	524	591	591
Total	-	3,728	3,263	3,327	3,394	3,394
Biennial Total			6,991			6,721

Bill Description

This bill establishes a new agency and advisory council effective July 1, 2023 - the Office of Cannabis Management Board and Cannabis Advisory Council. The bill also specifies reporting requirements related to cannabis use and sales, legalizing and limiting the position and use of cannabis by adults and details licensing and related fee requirements as well as inspection and regulation of cannabis businesses.

Sec. 5 of the bill requires establishment of a statewide monitoring system for integrated cannabis tracking, inventory, and verification from seed to sale. The system must also allow cannabis businesses to submit monitoring data using monitoring system software and may also allowing submission of monitoring data through manual entry after approval. The bill also specifies licensure categories and details the licensing process that will be managed by the Office of Cannabis Management Board.

Assumptions

1. Total FTE count for the Office of Cannabis Management Board increases each year FY24-27 and is indicated in the FTE table in the expenditure and revenue section. In addition MNIT will need 8 FTEs to support IT needs of the Office of Cannabis Management Board.
2. All employees are assumed to be new hires.
3. Space requirement is approximately 10,000 sq.ft.
4. 10% of employees will be needed to manage the contact center.
5. Enterprise costs are based on the FY24-25 rate package.

Expenditure and/or Revenue Formula

FTE numbers:

	FY24	FY25	FY26	FY27
Cannabis Mgmt Board FTEs	6 3	75	97	119
MNIT FTEs	8	8	8	8
Total FTEs	71	83	105	127

Enterprise costs - summary

MNIT enterprise costs include a one-time set up cost of \$129,975 in the first year and annual ongoing costs detailed below.

	FY24	FY25	FY26	FY27
One-time set up costs	\$129,975			
Ongoing annual costs	\$425,946	\$459,628	\$523,375	\$591,038
Total MNIT Enterprise costs	\$555,920	\$459,628	\$523,375	\$591,038

Enterprise costs - details

Enterprise Service	Cost type	FY24	FY25	FY26	FY27
ISP circuit - Fixed cost	Fixed, one-time	\$1,200			
Low voltage cabling for computers and phones	FTE based, one-time	\$43,830			
Data closet - racks, UPS's, patch panels	FTE based, one-time	\$23,813			
WAN - Config and Install	Fixed, one-time	\$472			
LAN - Professional services (30 hours)	Fixed, one-time	\$3,562			
Wireless - Professional services (10 hours)	Fixed, one-time	\$1,187			
Purchase of phones	FTE based, one-time	\$34,925			
analog phones - fax machines, elevator	Fixed, one-time	\$300			
IP Phones installation; programming phones, 911 install (40 hours)	Fixed, one-time	\$4,749			
Website - Set up of a basic no-frills website	Fixed, one-time	\$10,000			

First week move-in support and help (50 hours)	Fixed, one-time	\$5,937			
Website	Fixed, ongoing	\$5,000	\$5,000	\$5,000	\$5,000
Telephone Contact Center Agent (10% of FTEs)	FTE based, ongoing	\$7,752	\$8,859	\$11,074	\$13,288
Telephone Contact Center Supervisor	FTE based, ongoing	\$2,051	\$2,051	\$2,051	\$4,102
Streaming Media Type 1 (for public communications/meetings)	Fixed, ongoing	\$1,548	\$1,548	\$1,548	\$1,548
Streaming Media Type 1 ((for public communications/meetings))	Fixed, ongoing	\$2,322	\$2,322	\$2,322	\$2,322
IPT Telephone services	FTE based, ongoing	\$17,100	\$19,867	\$25,094	\$30,480
822 - Telephone - NOTE CONF	Fixed, ongoing	\$3,000	\$3,000	\$3,000	\$3,000
ISP circuit AF-1000	Fixed, ongoing	\$24,000	\$24,000	\$24,000	\$24,000
774-WAN - Branch Office 101-500 Employees	Fixed, ongoing	\$38,744	\$38,744	\$38,744	\$38,744
LAN - port switches LAN 48	Fixed, ongoing	\$7,722	\$7,722	\$7,722	\$7,722
LAN Core small - dual LAN cores for LAN redundancy	Fixed, ongoing	\$8,855	\$8,855	\$8,855	\$8,855
Wireless access points (one access point for every 1000sq.ft)	Space (sq.ft) based, ongoing	\$3,103	\$3,103	\$3,103	\$3,103
analog phones - fax machines, elevator, panic button (3) 760	Fixed, ongoing	\$1,330	\$1,330	\$1,330	\$1,330
workstations- laptop - Assumes all employees will use laptops	FTE based, ongoing	\$64,997	\$75,515	\$95,384	\$115,854
workstation misc. - accessories, professional hours	Fixed, ongoing	\$3,000	\$3,000	\$3,000	\$3,000
Enterprise Software Bundle	FTE based, ongoing	\$61,953	\$71,979	\$90,917	\$110,429
Mobile Device Management - Advanced - email access on a state devices	FTE based, ongoing	\$11,004	\$12,785	\$16,148	\$19,614
Server, Data Storage & Backup, Cloud	Fixed, ongoing	\$100,000	\$100,000	\$100,000	\$100,000
MNIT Admin Charges - Security Core Services	FTE based, ongoing	\$27,191	\$31,591	\$39,903	\$48,466
MNIT Admin Charges - MNIT FTE based (HR)	MNIT FTE based, ongoing	\$16,223	\$16,223	\$16,223	\$16,223
MNIT Admin Charges - MNIT IT spend based (Finance, Procurement, Legal etc)	Fixed, ongoing	\$19,050	\$22,133	\$27,956	\$33,956
	Total Cost	\$555,920	\$459,628	\$523,375	\$591,038

Agency IT costs - Project and application maintenance costs

The table below shows the costs of building and maintaining the seed to sale monitoring system (aka "Track and Trace"), the Cannabis Licensing and Credentialing system, MNIT salaries, web services and other IT costs.

	FY2024	FY2025	FY2026	FY2027
Seed to Sale Monitoring System	\$370,000	\$370,000	\$370,000	\$370,000
Cannabis Licensing and Credentialing	\$2,152,000	\$837,000	\$837,000	\$837,000
Legacy system upgrades, integration and hosted services	\$100,000	\$100,000	\$100,000	\$100,000
Web Services	\$370,000	\$240,000	\$240,000	\$240,000
MNIT IT staff support	\$180,000	\$1,256,000	\$1,256,000	\$1,256,000

	\$3,172,000	\$2,803,000	\$2,803,000	\$2,803,000
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IT System Acquisition costs for Seed to Sale System and Cannabis Licensing and Credentialing System includes vendor services and licensing, MNIT support services (IT staff salaries) and business subject matter experts.

Web Services includes customer-facing web applications, business-technical staff, web design-build consulting and web hosting charges.

Long-Term Fiscal Considerations

Enterprise costs for FY25-26 will change based on the approved rates at that time.

Local Fiscal Impact

References/Sources

Agency Contact:

Agency Fiscal Note Coordinator Signature: Uma Venkat

Phone: 651-201-1218

Date: 3/30/2023 8:23:05 AM

Email: uma.venkat@state.mn.us

Fiscal Note

2023-2024 Legislative Session

HF100 - 8A - Legalize Cannabis

Chief Author: **Zack Stephenson**
 Committee: **Ways And Means**
 Date Completed: **3/31/2023 8:18:31 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	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	338	-	-	-	-
Total	-	338	-	-	-	-
Biennial Total			338			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	1.49	-	-	-
Total	-	1.49	-	-	-

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: Jim Carlson **Date:** 3/30/2023 9:29:08 AM
Phone: 651-284-6540 **Email:** jim.carlson@lbo.mn.gov

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	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	338	-	-	-
Total	-	338	-	-	-
Biennial Total			338		-
1 - Expenditures, Absorbed Costs*, Transfers Out*					
General Fund	-	338	-	-	-
Total	-	338	-	-	-
Biennial Total			338		-
2 - Revenues, Transfers In*					
General Fund	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-

Bill Description

This bill establishes a new Office of Cannabis Management and other advisory councils, legalizes possession and use of cannabis by adults, and amends several statutes related to regulations and technical oversight.

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 Office of Cannabis Management.

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.

Due to the unknown effects of implementing this bill, and the possibility of fiscal impacts from rulemaking or other guidance by the new Office of Cannabis Management, we are not able to produce sound estimates of other enforcement actions required by this bill.

Expenditure and/or Revenue Formula

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

Estimated average hourly rate salary and fringe for a DNR Enforcement Officer: \$100.96.

Salary cost for training = 16 hours x \$100.96 = \$1,615.36 per Officer; total salary = 194 X \$1,615.36 = \$313,380.

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

The total cost of training is estimated at \$338,380.

Long-Term Fiscal Considerations

We assume a recurring refresher training will be necessary every five years.

Local Fiscal Impact

none

References/Sources

none

Agency Contact: Rodmen Smith 612-237-6391

Agency Fiscal Note Coordinator Signature: Tyler Teggatz

Phone: 651-259-5304

Date: 3/30/2023 9:21:28 AM

Email: tyler.teggatz@state.mn.us

Fiscal Note

2023-2024 Legislative Session

HF100 - 8A - Legalize Cannabis

Chief Author: **Zack Stephenson**
 Committee: **Ways And Means**
 Date Completed: **3/31/2023 8:18:31 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	FY2023	FY2024	FY2025	FY2026	FY2027
Other Misc. Special Revenue	-	154	689	689	699	
Total	-	154	689	689	699	699
Biennial Total			843			1,388

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Other Misc. Special Revenue	-	.5	.5	.5	.5
Total	-	.5	.5	.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: Xunxuan Weerts **Date:** 3/29/2023 2:58:56 PM
Phone: 651-284-6438 **Email:** xunxuan.weerts@lbo.mn.gov

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		FY2023	FY2024	FY2025	FY2026	FY2027
Other Misc. Special Revenue	-	154	689	689	699	
Total	-	154	689	689	699	699
	Biennial Total		843			1,388
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Other Misc. Special Revenue	-	154	689	689	699	
Total	-	154	689	689	699	699
	Biennial Total		843			1,388
2 - Revenues, Transfers In*						
Other Misc. Special Revenue	-	-	-	-	-	-
Total	-	-	-	-	-	-
	Biennial Total		-			-

Bill Description

HF100-8A establishes a regulatory framework for adult-use cannabis and lower dose cannabinoid products, moves the medical cannabis program under the newly created Office of Cannabis Management, 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, provides for temporary regulation of hemp-derived edible cannabinoid products, reschedules marijuana, and appropriates money.

HF100-8A, Article 9, section 1, Subdivision 12 appropriates one-time funds to the Office of Higher Education (OHE) for a transfer to the Dual Training Grant account in the special revenue fund under Minnesota Statutes, section 136A.246, subdivision 10, for grants to employers in the legal cannabis industry. It also directs the OHE commissioner to give priority to employers who are, or who are training employees who are, eligible to be social equity applicants under Minnesota Statutes, section 342.70.

Assumptions

OHE assumes the Dual Training Pipeline Program at the Department of Labor and Industry will identify occupations and competency standards for one or more occupations in the legal cannabis industry. Without identified occupations and competency standards, OHE is not able to develop a Request for Application (RFA), accept grant applications, and make grants to employers in the legal cannabis industry.

