

HENNEPIN COUNTY
MINNESOTA

Public health
legislative priorities
for cannabis
legalization – HF100*

February 17, 2023

*Minnesota omnibus cannabis bill, HF 100. SF73 is the companion bill to HF100.

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Background

As the Minnesota legislature considers legalizing adult-use cannabis, it is critical that it protects public health and safety, advances social equity, and provides adequate funding at state and local levels to cover all costs associated with legalization.

Legalization of an adult-use cannabis industry inherently presents risk that this industry may seek to drive up demand, use predatory tactics to increase profit, and exert powerful influence over the regulatory environment as other industries have done, most notably commercial tobacco. Protecting the public health requires that cannabis markets be well controlled and designed in a careful and deliberate manner that meets, but does not promote or expand, consumer demand for cannabis products.

Hennepin County supports commonsense state and local cannabis legislation and regulatory frameworks that address four key areas:

- Public health risks inherent in legalization
- A robust regulatory framework and rule-making authority
- Providing social justice and equity
- Adequate funding and appropriations to address all costs of the program, including:
 - Strong regulation
 - Enforcement
 - Public education
 - Substance abuse prevention and treatment
 - Community reinvestment to repair the damage caused by disparate enforcement of criminalization of the cannabis market

This report prioritizes a framework for regulating this new legal market to effectively protect public health.

Roadmap of key public health priorities

The table below provides a simplified roadmap of key public health priorities. Section three of this report provides further description and information on each item in the table.

Additional information and support for these priorities and other public health implications is outlined in Appendices B-D.

<p>Public health risks</p>	<ol style="list-style-type: none"> 1. The parallel category of lower potency edibles should be eliminated and integrated into a single legal cannabis system. All products should be limited to exclusive cannabis-only retailers where no person under age 21 is admitted and the sale of alcohol and cannabis at retail and consumption locations is prohibited. 2. Cannabis products should be limited in the amount and potency of THC they contain, available in adult-only purchase environments, and require standard serving sizes, specific warning labels, advertising restrictions, and packaging and labeling restrictions. 3. Use the more protective standard to determine if a cannabis advertisement targets a youth audience (i.e., 15 percent or more of the expected audience is under 21 years of age). 4. Set clear parameters for plain packaging and product warnings on cannabis products. 5. Ensure that all HF100 provisions are compliant with the Minnesota Clean Indoor Air Act (MCIAA) and that current restrictions in the medical cannabis law are continued.
<p>Robust regulatory framework and rule-making authority</p>	<ol style="list-style-type: none"> 6. Ensure the primacy of public health in all aspects of regulation. Establish a clear purpose of protecting public health and youth, and not driving up consumption; assure that public health and welfare has primacy over economic interests where these issues conflict. 7. Structure the Office of Cannabis Management to ensure primacy of public health in all regulations. This involves including more representation from LPHA and LPH on the Advisory Council. Strengthen conflict of interest protections and add a firewall to ensure that the cannabis industry does not shape regulations. 8. Regulate density limits and buffer zones at the state, rather than local level. Establish criteria to uniformly limit the density of cannabis retailers in communities statewide and require uniform buffer zones between cannabis businesses and locations frequented by vulnerable populations. 9. Preserve local control to ensure local community health boards can innovate and regulate cannabis according to their unique community needs such as delegating all or part of registering/licensing, inspection, reporting, and enforcement duties and the ability to set fees for services provided.

<p>Social justice and equity</p>	<ol style="list-style-type: none"> 10. Ensure civil penalties for minor infractions and “buffer” before criminal sanctions are triggered for more significant infractions. 11. Remove criminal sanctions for underage purchase/use/possession (PUP) infractions. If penalties are allowed, provide for civil/remedial penalties. 12. Ensure communities most impacted by the criminalization of cannabis benefit from cannabis legalization; Minnesota should exclusively award social equity applicants the cannabis business subsidies and supports. 13. Include a statutory deadline for expungements and expand to include pardons in addition to expungements. 14. Apply the education, housing, healthcare, and parental rights protections for medical cannabis use to adult-use cannabis. 15. Community reinvestment — see appropriations under adequate funding and appropriations, below.
<p>Adequate funding and appropriations</p>	<ol style="list-style-type: none"> 16. Taxation: Local public health will need revenues for prevention either directly from the state or by allowing a local tax. Adequate funding to cover all costs of the program relies on adequate taxation — strong regulation, enforcement of regulations, substance abuse prevention and treatment, public education, and community reinvestment to repair the damage caused by disparate enforcement of criminalization of the cannabis market. Hennepin County Public Health recommends increasing tax to at least 20-35% as done in other states and tax based on potency to discourage incentive for more potent products. 17. New revenue should be channeled toward the establishment and long-term maintenance of a robust program (administered at both the state and local levels) to fund public health prevention approaches, substance abuse prevention and treatment, support of youth and public education on cannabis, support for a cannabis control system, epidemiologic surveillance, and reparations to and reinvestment in communities harmed by the enforcement of punitive drug laws.

Further description of public health priorities

Public health risks

- 1. The parallel category of lower potency edibles should be eliminated and integrated into a single legal cannabis system. All products should be limited to exclusive cannabis-only retailers where no person under age 21 is admitted and the sale of alcohol and cannabis at retail and consumption locations is prohibited.**
 - The current legalization of hemp-derived THC edibles and beverages with up to 5mg per serving has made these intoxicating products widely available and accessible to youth. HF100 establishes a parallel system for regulation of similar so-called lower potency edibles, which are no different from typical potency cannabis edibles marketed in legalized adult-use states around the country which range from 1-10 mg per dose.
 - The proposed two-tiered regulatory system makes the products more available and accessible to youth and normalizes their