OHE assumes the one time funds will be spent through FY2027

OHE is allowed to use 5% of the funds deposited to the Special Revenue Account for administration of the program per Minnesota Statutes 136A.246. It is important to note that the 5% or \$100,000 allowed for administration, is not sufficient to develop and administer the program. OHE would not be able to develop and administer the program without an additional \$129,432 in administrative funds. See the chart in the Expenditure/Revenue Formula section.

OHE assumes the following activities are required to expand the existing Dual Training Grant program to provide grants to employers in the legal cannabis industry with the prioritization required in the law:

- Develop relationships with representatives from relevant organizations, employers, professional organizations, institutional staff, professional governing boards, and others; and leverage developed relationships to market the program to potential applicants.
- Provide grant application and administration workshops and additional training for employers in the legal cannabis industry.

- Review, update, and publish a separate Request for Application (RFA). Initiate new application review and grant awarding process. Create and manage the grant review process, which could include the solicitation of external reviewers. Provide technical assistance to grant applicants.
- Develop or expand internal administrative tools to be used in the annual administration of the program. Write and process grant contracts. Review and approve grant payments, including finance reconciliation. Provide grant monitoring and oversight.
- Activities required to report or summarize the program activity: Clean, upload, and validate grantee and trainee participant data; Develop and update queries to produce summary data; Draft written and electronic materials; and Complete accessibility requirements prior to publication and dissemination of any reports.
- OHE would need to pay its technology vendor to modify its existing IT system to manage the new program. This would require time for business requirement documentation, application engineering, testing, documenting, training and deployment of the new features.
- Other operating costs each year for communications and supplies that are necessary for the staff to conduct their work.

Expenditure and/or Revenue Formula

Grants to Employers: OHE estimates it will begin awarding grants to employers in the legal cannabis industry in FY2025. Grant awards cannot be made until the Dual Training Pipeline Program at the Department of Labor and Industry identifies occupations and competency standards for one or more occupation in the legal cannabis industry. This is a one-time appropriation for a transfer to the Dual Training Grant account in the special revenue fund. As a result, OHE estimates it will make grant awards until the one-time funds are fully expended which may take multiple fiscal years depending on the number of grant awards and utilization of funds by grantees.

Staff: OHE estimates expenditures for administrative functions will begin in FY2024 in order to be prepared for grant award expenditures beginning in FY2025. Based on the activities required to administer the program discussed above, OHE estimates a 0.50 FTE State Program Administrator Principal salary would be required (\$97,216 salary and fringe x .50FTE = \$48,608)

Other operating costs:

IT costs: IT development work in addition to current activities would include total one-time cost in FY 2024 of \$100,000 (800hours * \$125/hour) for modifying OHE's financial aid system to add a new program by our current vendor. OHE anticipates IT maintenance costs of 5% per year or \$5,000 for FY2025-2027.

Communications: Initial cost of \$5,000 for OHE Communications to develop brochures, handouts, and other marketing materials to target employers in the Legal Cannabis Industry. These materials would then need to be revised, updated, and redistributed on an annual basis with a cost of \$5,000.

Summary Cost Table

Table 1: Total Costs

	FY24	FY25	FY26	FY27	Total
-					
Grants to Employers	\$0	\$630,000	\$630,000	\$640,000	
Staff (Salary and fringe)	\$48,608	\$48,608	\$48,608	\$48,608	
Communications	\$5,000	\$5,000	\$5,000	\$5,000	
IT	\$100,000	\$5,000	\$5,000	\$5,000	
Total Costs	\$153,608	\$688,608	\$688,608	\$698,608	\$2,229,432
Additional Admin Funding Required	\$103,608	\$8,608	\$58,608	\$58,608	\$229,432

As mentioned in the assumptions, OHE is allowed 5% of the appropriation or \$100,000 for administrative use. This would not be sufficient to develop and administer the program. Total costs of development and administration total \$329,432. OHE would require additional administrative funds of \$103,608 in FY24, \$8,608 in FY25, \$58,608 in FY26, and \$58,608 in FY27. Total additional need for FY24-27 would be \$229,432.

Long-Term Fiscal Considerations

It may take multiple fiscal years to fully expend the one-time funds depending on the demand for grant awards and utilization of funds by grantees. OHE will incur expenses related to grant administration each fiscal year until the one-time funds are exhausted.

Local Fiscal Impact

None

References/Sources

Internal projections and estimates developed by the OHE Financial Aid division.

Agency Contact: Megan FitzGibbon

Agency Fiscal Note Coordinator Signature: Poawit Yang

Phone: 651-259-3951

Date: 3/29/2023 2:55:42 PM

Email: poawit.yang@state.mn.us

Fiscal Note

2023-2024 Legislative Session

HF100 - 8A - Legalize Cannabis

Chief Author: **Zack Stephenson**
 Committee: **Ways And Means**
 Date Completed: **3/31/2023 8:18:31 AM**
 Agency: **Pharmacy 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	FY2023	FY2024	FY2025	FY2026	FY2027
Health Related Boards	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Health Related Boards	-	-	-	-	-
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: Shannon Zila **Date:** 3/27/2023 1:40:57 PM
Phone: 651-296-6053 **Email:** shannon.zila@lbo.mn.gov

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	FY2023	FY2024	FY2025	FY2026	FY2027	
Health Related Boards	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Health Related Boards						
Expenditures	-	8	-	-	-	-
Absorbed Costs	-	(8)	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-
2 - Revenues, Transfers In*						
Health Related Boards	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

The proposed language creates an Office of Cannabis Management (OCM), establishes the legal parameters for cannabis-containing products, and transitions the enforcement authority of Minnesota Statutes 151.72 from the Board of Pharmacy to the Commissioner of Health (Department of Health) effective the day following final enactment of the bill. The bill also repeals MN 151.72 effective July 1, 2024.

Assumptions

Per Article 7 Section 4(a) The Department of Health shall enforce the provisions of Minnesota Statutes, section 151.72 from the Board of Pharmacy to the Commissioner of Health. The Commissioner of Health in turn may assign enforcement responsibility to the Office of Cannabis Management. This transition of enforcement authority is effective the day following final enactment of the bill. The bill also repeals MN 151.72 effective July 1, 2024.

With the transfer of authority, the Board anticipates spending a minimum of 80 hours of pharmacist time to aid with the transition. This includes knowledge transfers as well as complaint and investigational data. (See expenses below)

Additionally, there is a potential for lawsuits for the Board of Pharmacy. This potential may continue after the authority is transferred from the Board of Pharmacy to the Department of Health and ultimately to the Office of Cannabis Management.

Expenditure and/or Revenue Formula

80 hours of pharmacist surveyor time to consolidate and prepare complaint material for the Department of Health

80 hours x \$99 (hourly comp with fringe for pharmacist) = \$7,920

Long-Term Fiscal Considerations

Unknown

Local Fiscal Impact

N/A

References/Sources

Commissioner's Plan

Agency Contact: Jill Phillips (651-201-2834)

Agency Fiscal Note Coordinator Signature: Jill Phillips

Phone: 651-201-2834

Date: 3/27/2023 11:52:52 AM

Email: jill.phillips@state.mn.us

Fiscal Note

2023-2024 Legislative Session

HF100 - 8A - Legalize Cannabis

Chief Author: **Zack Stephenson**
 Committee: **Ways And Means**
 Date Completed: **3/31/2023 8:18:31 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) Dollars in Thousands	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	140	70	70	70
Total	-	140	70	70	70
Biennial Total			210		140

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	1	.5	.5	.5
Total	-	1	.5	.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:** 3/30/2023 9:34:16 AM
Phone: 651-284-6540 **Email:** jim.carlson@lbo.mn.gov

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	FY2023	FY2024	FY2025	FY2026	FY2027	
General Fund	-	140	70	70	70	70
Total	-	140	70	70	70	70
Biennial Total			210			140
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	140	70	70	70	70
Total	-	140	70	70	70	70
Biennial Total			210			140
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

Bill establishes 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 8 Establishment of Environmental Standards which requires the establishment of water, energy, odor (air) and solid waste environmental standards for cannabis businesses. And the need for the MPCA to develop a small business environmental assistance program to assist cannabis businesses comply with environmental standards.

Assumptions

The MPCA has rulemaking authority for environmental standards. However, it is assumed that the Office of Cannabis Management will reflect the rulemaking costs, as they are the Agency directed to do rulemaking.

It is also assumed that the Office of Cannabis Management through an interagency agreement with the MPCA, will delegate the rulemaking under Section 8 to the MPCA or at a minimum require MPCA staff input at the equivalent level.

In addition to supporting rulemaking, it is assumed that 0.5 FTE of wastewater (WW) staff are 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 is limited to FY24.

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 FY24-27.

Expenditure and/or Revenue Formula

Other program costs:

- Wastewater program staff (0.5 FTE x 140,000) = \$70,000 (FY24)
- Small Business Assistance staff (0.5 FTE x 140,000 x 4 years) = \$280,000 or \$70,000 for FY24, \$70,000 for FY25, \$70,000 for FY26 and \$70,000 for FY27.

Total Costs Each Fiscal Year:

· FY24 = \$140,000; FY25 = \$70,000; FY26 = \$70,000 and FY27 = \$70,000

*The annual cost of 1.0 FTE is \$140,000 in FY2023-2027. 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 is needed beyond FY27.

Local Fiscal Impact

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

References/Sources

MPCA Staff

Agency Contact: Courtney Ahlers-Nelson 651-757-2183

Agency Fiscal Note Coordinator Signature: John Allen

Phone: 651-757-2185

Date: 3/30/2023 8:07:25 AM

Email: john.j.allen@state.mn.us

Fiscal Note

2023-2024 Legislative Session

HF100 - 8A - Legalize Cannabis

Chief Author: **Zack Stephenson**
 Committee: **Ways And Means**
 Date Completed: **3/31/2023 8:18:31 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	FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2023	FY2024	FY2025	FY2026	FY2027
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:** 3/23/2023 1:29:46 PM
Phone: 651-284-6439 **Email:** alyssa.holterman.rosas@lbo.mn.gov

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	FY2023	FY2024	FY2025	FY2026	FY2027	
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. 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: Yelena Bailey (651-539-4196)

Agency Fiscal Note Coordinator Signature: Yelena Bailey

Date: 3/23/2023 1:23:43 PM

NOTE: This is an earlier version of the fiscal note for HF100-8A.
The most current version is available on the Fiscal Note Search Site: <https://www.mn.gov/mmbapps/fnsearchlbo/>

Phone: 651-539-4196

Email: yelena.bailey@state.mn.us

Fiscal Note

2023-2024 Legislative Session

HF100 - 8A - Legalize Cannabis

Chief Author: **Zack Stephenson**
 Committee: **Ways And Means**
 Date Completed: **3/31/2023 8:18:31 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	FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2023	FY2024	FY2025	FY2026	FY2027
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: Karen McKey **Date:** 3/30/2023 9:54:59 AM
Phone: 651-284-6429 **Email:** karen.mckey@lbo.mn.gov

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	
	FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-
Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Total	-	-	-	-	-
Biennial Total			-		-
2 - Revenues, Transfers In*					
Total	-	-	-	-	-
Biennial Total			-		-

Bill Description

Article 1 (which is the new Chapter 342):

- text-indent:-.25in'>· Sets out definitions
 - establishes the Office of Cannabis Management to regulate cannabis.
 - includes the oversight of Chapter 152’s medical cannabis program
 - establishes legal cannabis possession and gift thresholds and for adults age 21 and older, along with restrictions on those thresholds
 - imposes civil penalties for violation
 - establishes a medical cannabis registry program for patients with qualifying medical conditions and their caregivers
 - immunizes program participants from prosecution under Chapter 152 for use or possession of cannabis-related products
 - provides gross misdemeanor penalties for registry employees who release individual patient data and for law enforcement personnel who access the registry without a search warrant
 - establishes misdemeanor penalties for healthcare practitioners with financial entanglements in cannabis businesses.

text-indent:-.25in'>· immunizes licensed cannabis businesses acting in accordance with their licenses from prosecution for cultivating, manufacturing, possessing, and selling cannabis-related products.

Article 2: taxation provisions, including amending the elements of the felony offense of Failure to Affix Stamp to substitute “illegal cannabis” for “marijuana.”

Article 3: relates to business development.

Article 4: Criminal penalty provisions.

- text-indent:-.25in'>· Amends Ch. 152 for sale and possession of controlled substances.
 - For marijuana possession, the existing thresholds are modified and augmented by the new Cannabis Possession and Cannabis Cultivation crimes (Minn. Stat. §152.0263, effective Aug. 1, 2023). 1st degree has a 5-year stat. max.; 2nd degree is GM; 3rd degree is misd.; and 4th degree is petty misd.
 - For marijuana sale, provisions in §152.022, subd. 1, §152.023, subd. 1, §152.024, subd. 1, and

§152.025, subd. 1, are repealed relating to sales and replaced by the new Cannabis Sale crimes (Minn. Stat. §152.0264, effective Jan. 1, 2024. 1st degree has a 5-year stat. max.; 2nd is GM; 3rd is misd.; and 4th is petty misd.

- Cannabis Cultivation Crime. Minn. Stat. §152.0265. 1st degree has 5-year stat. max. for more than 23 plants; 2nd degree is GM for more than 16 plants.
- New crime of driving a motor vehicle while using cannabis; misdemeanor offense (Minn. Stat. §152,0263, subd. 6).
- Includes circumstances under which a probationer or releasee may be prohibited from using cannabis.
- Includes circumstances under which cannabis or marijuana may be subject to forfeiture.

text-indent:-.25in'> Establishes a two-year pilot project for roadside bodily fluid testing for drug-impaired drivers.

Article 5: All about expungement of criminal records, including automatic expungement of records relating to nonfelony marijuana offenses not resulting in conviction. Establishes the Cannabis Expungement Board and gives it authority to direct judicial branch regarding some expungements.

Article 6: Miscellaneous provisions, including tribal retailers, drug education, labor relations, court records, public assistance, and restrictions on cannabis registry patients and firearms. Also repeals the existing misdemeanor and petty misdemeanor offenses of possession of marijuana in a motor vehicle and possession or sale of small amounts of marijuana.

Article 7: amends Minn. Stat. § 151.72, which permits the sale of certain edible cannabinoid products. Establishes several regulations on such sale. Also includes gross misdemeanor penalties for violations of such regulations or communicating false information in connection with such sale. Sec. 5 repeals the 2022 provisions.

Article 8: Amends the controlled substance schedules by moving marijuana and tetrahydrocannabinols from Schedule I to Schedule III.

HF100-1A: This amendment includes the following:

Article I:

- Several wording/edits to the second engrossment of HF100.
- Amends Article I by replacing Sec. 42: Medical Cannabis Business Applications. Minn. Stat. § 342.43.
- Inserting “flower and medical cannabinoid products” after “cannabis” in numerous provisions.
- Adds provision for the Office of Cannabis Management to review and determine whether additional warnings should be required for potential health risks.

Article 4:

- Changes section 1 of HF100 and adds provisions to amend Minn. Stat. §152.01 (the definitional sections of Ch. 152) for artificially derived cannabinoid, cannabinoid product, cannabis concentrate, cannabis flower, cannabis plant, and edible cannabinoid product.
- Adds amendment to Minn. Stat. §152.021, subd. 1, first-degree sale crime: eliminates (6) regarding sale of marijuana or THC.
- Adds amendment to Minn. Stat. §152.021, subd. 2, first-degree possession crime: changing language in (6) from marijuana, THC, and plants to:

- (i) 25 kg or more of cannabis flower;

(ii) 15 kg or more of cannabis concentrate; or

(iii) edible cannabinoid products infused with more than 500 grams of THC.

- Amends Minn. Stat. §152.11, subd. 2 re: prescriptions for schedule III or IV controlled substances to exclude cannabis plants, flower, or products sold or transferred in compliance with Ch 342.
- Amends Minn. Stat. §169A.03 (DWI provisions) to comport with definitions of cannabis and hemp as set out in §342.01.
- Amends Minn. Stat. §169A.20, subd. 1 (2) referencing under influence of a controlled substance, adding “including but not limited to cannabis flower, a cannabinoid product, or tetrahydrocannabinoid derived from cannabis flower.”
- And subd. 1(3) referencing under influence of intoxicating substance, adding “including but not limited to an artificially derived cannabinoid or tetrahydrocannabinoid derived from hemp.”
- Eliminates reference to marijuana or THC in (7).
- **New law: §169A.36 Open package law.** Mirrors many of provisions of open bottle law. Includes new violation for use of cannabis in a motor vehicle upon a street or highway as a misdemeanor. Describes possession of such products in a motor vehicle, misdemeanor violation. Exceptions for buses, limos, commercial purposes like a pedal power vehicle. Exception for being in trunk or back area of utility vehicle.
- Implied consent provisions in Minn. Stat. §169A.51, subd. 1, amended to include cannabis flower, a cannabinoid product, or tetrahydrocannabinoid derived from cannabis flower; or an artificially derived cannabinoid or tetrahydrocannabinoid derived from hemp. Same language added to Subd. 4 (1), for the request for blood or urine test. Eliminates inclusion of marijuana or THC in subd. 4(2).
- Adds the same language regarding cannabis to §169A.72, driver education programs.
- Amends language to all of the Criminal Vehicular Homicide and Criminal Vehicular Operation statutes to conform with the above amendments in §169A.20, subd. 1, adding the language in the relevant subdivisions referencing under influence of a controlled substance, adding “including but not limited to cannabis flower, a cannabinoid product, or tetrahydrocannabinoid derived from cannabis flower;” and in (5), referencing under influence of intoxicating substance, adding “including but not limited to an artificially derived cannabinoid or tetrahydrocannabinoid derived from hemp.” And eliminating reference to marijuana and THC in (6).

- Those statutes include:

Minn. Stat. §609.2112, subd. 1 (a)(2)(ii), (5), (6): CVH
Minn. Stat. §609.2113, subd. 1 (2)(ii), (5), (6): CVO, great bodily
Minn. Stat. §609.2113, subd. 2 (2)(ii), (5), (6): CVO, substantial bodily harm
Minn. Stat. §609.2113, subd. 3 (2)(ii), (5), (6): CVO, bodily harm
Minn. Stat. §609.2114, subd. 1 (2)(ii), (5), (6): CVO, death of unborn child
Minn. Stat. §609.2114, subd. 2 (2)(ii), (5), (6): CVO, injury to unborn child

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.

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:

Agency Fiscal Note Coordinator Signature: Kevin Kajer

Phone: 612-279-3508

Date: 3/23/2023 4:58:07 PM

Email: Kevin.kajer@pubdef.state.mn.us

Fiscal Note

2023-2024 Legislative Session

HF100 - 8A - Legalize Cannabis

Chief Author: **Zack Stephenson**
 Committee: **Ways And Means**
 Date Completed: **3/31/2023 8:18:31 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	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	7,945	4,543	3,551	3,551
Trunk Highway	-	6,157	2,218	2,218	2,218
Total	-	14,102	6,761	5,769	5,769
Biennial Total			20,863		11,538

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	16.25	16.25	16	16
Trunk Highway	-	14	14	14	14
Total	-	30.25	30.25	30	30

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:** 3/30/2023 2:01:27 PM
Phone: 651-284-6543 **Email:** laura.cecko@lbo.mn.gov

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	FY2023	FY2024	FY2025	FY2026	FY2027	
General Fund	-	7,945	4,543	3,551	3,551	
Trunk Highway	-	6,157	2,218	2,218	2,218	
Total	-	14,102	6,761	5,769	5,769	
	Biennial Total		20,863		11,538	
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	7,945	4,543	3,551	3,551	
Trunk Highway	-	6,157	2,218	2,218	2,218	
Total	-	14,102	6,761	5,769	5,769	
	Biennial Total		20,863		11,538	
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	
Trunk Highway	-	-	-	-	-	
Total	-	-	-	-	-	
	Biennial Total		-		-	

Bill Description

This legislation establishes a regulatory environment that would address the legalization of cannabis products by adults and authorizes an Oral Fluid Testing Pilot.

This bill amends bill HF-0100-7E, which would legalize the possession and use of marijuana for adults age 21 or older. It will create criminal penalties for driving while using cannabis. Additionally, expungement for certain cannabis offenses would become automatic.

Adds language that driving education programs shall include instruction and information on the use of cannabis related products, the effects, legal penalties, and financial consequences resulting from violation of laws prohibiting the operation of a motor vehicle while under the influence of controlled substance or intoxicating substance.

BCA provisions

Article 1: Regulation of Adult-Use Cannabis

This article establishes the Office of Cannabis Management to oversee the regulation of cannabis flower, cannabis products (including lower-potency cannabinoid products), and hemp derived consumer products; 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 flower, cannabis products, and hemp-derived consumer products; transfers the medical cannabis registry program from the Department of Health to the Office of Cannabis Management; and establishes the cannabis industry community renewal grant program.

Article 5: Expungement

Provides for “automatic” expungement of petty misdemeanor and misdemeanor marijuana convictions as well as gross misdemeanor and felony non-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.

Article 9: Appropriations

Provides \$3,013,000 in fiscal year 2024 and \$2,487,000 in fiscal year 2025 to the Bureau of Criminal Apprehension (BCA). The base for this appropriation is \$2,487,000 in fiscal years 2026-2028. The base in fiscal year 2029 and thereafter is \$1,495,000.

Assumptions

Minnesota 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 significant legal challenges, as this has occurred 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 every state trooper 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. Specialized drug recognition troopers (DRE) would be required to conduct the training.

Multiple studies have shown an increase in *driving while impaired* (DWI) cases in states that have legalized marijuana. A recent AAA report showed an increase in fatal crashes involving a THC positive driver, a recent IIHS report described an increase in serious injury crashes and fatalities after legalization, and a recent Canadian Medical Association Journal 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 of accident reconstruction services.

States that have legalized marijuana have also recognized challenges related to detecting cannabis impairment in DWI cases (OJP report) and these challenges are enhanced as DWI cases increase. DRE troopers 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 drug-impaired DWI arrests. The State Patrol assumes there will be an increase in the number of drug-impaired DWI arrests requiring the services of a DRE trooper and therefore will hire five additional drug recognition expert troopers. It is almost certain that the Office of Traffic Safety will need the State Patrol DRE troopers to assist in the pilot study for oral fluid testing, and we will require their expertise to train the entire agency on the new cannabis laws.

Article 5 would make expungement automatic under 609A.05. Expungements are a manual, labor-intensive process. Each expungement request received by the State Patrol today takes a support person approximately two hours to process: ensuring our citation, reporting and CAD record databases are purged while then archiving the records so they are preserved if needed for statutorily authorized purposes. The State Patrol has a single CAD SQL database administrator (DBA) that must process any expungements against the CAD database. Again, this is a manual, labor-intensive process. The DBA must search for the event, find the specified person, and remove that person's data from the database so it cannot be discovered in any historical event search. Care must be taken to remove only that person's data, even if multiple persons were involved in the event (e.g. driver with passengers, etc.). Our current, and only, DBA is fully taxed supporting our CAD database for the State Patrol, the Department of Natural Resources, the Department of Transportation, and the Department of Corrections (multiple agencies utilize our CAD system). Our single CAD database administrator is responsible for our entire statewide dispatching system. It can take up to 30 minutes for the DBA to expunge CAD records. The additional work cannot be accomplished with a single DBA who is fully taxed today. In order to support the volume of expungements, the State Patrol must hire a second DBA, or hold trooper positions vacant to hire an additional DBA.

Body camera and squad camera video also must be expunged, yet retained for disclosure under criteria specified in law.

A look at the past three years plus partial current year (2019, 2020, 2021 and 2 months of 2022) showed that 7,407 citations in total have been issued by the State Patrol for violations that would be eligible for expungement under the language contained in the bill. It is assumed that the number of violations will remain consistent in the future and that most would be eligible for expungement.

Three Office & Administrative Specialist Senior FTEs will be needed to complete the tasks associated with expunging and archiving, on average, 2,340 records per year. These three positions would be newly-hired positions.

There is no additional equipment cost for the support staff and DBA positions, as we have existing laptops and related equipment we would recirculate for use to perform these duties. We also have vacant cubicle space in our headquarters that is being paid for under our current lease agreement.

Hiring of new FTEs would occur in FY24.

Bureau of Criminal Apprehension

Assumptions MN Bureau of Criminal Apprehension Minnesota Justice Information Services (BCA MNJIS)

Article 1, Section 2, Subd 7:

Under this section, the Cannabis Management Board has the power/duty to require fingerprints from persons determined by board to be subject to fingerprinting, including submission of fingerprints to the Federal Bureau of Investigation where required by law, and obtain criminal conviction data for individuals seeking a license from the office on the individual's behalf or as a cooperative member or director, manager, or general partner of a business entity.

The section goes on to provide appropriate background check language which will comply with the requisite Public Law 92-544 standards. The BCA cannot estimate how many prospective employees will have background checks processed and therefore cannot know the fiscal impact. However, any costs will be offset by background check fees collected.

Article 1, Section 15:

This section provides appropriate background check language which will comply with the requisite Public Law 92-544 standards. The BCA cannot estimate how many prospective employees will have background checks processed and therefore cannot know the fiscal impact. However, any costs will be offset by background check fees collected.

Article 1, Section 52, Subd. 9:

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 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. The BCA therefore assumes that the same number of checks will be completed each year, resulting in no change to the amounts collected.

Article 5 (Generally)

Generally: All sections within this article cannot be implemented by August 1, 2023. The BCA assumes that the work denoted below and the requisite funding will begin by August 1, 2023 but that the work will not be completed until August 1, 2024.

References throughout denote that individuals are eligible for an "order of expungement" however BCA is not able to issue orders of expungement, that is a Judicial Branch function.

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.

Automation of Grants of Expungement

To create the business rules and make the programmatic changes to the CHS to implement automated expungements

(planning, analysis, development, and testing) and to create the requisite notifications will require an estimated 9,800 professional/technical hours at a rate of \$125.00 per hour, resulting in one-time costs of approximately \$1,225,000 over the course of up to 12 months.

Bifurcated Access to Sealed Records

The National Crime Prevention and Privacy Compact (Compact), which Minnesota is a member of, requires a court order before records may be sealed from view by other states. Thus BCA would need to bifurcate access to sealed records. Records “automatically” sealed would not be available in state (except to authorized entities), but would be available to out of state requestors, until BCA receives a court order.

BCA assumes that the list of eligible identified candidates will be provided to the courts electronically. BCA assumes that the courts will support this process.

BCA also assumes that there will be processes and infrastructure at the courts to provide the court orders in an electronic format as opposed to paper.

The planning, analysis, development, and testing to complete the system work will take place over the course of 12 months and will require an estimated 2000 hours of expert development costs by the vendor of the state’s Criminal History System at a specialized rate of \$175.00 per hour in addition to 2200 professional/technical hours at a rate of \$125.00 per hour resulting in one-time costs of \$625,000.00

This section directs the BCA to identify and notify the court of cases for which an individual’s record might qualify for an order of 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 for charges under section 152.021, subdivision 2, paragraph (a), clause (6); 152.022, subdivision 2, paragraph (a), clause (6); 152.023, subdivision 2, paragraph (a), clause (5); 152.024, subdivision 2, clause (2); 152.025, subdivision 2, clause (1); or 152.027, subdivision 3 or 4; or
- 4) all pending actions or proceedings involving the possession of marijuana or tetrahydrocannabinols were resolved in favor of the person for charges under section 152.021, subdivision 2, paragraph (a), clause (6); 152.022, subdivision 2, paragraph (a), clause (6); 152.023, subdivision 2, paragraph (a), clause (5); 152.024, subdivision 2, clause (2); 152.025, subdivision 2, clause (1); or 152.027, subdivision 3 or 4; or

For purposes of this section, a verdict of not guilty by reason of mental illness is not a resolution in favor of the petitioner; and 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, regardless of the provisions under which the charges took place, or the substance for which someone was charged under Minn Stat. 152.025. Therefore, the BCA would be unable to identify all applicable records.

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

The BCA is also required to inform each arresting and citing law enforcement agency with records affected by the grant of expungement relief that an expungement has been granted.

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 records as defined under subd. 1. Given the limitations as to which records the BCA stores and is able to identify (noted above), 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.

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 as well as in response to individual convictions sent to the judicial branch and then sending a notice to the BCA under Minn. Stat. 152.18.

The BCA is required to issue a report to the legislative committee and divisions with jurisdiction over public safety policy and finance upon completion of the expungements and notifications required under subdivision 2.

Article 5, Section 4: Manual Amendments to Records for Expungements & Resentencing of Felonies

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, clause (6); 152.022, subdivision 2 (clause 6); 152.023, subdivision 2 (clause 5); or 152.025, subdivision 2, clause (1) 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, 2023; 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 of convictions or where adjudication was stayed that qualify for review under 1) above. It is assumed the correct citations are 152.021, subdivision 2, paragraph (a), clause (6); 152.022, subdivision 2, paragraph (a), clause (6); and 152.023, subdivision 2, paragraph (a), clause (5); and that further analysis of these records would be done by the board.

If 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.

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 5, 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 January 25, 2023 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. 152.021, Subd. 2(a)(6) ; Minn. Stat. 152.022, Subd. 2(a)(6); Minn. Stat. 152.023, Subd. 2(a)(5) (Expungement or Resentencing): 0 (convictions) + 0 (stays of adjudication) + 2 (dismissals)= 2 records

Minn. Stat. 152.025, Subd. 2 - including all subsections (Expungement or Resentencing): 83,909 (convictions) + 33,681 (stays of adjudication) + 112,798 (dismissals) = 230,388 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.

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 to do the work necessary.

Assumptions - MN Bureau of Criminal Apprehension Forensic Science Services (BCA FSS).

Article 1, Sections 37 & 38 (and all mention throughout):

The BCA FSS will not be considered a "Cannabis Testing Facility" as defined in Article 1 Sec. 37 and Sec. 38.

Legalization of Cannabis, Generally:

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 (AAA Researches Marijuana in Fatal Crashes after Legalization, <https://media.acg.aaa.com/aaa-researches-marijuana-in-fatal-crashes-after-legalization.htm>) 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. On average, one FTE can complete 500 cases per year. Therefore, an additional 6 FTEs would be required to address the additional caseload. The Toxicology Section is already staffed at a 12:1 staff to supervisor ratio. The additional staff would require an expansion of supervisory oversight (one supervisor FTE) for the section.

- An additional 6 FTE's would be required to address this caseload. \$125,000 per year ongoing per FTE
- One toxicology supervisor would be needed to oversee the increased staff for the section at a cost of \$156,000 per year.
- Training and continuing education for the six new Toxicology scientists is needed at a cost of \$3,500 each in the first year and \$1,700 for each of the new FTE (7) 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. The additional caseload would require the expansion of the current fleet of analytical instrumentation including an additional 5500 Triple Quad and a Tecan liquid handler. Additional equipment for each additional FTE includes computers, analytical software, and lab equipment such as pipettes, hoods, and centrifuges.

The BCA FSS currently provides analysis for the presence of controlled substances in over 9,000 cases per year. Analysis for the presence and amount of delta-9 THC in plant material, liquids, waxes, and (partially) in edibles is among the type of testing regularly performed by scientists in this section. The calculations used for the purpose of this fiscal note allow the creation of a Cannabis Testing Unit with the capacity to test 60 cases per month with a 3-month turnaround time.

- An additional 4 FTE's would be required to address this caseload. \$125,000 per year ongoing per FTE
- One supervisor would be needed to oversee the increased staff for the section at a cost of \$156,000 per year.
- Training and continuing education for the new Cannabis scientists is needed at a cost of \$1,700 annually per new FTE.
- 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. The additional caseload would require the expansion of the current fleet of analytical instrumentation at both laboratory locations (St. Paul and Bemidji) including three HPLCs and 2 GCMS's. Additional equipment for each additional FTE includes computers, analytical software, and lab equipment such as balances and homogenizers.

Article 4, Section 40:

BCA FSS involvement in study outlined in Article 4 Sec. 40. 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. No additional costs associated with testing the samples as these samples would already be submitted to BCA for testing regardless of pilot project.

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.

1 FTE (Special Agent) to focus on financial crimes associated with the manufacturers and distributors who will be uniquely vulnerable to financial exploitation schemes as they will have limited access to our traditional banking system.

There can be an increase in financial crimes as states with legalized marijuana currently have banking issues that arise because of current federal laws creating troubles for manufacturers and dispensaries to participate in our traditional banking systems. This can lead to businesses utilizing non-traditional borrowing and financing methods which are prone to fraudulent activity. Investigating financial crimes associated with legalization with the current banking restrictions in place would require an additional financial crimes investigator. 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.

Office of Traffic Safety

Assumes that the Department of Public Safety Office of Traffic Safety would be responsible for coordinating and managing any traffic law enforcement grants for local agencies that are specific to cannabis impaired driving prevention and interdiction.

Assumes that the Department of Public Safety Office of Traffic Safety will continue to manage and expand the Drug Recognition Expert Training grant program that supports law enforcement training and certification as a DRE.

Oral Fluid Roadside Testing Pilot Project (Article 4, section 40):

Assumes that during the pilot project that the oral fluid testing will be completed by certified Drug Recognition Evaluators. Upon successful completion of the pilot and approval of the unit(s), that any licensed peace officer would be eligible to be trained to use the oral fluid testing unit(s) in the same way that a preliminary breath testing unit is currently utilized for evaluation of alcohol impaired drivers.

The DPS Office of Traffic Safety will work in close coordination with the statewide Drug Recognition Evaluator program coordinator and the BCA Toxicology section to design and implement the pilot program and to develop the eventual procedures and protocols for wider use.

Assumes that the DPS Office of Traffic Safety will gather, evaluate, and report on the results of the pilot project and its findings.

Assumes that the DPS-Office of Traffic Safety will purchase and provide the roadside testing units and required supplies for evaluation.

Assumes the DPS Office of Traffic Safety will provide support for any required training for law enforcement officers who will participate in the pilot project.

Assumes that the average cost for the Roadside Testing units is approximately \$5000.

Assumes that up to 200 units will be needed in order to gather enough samples from a statewide population to validate the pilot projects goals.

Assumes that each DRE would obtain an average of three consensual tests per week.

Assumes that the cost of the test collector and cartridge is \$30.00.

Assumes that the pilot project will run for a period of up to 24 months.

Assumes that a substantial number of tests will be required in order to validate the effectiveness and the accuracy of the testing units. Additionally, a high number of tests will be required to gather enough information to make accurate conclusions regarding the current drug impaired driving rates in Minnesota.

Driver and Vehicle Services

Article 4, Section 28

Assume no fiscal impact to the Department of Public Safety Driver and Vehicle Services Division (DVS). DVS does not create driver training courses offered by private or commercial schools and this bill requires no action on the part of DVS.

Assume DVS to absorb negligible costs of communicating these curriculum changes to class D driver education programs.

Assume DVS will ensure new programs will include information in curriculum of training courses through existing audit process of driver education programs.

Assume commercial driver license (CDL) training courses must continue to meet federal requirements.

Expenditure and/or Revenue Formula

Minnesota State Patrol

Item Description	Qty	FY24	FY25	FY26	FY27
DRE Trooper w/Fringe	5	788,429	788,429	788,429	788,429
Reconstructionist Trooper w/Fringe	5	807,325	807,325	807,325	807,325
Premium Pay (Holiday, Overtime, Etc.; FY22 Average 7.07%)	10	112,820	112,820	112,820	112,820
Recruit/Equip/Train - Academy Costs	10	3,635,920			
Body-worn camera (BWC) and Fleet Camera	10	72,000	72,000	72,000	72,000
BWC/Fleet additional (docking stations, mounts, etc.)	10	2,000			
EATI Fleet 3 install	10	5,000			
CradlePoint Fleet 3 SIM charge	10	6,000	6,000	6,000	6,000
Phone	10	6,000	6,000	6,000	6,000
Canine Acquisition Costs	9	100,050			
Canine Training Costs	9	41,400			
Canine Handler Training	9	155,250			
Computer-Aided Dispatch (CAD) SQL DBA Administrator for CAD Expungements	1	154,282	154,282	154,282	154,282
OAS-S w/Fringe for Expungement Processing	3	270,918	270,918	270,918	270,918
Total		6,157,394	2,217,774	2,217,774	2,217,774
In thousands from the Trunk Highway Fund		6,157	2,218	2,218	2,218

Bureau of Criminal Apprehension

Automated Expungements

To create the business rules and make the programmatic changes to the CHS to implement automated expungements (planning, analysis, development, and testing) and to create the requisite notifications will require an estimated 9,800 professional/technical hours at a rate of \$125.00 per hour, resulting in be one-time costs of approximately \$1,225,000 over the course of up to 12 months.

Bifurcated Access to Sealed Records

For planning, development, analysis, and quality assurance pertaining to the bifurcation of access to sealed records, a one-time total of \$625,000.00 will be needed, including the 2000 expert development hours at a rate of \$175.00 and 2200 professional technical hours at a rate of \$125.00 per hour.

2000 x \$175.00 per hour as professional/technical contractors = \$350,000.00

2200 x \$125.00 per hour as professional/technical contractors = \$275,000.00

Article 5, Section 4: Manual Amendments to Records for Expungements & Resentencing of Felonies

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. 152.021, Subd. 2(a)(6) ; Minn. Stat. 152.022, Subd. 2(a)(6); Minn. Stat. 152.023, Subd. 2(a)(5) (Expungement or Resentencing): 2 x 25 minutes = 50 minutes = approximately 1 hour

Minn. Stat. 152.025, Subd. 2 - including all subsections (Expungement or Resentencing): 230,388 x 25 minutes = 5,759,700 = approximately 95,995 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 146,130.5 hours.

Individuals classified as Criminal History Analysts will be required to do the work necessary at a rate of \$45.57 per hour, including fringe benefits.

At the rate of \$45.57 for 95,996 hours, the total cost is \$4,374,537.72

As noted earlier, this time will be divided over the course of 5 years. Therefore, annual costs will be \$874,907.54

Expenditure and/or Revenue Formula BCA FSS Toxicology Testing

Six scientists (mid-range salary for Forensic Scientist 2) at \$125,000 per year equals \$750,000 ongoing.

One supervisor at \$156,000 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 FSS Cannabis Testing Unit

Four scientists (mid-range salary for Forensic Scientist 2) at \$125,000 per year equals \$500,000 ongoing.

One supervisor at \$156,000 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 five FTE's totals \$8,500 each year.

Supplies to support the forensic testing cost \$21,600 per year ongoing.

New equipment and set up is required in the first year at a cost of \$547,800.

Ongoing maintenance agreements for the new equipment \$25,000 starting the second year and ongoing

Expenditure and/or Revenue Formula BCA Investigations

Special Agents make a maximum salary of \$110,768.40 and, with the addition of fringe benefits, each of the two agents costs \$170,364.73 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 of the two special agents require the following equipment, training and supplies:

Equipment	Per Annum Costs
Vehicle	\$13,000.00
Vehicle Maintenance	\$3,500.00
Radios	\$2,400.00
Phones	\$1,300.00
Computer Equipment	\$2,500.00
Miscellaneous Training & Supplies	\$5,000.00
Total (per Agent)	\$27,700.00

Therefore, each special agent will a total of \$198,064.73 per annum to keep on staff x 2 special agents = \$396,129

The cost per annum for a Criminal Intelligence Analyst is \$106,579.00 including both salary and fringe benefits.

The supplies needed for the Criminal Intelligence Analyst include the following:

Phones	\$1,300.00
Misc. Supplies / Training	\$5,000.00
Computer Equipment	\$2,500.00
Total (per CIA)	\$8,800.00

Therefore, the Criminal Intelligence Analyst will cost \$115,379.00 per annum to keep on staff.

The total cost is \$511,508.46

	FY24	FY25	FY25	FY26
Automated Expungements	\$1,225	\$0	\$0	\$0
Sealed Records	\$625	\$0	\$0	\$0
Manual Expungements	\$875	\$875	\$875	\$875

Toxicology Testing	\$1,854	\$1,328	\$1,328	\$1,328
Cannabis Testing Unit	\$1,234	\$711	\$711	\$711
Investigations	\$512	\$512	\$512	\$512
Total - General Fund	\$6,325	\$3,426	\$3,426	\$3,426

Office of Traffic Safety

All expenditures from the General Fund

\$125,000 in on-going costs would cover one FTE position within the DPS Office of Traffic Safety. This position would be at SPA-Principle classification and would serve as the statewide impaired driving program coordinator with a specific focus on cannabis and other drug driving issues. Given the vast differences between alcohol impaired driving and drug impaired driving programs and projects a separate position is required to take on the additional duties and requisite subject matter expertise.

\$1,495,400 for FY24 and \$992,400 in FY25 to support oral fluid roadside testing for impaired driving detection and apprehension.

- 150 testing units would be purchased in FY24 and an additional 50 units in FY25. The testing units cost an average of approximately \$5000 per unit.
- Each test that is administered at roadside requires a collection cartridge that will cost an average of \$30.00 depending on the particular manufacturer.
- With approximately 450 tests per week, the cost of testing supplies would be approximately \$1,377,000 for a 102 week sampling period (50 weeks in FY24 and 52 weeks in FY25).
- The training required for the law enforcement DRE's would typically take 4 hours. This would equate to 800 total training hours with an assumed wage and expense rate of \$50 per hour for a total of \$40,000. 600 hours would be completed in FY24 with an additional 200 hours in FY25. Additionally, \$20,000 would be reserved for instructor cost including travel and per diem in FY24 and \$10,000 in FY25 for training of additional DRE's
- \$40,800 would be required for the research, data analysis and reporting. This is calculated based on 10 hours per week for 102 weeks for a DPS-OTS Research Analyst with a wage rate of \$40.00 per hour with 510 hours in each FY24 and FY25.

Item	Calculation	Total Cost	FY 24	FY 25
Test Device	200 x \$5000	\$1,000,000	\$750,000	\$250,000
Collection Cartridges	\$30 x 450 tests x 102 weeks	\$1,377,000	\$675,000	\$702,000
DRE Training	800 hours x \$50 per hour	\$40,000	\$30,000	\$10,000
Instructor Cost	\$30,000 (vendor estimate)	\$30,000	\$20,000	\$10,000
Research Analyst	1,020 hours x \$40/hr = \$40,800	\$40,800	\$20,400	\$20,400
0.25 FTE/510 hours in each FY24 and FY25				
Total		\$2,487,800	\$1,495,400	\$992,400

Long-Term Fiscal Considerations

These positions will continue to be needed into the future. Future pattern settlement or other inflationary pressures are not factored into the current projected costs.

The FTE for DPS-OTS would be a permanent, full time hire that will manage and direct all of the OTS drug impaired driving programs.

Ongoing support and resources for local law enforcement are also anticipated to be necessary on an ongoing basis. The tactics and strategies for addressing drug impaired driving are different than those that target the alcohol impaired driver and will require their own, specific resources.

Local Fiscal Impact

Local agencies could realize some fiscal impact should they opt to purchase their own testing units once the pilot project is completed.

References/Sources

Insurance Institute for Highway Safety (IIHS) "Legalizing recreational marijuana is linked to increased crashes" (<https://www.iihs.org/news/detail/legalizing-recreational%C2%A0marijuana-is-linked-to-increased-crashes>)

Insurance Institute for Highway Safety (IIHS) "Changes in Traffic Crash Rates After Legalization of Marijuana: Results by Crash Severity" (<https://www.jsad.com/doi/epdf/10.15288/jsad.2022.83.494?role=tab>)

Office of Justice Programs (OJP) "Measuring the Criminal Justice System Impacts of Marijuana Legalization and Decriminalization Using State Data" (<https://www.ojp.gov/pdffiles1/nij/grants/253137.pdf>)

"Impacts on Marijuana Legalization in Colorado" (https://cdpsdocs.state.co.us/ors/docs/reports/2021-SB13-283_Rpt.pdf)

AAA Researches Marijuana in Fatal Crashes after Legalization, <https://media.acg.aaa.com/aaa-researches-marijuana-in-fatal-crashes-after-legalization.htm>

Agency Contact: Olivia Anderson 651-793-2713

Agency Fiscal Note Coordinator Signature: Dan Boytim

Phone: 651-201-7040

Date: 3/30/2023 12:18:00 PM

Email: Dan.Boytim@state.mn.us

Fiscal Note

2023-2024 Legislative Session

HF100 - 8A - Legalize Cannabis

Chief Author: **Zack Stephenson**
 Committee: **Ways And Means**
 Date Completed: **3/31/2023 8:18:31 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) Dollars in Thousands	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	3,709	3,145	3,157	3,157
Total	-	3,709	3,145	3,157	3,157
Biennial Total			6,854		6,314

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	14.05	17.25	17.34	17.33
Total	-	14.05	17.25	17.34	17.33

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 estimates the administrative impact of the proposed bill. Estimated tax revenue impact is shown on a companion analysis produced by the Department of Revenue Tax Research Division. Published revenue analyses can be found at <https://www.revenue.state.mn.us/revenue-analyses>.

LBO Signature: Joel Enders **Date:** 3/30/2023 11:25:41 AM
Phone: 651-284-6542 **Email:** joel.enders@lbo.mn.gov

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		FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	3,709	3,145	3,157	3,157	3,157
Total		-	3,709	3,145	3,157	3,157
Biennial Total				6,854		6,314
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	3,709	3,145	3,157	3,157	3,157
Total		-	3,709	3,145	3,157	3,157
Biennial Total				6,854		6,314
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-

Bill Description

This bill legalizes cannabis for adult-use and creates a regulatory framework for overseeing cannabis and lower-dose cannabinoid products. It establishes an Office of Cannabis Management to oversee all activity related to the regulation of cannabis and transfers the medical cannabis program from the Department of Health to the Office of Cannabis Management. The bill also establishes taxes on adult-use cannabis, creates grants for individuals entering the legal cannabis market, modifies criminal penalties and certain convictions, temporarily regulates hemp-derived edible cannabinoid products, reschedules marijuana, and appropriates funding.

This summary will cover the provisions in the bill that impact the Department of Revenue (DOR), which are included in Article 2 on Taxes. Article 2 provides the tax structure for the retail sale of recreational cannabis. For the purposes of this summary the term "recreational cannabis" includes the following: adult-use cannabis flower, adult-use cannabinoid products, adult-use cannabis solution products, and lower-potency edible products as defined in chapter 342.

Article 2, sections 1 and 2 clarify that property used for raising, cultivating, processing, or storage of recreational cannabis, medical cannabis, or medical cannabis products for sale are classified and treated as commercial and industrial property. This is effective for property taxes payable in 2024 and thereafter.

Article 2, section 3 exempts cannabis businesses from the requirement to remit taxes electronically. Article 2, sections 4 and 5 allow nonmedical cannabis businesses to subtract business expenses not allowed under federal law, which is currently allowed for medical cannabis businesses licensed under chapter 342.

Article 2, section 6 of the bill subjects recreational cannabis products to an 8% 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. The gross receipts tax will be effective for gross receipts received after December 31, 2023. Medical cannabis is exempted from the gross receipts tax as well as recreational cannabis brought into the state if the products have an aggregate cost of \$100 or less. Subdivision 10 requires the Department to deposit all proceeds from the gross receipts tax into the General Fund.

- In section 6, subdivision 5 DOR believes a technical correction is needed on line 131.17 of the bill to change "207A" to "297A" as chapter 207A covers presidential nomination primaries. DOR assumes the reference should be to chapter 297A, which covers general sales and use taxes.

Article 2, section 7 of the bill clarifies that recreational cannabis and related cannabis products, as defined in statute, are subject to sales tax effective December 31, 2023. Article 2, sections 8-9 clarify that recreational cannabis is not a food, food ingredient, or drug for sales tax under chapter 297.

Article 2, sections 10-11 clarify that government entities, nursing homes, and boarding care homes who purchase

recreational cannabis are not exempt from state sales tax and section 12 prohibits local governments from imposing a sales tax solely on recreational cannabis.

Article 2, section 13 updates the definition of “marijuana” to be “illegal cannabis” and includes recreational cannabis products in this bill that are held, possessed, transported, transferred, sold, or offered in violation of chapter 342 or state criminal laws. Section 13 also makes a conforming change to the definition of “controlled substance” so that illegal cannabis is excluded. This section is effective January 1, 2025.

Article 2, sections 14-21 remove the term “marijuana” from the controlled substances tax chapter in accordance with the changes made in section 13. These sections are effective January 1, 2025.

Article 6, section 1 authorizes the governor or governor’s designated representatives to negotiate a compact with Indian Tribes to provide medical cannabis, including the taxation of medical cannabis flower and medical cannabinoid products. Article 6, section 2 authorizes the governor or governor’s designated representatives to negotiate a compact with Indian Tribes to provide adult-use cannabis, including the taxation of adult-use cannabis flower and adult-use cannabinoid products. These sections require the governor to publish all compacts and report to the legislature.

Assumptions

Based on information provided by the Department of Health and the Department of Agriculture, the Department of Revenue (DOR) assumes 605 cannabis retailers and businesses will be new business filers for sales taxes under chapter 297A and for gross receipts taxes under chapter 295. DOR also assumes 5,000 low-potency hemp edible retailers will be existing filers under chapter 297A, but will have new registrations under chapter 295.

The Tax Operations Division at DOR assumes that 605 new businesses will register in the first year with the DOR. DOR has costs for business registration staff, mailing registration information, and early audit work. The early audit work will continue annually.

MN.IT assumes \$47,500 for initial systems development in FY24 and \$4,750 annually for ongoing systems support. In order to administer the taxes for adult-use cannabis and adult-use cannabis products as outlined in the bill, DOR will need to update the Integrated Tax System (GenTax) and other computer systems, which includes analysis, gathering requirements, and system testing. Lines will be added to the sales and use tax return for the new gross receipts tax as well as GenTax and the eServices return filing and payment system. Additional staff would be needed beginning in FY24 for systems analysis and testing for the new account type and for new license types. 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; 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 process 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 includes contracting for the transport of the cash payments.

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 concerns at DOR. 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.

The Tax Operations Division assumes one-time costs of \$1,075,767 in FY24 for the offsite facility and ongoing annual costs of \$404,623 beginning in FY24. One-time costs include facilities costs, including architect, vehicle access control, and furniture at \$680,257; cash room costs including ventilation, shelving, and safes at \$220,944; security equipment and consultation at \$88,925; cash handling costs including cash counting machines, equipment, and modifications to our cashiering system at \$44,599; and developing a cash drop off scheduling system at \$41,042. Annual costs include rent at \$136,087 and security, including both offsite security and increased onsite security, and secure internet connections to the

offsite facility at \$268,536. Annual building costs do not include staffing costs. The first year, FY24, includes both one time and annual costs. Considerations and costs for the offsite facility were informed based on conversations with other states, including Oregon, and with DOR facility experts.

The bill subjects cannabis and cannabis products to sales tax as well as the gross receipts tax. DOR will need additional taxpayer assistance, enforcement, compliance and appeals staff.

The Sales and Use Tax (SUT) Division assumes 4 additional FTEs will be needed due to the language in this bill beginning in FY24 and ongoing, with an additional 2 FTEs needed beginning in FY25 and ongoing. 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. SUT also anticipates \$55,000 in outreach costs in FY24 and \$145,000 in outreach costs in FY25 and ongoing to explain changes to the law to any public group requesting information. These costs include travel expenses to offsite events.

The Criminal Investigations Division (CID) assumes a significant increase in cases as a result of this bill and will need criminal investigator and supervisory staff beginning in FY24 for this work. CID also assumes specialized equipment and supplies, including one vehicle, will be needed. These costs include a 5-year lease on a Toyota Highlander Hybrid (\$676.03/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 8% gross receipts tax would be added. The criminal tax provisions of Minn. Stat. § 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 they currently do, which are 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.

Increasing CID FTEs by 1.64 investigators and one supervisor 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.

The Appeals, Legal Services, and Disclosure (ALSD) Division at DOR will need additional legal staff to respond to requests for legal advice, analysis, and opinions. Staff are needed beginning in FY24 and ongoing 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.

ALSD will also need staff beginning in FY24 and ongoing for sales tax appeals. This impact is determined by a formula that takes into account the number of auditors the Sales and Use 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 Corporate Franchise Tax Division (CFT) assumes additional staff will be needed. Since the subtractions in the bill are effective for tax years beginning after 12/31/22, returns with non-medical subtraction will first be received for calendar year filers for tax year 2023, with the possibility of short-year 2022 returns. CFT assumes we will audit returns immediately, in 2024, 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 approximately 605 new business returns will be filed as a result of the changes in this bill.

The Income Tax and Withholding Division (ITW) assumes it will require an additional 0.41 FTE in each fiscal year beginning in FY25 for audit staff. ITW assumes returns claiming the new subtraction of 280E expenses will be audited starting in FY25, as returns claiming these subtractions will take place starting in calendar year 2024. Based on this being a new subtraction, we estimate the number of sole proprietors and individuals with flow-through income claiming the subtraction to be less than 100. With potentially large subtractions being claimed and requiring longer review, we assume 0.41 FTE for audits to substantiate the claimed expenses since they are not allowed federally.

The Special Taxes Division assumes 1 hour of staff time for system testing of the updated Integrated Tax System (Gentax) and \$328 in forms/media/communications costs to update their webpage and forms/instructions to reflect the changes made in chapter 297D to update the word “marijuana” to “illegal cannabis”.

The Communications Division at 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 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.

In order to implement the compacts described in Article 6 of the bill, DOR may need to request additional funding through the biennial budget process depending on the outcome of negotiations.

FTE Impact

FTE's	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Communications staff (MAPE)		.05	.01	.01	.01
Corporate Franchise Tax staff		.02	.94	1.03	1.03
MAPE		.02	.92	1.01	1.01
MMA			.02	.02	.02
Criminal Investigations staff		2.64	2.64	2.64	2.64
Investigator (MAPE)		1.64	1.64	1.64	1.64
Supervisor (MMA)		1.0	1.0	1.0	1.0
Income Tax and Withholding Staff (MAPE)			.41	.41	.41
Legal staff		.99	.99	.99	.99
Attorney		.82	.82	.82	.82
Appeals staff (MAPE)		.17	.17	.17	.17
Sales and Use Tax staff		4	6	6	6
MAPE		3	5	5	5
MMA		1	1	1	1
Systems Analysis & Testing staff (MAPE)		.79	.16	.16	.16
Tax Operations/Processing staff		5.57	6.10	6.10	6.10
AFSCME		3.4	3.69	3.69	3.69
MAPE		1.17	1.41	1.41	1.41
MMA		1	1	1	1

Total FTE Impact		14.05	17.25	17.34	17.33
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Note: Totals may vary slightly due to rounding.

Expenditure and/or Revenue Formula

This bill may have an impact on state tax revenues. An estimate of revenue impact is not included in this fiscal note. The Department of Revenue prioritizes revenue estimate requests for bills before Tax Committee and will provide one for this bill when it is before Tax Committee.

Administrative Impact

Administrative Costs (Savings)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Employees		1,999,490	2,554,828	2,567,820	2,567,106
Criminal Investigation Division Equipment, Supplies, Vehicle & Fuel			11,113	11,113	11,113
Forms/Media/Communications		7,578	500		
Mailing		970			
Offsite Location Renovation/Rental		1,480,390	404,623	404,623	404,623
Outreach		55,000	145,000	145,000	145,000
Systems Analysis & Testing		117,796	23,980	23,980	23,980
Systems Development		47,500			
Systems Support			4,750	4,750	4,750
Total Administrative Costs (Savings)		3,708,725	3,144,795	3,157,286	3,156,572

Note: This chart uses whole numbers. Totals may vary slightly due to rounding.

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, payment 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.

Agency Contact:

Agency Fiscal Note Coordinator Signature: Chelsea Magadance

Date: 3/30/2023 11:20:32 AM

Phone: 651-556-6308

Email: chelsea.magadance@state.mn.us

Fiscal Note

2023-2024 Legislative Session

HF100 - 8A - Legalize Cannabis

Chief Author: **Zack Stephenson**
 Committee: **Ways And Means**
 Date Completed: **3/31/2023 8:18:31 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	FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
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: Karen McKey **Date:** 3/30/2023 12:24:12 AM
Phone: 651-284-6429 **Email:** karen.mckey@lbo.mn.gov

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	
	FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-
Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Total	-	-	-	-	-
Biennial Total			-		-
2 - Revenues, Transfers In*					
Total	-	-	-	-	-
Biennial Total			-		-

Bill Description

Article 1 (new Chapter 342) establishes the Office of Cannabis Management to regulate cannabis, including the oversight of Chapter 152’s medical cannabis program. Section 9 establishes legal cannabis possession and gift thresholds and for adults age 21 and older; establishes restrictions on those thresholds; and imposes civil penalties for violation in some cases establishing a civil penalty for behavior that is not a crime or petty misdemeanor under Article 4. Section 52 establishes a medical cannabis registry program for patients with qualifying medical conditions and their caregivers. Section 51 immunizes program participants from prosecution under Chapter 152 for use or possession of cannabis-related products, and provides gross misdemeanor penalties for registry employees who release individual patient data and for law enforcement personnel who access the registry without a search warrant. Section 58 establishes misdemeanor penalties for healthcare practitioners with financial entanglements in cannabis businesses. Section 66 immunizes licensed cannabis businesses acting in accordance with their licenses from prosecution for cultivating, manufacturing, possessing, and selling cannabis-related products. The provisions relating to the medical cannabis registry program are effective January 1, 2024; the remaining provisions are effective July 1, 2023.

Article 2 relates to taxation. Section 19 amends the elements of the felony offense of Failure to Affix Stamp to substitute “illegal cannabis” for “marijuana,” effective January 1, 2025.

Article 3 relates to business development.

Article 4 relates to crime.

Sections 920 amend Chapter 152 effective August 1, 2023 (for changes relating to cannabis/marijuana possession, use, and cultivation offenses) or January 1, 2024 (for changes relating to cannabis/marijuana sale offenses), and are applicable to crimes committed on or after those dates. For marijuana possession, the existing controlled substance crime thresholds are modified and augmented by new Cannabis Possession and Cannabis Cultivation crimes (see Table 1); for marijuana sale, they are repealed and replaced by new Cannabis Sale crimes (see Table 2).

Section 18 also permits local governments to adopt ordinances making the public use of cannabis a petty misdemeanor.

Sections 18 make corresponding changes to Chapter 152’s definitions.

Section 21 exempts legal cannabis from the prescribing requirements of Chapter 151.

Sections 2231 and 3438 amend Chapters 169A and 609. Effective dates are not specified. Sections 27, 2930, and 3338 clarify that, for purposes of DWI, criminal-vehicular operation, and implied-consent laws, cannabis may qualify as the controlled substance or intoxicating substance under which one is under the influence. Section 28 establishes an “open package law,” similar to the open bottle law, establishing a misdemeanor penalty for using cannabis, or possessing cannabis in an opened or unauthorized container, in a motor vehicle on a street or highway. Exceptions include buses, party bikes, limousines, and cannabis kept in a vehicle’s trunk.

Section 32 defines the circumstances under which a probationer or releasee may be prohibited from using cannabis. Sections 3941 define the circumstances under which cannabis or marijuana may be subject to forfeiture. These sections are effective August 1, 2023.

Section 40 establishes a two-year pilot project for roadside bodily fluid testing for drug-impaired drivers, effective August 1, 2023.

Article 5 relates to expungement of criminal records. Section 4 establishes automatic expungement of records relating to nonfelony marijuana offenses not resulting in conviction. Section 5 establishes the Cannabis Expungement Board, with authority to direct the judicial branch to seal, vacate, dismiss, restore firearms rights for, and resentencing past convictions and stays of adjudication for felony possession of marijuana crimes that would be a lesser offense or would no longer be a crime after August 1, 2023, if such a directive is in the public interest. These sections are effective August 1, 2023.

Article 6 contains miscellaneous provisions. Sections 1 and 2 provide criminal immunity for tribally operated licensed cannabis retailers acting pursuant to compacts to be negotiated. The article also contains sections pertaining to drug education, labor relations, court records, public assistance, and housing. Sections 52, 53, 55 and 56 forbid prosecuting someone for, or disqualifying someone from, firearm ownership or possession, or refusing to issue a permit to carry a pistol, on the grounds that a person is a cannabis registry patient or a legal user of cannabis. Section 54 prohibits medical cannabis registry patients from carrying a pistol when they know the cannabis products used have the capacity to cause impairment; the penalty is unspecified. Section 57 repeals the existing medical cannabis registry program effective January 1, 2024, and repeals the existing misdemeanor and petty misdemeanor offenses of possession of marijuana in a motor vehicle and possession or sale of small amounts of marijuana.

Article 7 repeals Minn. Stat. § 151.72, which permits the sale of certain edible cannabinoid products, effective July 1, 2024. In the meantime, the article establishes several regulations on such sale. Section 2 establishes temporary, gross misdemeanor penalties for communicating false information in connection with such sale, effective the day after enactment.

Article 8 transfers marijuana and tetrahydrocannabinols from controlled substance Schedule I to Schedule III, effective the day after enactment.

Assumptions

It is assumed that due to the COVID-19 health pandemic, the cases sentenced in 2020 and 2021 will not be a fair approximation of cases sentenced in the future; therefore, cases sentenced in 2019 are used instead to estimate the impact of this bill.

Currently, possession of marijuana in a motor vehicle is a misdemeanor. This bill makes driving while using cannabis a misdemeanor. In addition, a new "open package law," is created as 169A.36. This proposed statute creates a misdemeanor penalty for use or possession of cannabis products in packaging that has been opened in a motor vehicle. It is assumed possession of marijuana cases in a motor vehicle under Minn. Stat. § 152.027, subd. 3 (which the bill repeals), would, by and large, become open-package-law cases. According to data from the MN Judicial Branch, in 2019, there were 192 misdemeanor convictions and 1,685 petty misdemeanor convictions for the current offense.

It is assumed that the amendments in Article 2, Section 19 where "marijuana," is replaced with "illegal cannabis" will have no impact. According to MSGC Monitoring Data, in the 20 years from 2001 to 2021, there were four felony cases where the most serious conviction was Failure to Affix Stamp to marijuana. One of the four cases received a 13-month prison sentence.

MSGC collected more detailed data from criminal complaints for the 364 felony level marijuana cases sentenced in 2019 and found that 269 (74%) were flower cases, 78 (21%) were concentrate, 6 (1.6%) were plants, 6 (1.6%) were edibles, and 5 (1.2%) were mixtures or unknown. It is assumed that, in the future, the number of cannabis possession and sale cases sentenced will be equal to the number of marijuana possession and sale cases sentenced in 2019. It is also assumed that the distribution of cases among the cannabis types, and the quantities involved will be similar to those found in 2019. It is assumed that if the quantity of marijuana involved in the crime sentenced in 2019 was sufficient to assign it a first-degree controlled substance offense, but instead it was sentenced a lower-degree offense, that crime would be treated similarly in the future.

For purposes of assessing the weight of cannabis concentrate among 2019 cases involving tetrahydrocannabinol (THC) vape cartridges, it was assumed that each vape cartridge contained 1 gram of cannabis concentrate. In other cases where

the amount of cannabis was not specified, it was assumed that the case would fall into the no crime category.

Tables 1 and 2 summarize the bill's thresholds for marijuana-related controlled substance crimes, cannabis possession offenses, cannabis cultivation offenses, and cannabis sale offenses. Notably, marijuana sale is repealed from the controlled substance crimes and cannabis sale offenses have only one quantity threshold: 2 ounces of cannabis flower, 8 grams of cannabis concentrate, or 0.8 grams (800 mg) of THC infused in edible cannabis products (abbreviated in Table 2 as "2/8/800"). As a result, depending on the cannabis form and amount, the penalty for possession (Table 1) may be greater than the penalty for sale (Table 2), in which case the greater penalty for possession is assumed to be in effect.

Table 1. Cannabis Possession & Cultivation Effective August 1, 2023.

Crime	Cannabis Flower in Residence	Cannabis Flower Elsewhere	Cannabis Concentrate	THC Infused in Edible Cannabis Products, Lower-Potency Hemp Edibles, and/or Hemp-Derived Consumer Products	Cannabis Plants Cultivated
1st Degree Controlled Substance Crime possession 30-year felony	>= 50 kg	>= 50 kg	>= 10 kg	>= 1 kg	--
2nd Degree Controlled Substance Crime possession 25-year felony	<50 kg and >= 25 kg	<50 kg and >= 25 kg	<10 kg and >= 5 kg	<1 kg and >= 500 g	--
3rd Degree Controlled Substance Crime possession 20-year felony	<25 kg and > 10 kg	<25 kg and >10 kg	<5 kg and > 2 kg	<500 g and > 200 g	--
1st Degree Cannabis Possession or Cultivation 5-year felony	<= 10 kg and > 1.5 lb.	<= 10 kg and > 1.5 lb.	<= 2 kg and > 160 g	<= 200 g and > 16 g	>23 plants
2nd Degree Cannabis Possession or Cultivation gross misdemeanor	--	<= 1.5 lb. and >1 lb.	<= 160 g and >80 g	<= 16 g and >8 g	<= 23 plants and > 16 plants
3rd Degree Cannabis Possession misdemeanor	--	<= 1 lb. and >4 oz.	<= 80 g and >16 g	<= 8 g and >1.6 g	--
4th Degree Cannabis Possession petty misdemeanor	--	<= 4 oz. and >2 oz.	<= 16 g and >8 g	<= 1.6 g and >0.8 g	--
Neither a crime nor a petty misdemeanor	<= 1.5 lb.	<= 2 oz.	<= 8 g	<= 0.8 g	<= 16 plants

Key: ">=" means "greater than or equal to"; "<=" means "less than or equal to."

Table 2. Cannabis Sale Offenses Excluding Potentially Applicable Possession Offenses Effective January 1, 2024.

Crime	Sale of
1st Degree Cannabis Sale 5-year felony	>2/8/800* to a minor by an adult more than 36 months older; or >2/8/800 within 10 years of two or more convictions for sale of > 2/8/800; or >2/8/800 within 10 years of a conviction for 1st Degree Cannabis Sale
2nd Degree Cannabis Sale gross misdemeanor	>2/8/800 to a minor by an adult within 36 months of minor's age; or >2/8/800 in a school, park, or public housing zone or treatment facility; or >2/8/800 within 10 years of a conviction for sale of > 2/8/800
3rd Degree Cannabis Sale misdemeanor	>2/8/800

4th Degree Cannabis Sale petty misdemeanor	<= 2/8/800 for remuneration, or to or by someone under 21
Neither a crime nor a petty misdemeanor	<= 2/8/800 for no remuneration between people age 21 older

* “2/8/800” means 2 ounces of cannabis flower, 8 grams of cannabis concentrate, or 0.8 grams (800 mg) of THC infused in edible cannabis products, lower-potency hemp edibles, or hemp-derived consumer products.

Table 3 displays how the 364 felony marijuana offenses sentenced in 2019 would be distributed among the revised crime levels in this bill. It is estimated that of the 364 felony-level cases sentenced in 2019, 141 (38.7%) would no longer be crimes under the provisions of this bill and 136 (37.3%) would become non-felony level offenses (Table 3).

Table 3. Crime Levels for Felony Level Marijuana Offenses Sentenced in 2019 New Offense Levels Applied

Offense Level	Number Cases	Percent Cases
Felony	87	23.9
Gross Misdemeanor	6	1.6
Misdemeanor	67	18.4
Petty Misdemeanor	63	17.3
No Offense	141	38.7
Total	364	100

One of the responsibilities of the Commission is to assign severity-level (SL) rankings to new felony offenses passed by the Legislature. The Commission bases its decisions, in part, on the level of harm caused and the culpability of the person. Statutory mandatory minimums and statutory maximums are also considered. It is assumed that the Commission will rank the new felonies of First-Degree Cannabis Possession and First-Degree Cannabis Sale at SL D2 because their five-year statutory maximums equal the statutory maximums of current drug crimes ranked at SL D2.

It is assumed that cases that received a mitigated dispositional departure in 2019 (no prison when the Guidelines recommended prison) would continue to receive such a departure if they were still recommend a prison sentence under the proposed law. In 2019, 47 of the 364 marijuana cases sentenced were recommended prison sentences. Of those, 32 (68%) received a “stayed,” non-prison sentence.

Of the 364 cases sentenced in 2019, 38 received a prison sentence. Of the 326 cases that received a non-prison sentence: 26 (7%) received a misdemeanor or gross misdemeanor sentence; 320 were placed on probation for longer than a day with an average pronounced length of stay of 51.4 months; and 283 (87%) received local confinement as a condition of their probation (“local jail time”) with an average pronounced time to serve of 71 days.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Thirty of the 38 cases that received a prison sentence in 2019 would not receive a prison sentence under the provisions of this bill: 28 were sentenced for Controlled Substance Crime 5th Degree; one was sentenced for 4th Degree; and one was sentenced for 3rd Degree. Of those 30 felonies, 14 would move to non-felony level offenses and 16 would no longer be offenses. The average sentence for these 30 cases was 20 months. Assuming a one-third reduction of the pronounced duration for supervised release, those 30 sentences required 34 prison beds that will not be needed under passage of the bill.

Based on the assumptions above, the eventual estimated prison bed impact is a decrease of 34 beds. Seventeen fewer beds will be needed in FY2024, 23 fewer beds will be needed in FY2025, 26 fewer will be needed in FY2026, 28 fewer FY2027, 30 fewer in FY2028, 32 fewer in FY2029, and 34 fewer will be needed in FY2030, and every year after.

Local Fiscal Impact

There will be a savings in local correctional resources in two ways. First, cases that are no longer crimes will not be on supervision caseloads and will not take up space in local correctional facilities. Second, cases that move from the felony

level to a non-felony level may receive shorter probation terms and less local jail time than they did as felonies.

On the other hand, cases that will no longer receive a prison sentence, may require local correctional resources that they didn't in the past. Of the 38 cases that received a prison sentence, 30 will move to a non-prison disposition.

Altogether, of the 364 felony cannabis cases sentenced in 2019, after the penalty levels contained in this bill are applied: 8 cases would continue to receive prison sentences, 79 others would continue to be felony probation cases, 6 would become gross misdemeanors, 67 would become misdemeanors, 63 would become petty misdemeanors, and 141 would no longer be crimes.

Additional assumptions are necessary to calculate the impact on local resources. It is assumed that cases that move to the no crime or petty misdemeanor category will serve no probation time. It is assumed that cases that move to the misdemeanor level will have a supervision period of 12 months

and cases that move to the gross misdemeanor level will have a supervision period of 24 months.

In 2019, 320 of these 364 cases had a pronounced probation term greater than one day with an average term of 51.4 months, resulting in a statewide total of 16,472 months of supervision. Under the above assumptions it is estimated that there will be 152 cases with a pronounced probation term greater than one day with an average term of 41 months, resulting in a statewide total of 6,220 months of supervision.

It is assumed that cases that move to the no crime or petty misdemeanor category will serve no local time. It is assumed that cases that move to the misdemeanor level will serve no more than 90 days of local jail time, and cases that move to the gross misdemeanor level will serve no more than 180 days of local jail time.

In 2019, 283 of these 364 cases had local jail time pronounced as a condition of probation with an average pronounced term of 71 days (serve 2/3=47.6 days.) resulting in the need for 37 jail beds statewide. Under the above assumptions it is estimated that there will be 133 cases with pronounced local jail time with an average term of 66 days (serve 2/3=44.2 days) resulting in the need for 16 local jail beds statewide; a savings of 21 jail beds.

References/Sources

2019 Minn. Judicial Branch data.

2001 to 2021 MSGC Monitoring data.

Agency Contact:

Agency Fiscal Note Coordinator Signature: Jill Payne

Date: 3/29/2023 2:26:25 PM

Phone: 651-757-1725

Email: jill.payne@state.mn.us

Fiscal Note

2023-2024 Legislative Session

HF100 - 8A - Legalize Cannabis

Chief Author: **Zack Stephenson**
 Committee: **Ways And Means**
 Date Completed: **3/31/2023 8:18:31 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) Dollars in Thousands	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	545	545	-	-
Total	-	545	545	-	-
Biennial Total			1,090		-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
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.

LBO Signature: Karen McKey **Date:** 3/30/2023 9:28:06 AM
Phone: 651-284-6429 **Email:** karen.mckey@lbo.mn.gov

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	FY2023	FY2024	FY2025	FY2026	FY2027
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

The bill at article 1 adds a new chapter 342 creating the Office of Cannabis Management and Cannabis Advisory Council and regulating adult-use cannabis, providing for lawful use, 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 342.09, 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 cannabis 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 Office, petitions to district court for condemnation of cannabis found to be in violation of chapter 342, and actions in district court for recovery of administrative penalties imposed.

Article 1 includes a number of prohibitions relating to cannabis business operations but 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 Office employees who unlawfully release data or information about an individual contained the registry or about a patient enrolled in the program; and a misdemeanor criminal penalty in section 342.58 for a health care practitioner who knowingly refers patients to a cannabis business, advertises as a retailer or producer, or issued certifications while holding a financial interest.

The bill in section 342.81 creates a civil action for damages sustained against a person who caused intoxication by illegally selling cannabis, which does not preclude common law tort claims.

The bill at articles 2 and 3 adds and amends tax provisions and business development provisions regarding cannabis.

Article 4 amends the controlled substance criminal provisions: at section 152.01 to add definitions; at section 152.021 (1st Degree) and 152.022 (2nd Degree) to remove the references to marijuana from the sale offense and to modify the references to marijuana in the possession offense; at section 152.023 (3rd Degree) to remove the references to sale of marijuana and to add a provision that prohibits sale of cannabis flower or cannabinoid products to a person under 18 and to modify the 3rd degree cannabis 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, misdemeanor, and petty misdemeanor level offenses; a new section 152.0264, Cannabis Sale Crimes, which includes felony, gross misdemeanor, misdemeanor level offenses, and petty misdemeanor level offenses, including a petty

misdeemeanor 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 chapter 169A (Driving While Impaired) to add definitions and clarify the law as it relates to driving under the influence of cannabis, and to add a new section 169A.36 (Open Package Law) making it a misdemeanor to use or possess cannabis in a motor vehicle while upon a street or highway.

The bill amends Minn. Stat. §§ 609.2112, subd. 1 (Criminal vehicular homicide), 609.2113, subds. 1 (Great bodily harm), 2 (Substantial bodily harm), and 3 (Bodily harm), and 609.2114, subds. 1 (Death to an unborn child), and 2 (Injury to an unborn child) to add references to cannabis in the under the influence and present in the body provisions.

The bill amends the controlled-substance forfeiture statutes to include references to chapter 342, and to exempt cannabis products from the definition of “controlled substance” in section 609.5314.

Article 5 amends expungement provisions in chapter 609A and adds a new section 609A.05 to provide for “automatic” expungement certain marijuana or THC-related offenses. The Bureau of Criminal Apprehension (BCA) is required to identify records 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, and discharging the person, dismissing the proceedings, and sealing all records. The court administrator shall send a copy of the order to each agency and jurisdiction whose records are affected and to the last known address of the person whose record was expunged, identifying each agency to which the order was sent, and the court shall send a list identifying the name and case number of persons who received an expungement order to the commissioner of human services and the Professional Educator Licensing and Standards Board. This section is effective August 1, 2023.

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 a controlled substance to determine if the offense would either be a lesser offense or no longer a crime after the bill takes effect August 1, 2023, determine whether the 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 Board shall complete its work by June 30, 2028. 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 at the last known address, identifying each agency to which the order was sent.

The bill at article 6 includes miscellaneous provisions including provisions governing medical cannabis compacts with tribes; data practices provisions; 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; and 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 relating to employment practices and human services licensure and background studies, including an amendment to 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 card 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 also amends provisions relating to eligibility for state benefits, liquor laws, and eligibility to possess firearms. The bill amends section 484.014, governing mandatory expungement of eviction cases, to include evictions related to marijuana possession, and section 504B.171 (Terms of covenant) to provide that a landlord cannot prohibit lawful cannabis use or possession other than by combustion or vaporization.

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), and much of sections 152.22-37.

Article 7 modifies food safety and liquor law provisions; amends Minn. Stat. § 151.72 (sale of certain cannabinoid products) by modifying a number of subdivisions and adding new gross misdemeanor criminal penalties at subdivision 7, effective the day following enactment; and repeals section 151.72 effective July 1, 2024.

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 offices and agencies, and appropriates \$545,000 in fiscal years 2024 and 2025 to the Supreme Court for work related to expungement.

Assumptions

It is not clear which provisions in article 1, other than sections 342.57 and 342.58, are intended to be criminal offenses and what penalties apply. Similarly, it is unclear whether the prohibitions in many of the sections, including for example section 342.09, 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 may 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, 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 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 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 generally applies to an entire case, a person is only entitled to 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 or the Board grants expungement.

It is assumed that the judicial branch has no affirmative obligation to identify cases that may qualify for expungement and is only required to issue an expungement order under the provisions of this bill if the BCA or the Board notifies the judicial branch that the case qualifies.

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, 2023, 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 Board 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 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. 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 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 5 years of judicial branch data (including 2020 which saw a decrease in case filings and fee revenue), an average of \$253,066 in filing fee revenue is generated annually from the filing of expungement petitions.

Long-Term Fiscal Considerations

None

Local Fiscal Impact

None

References/Sources

Agency Contact:

Agency Fiscal Note Coordinator Signature: Janet Marshall

Date: 3/30/2023 9:22:56 AM

Phone: 651-297-7579

Email: Janet.marshall@courts.state.mn.us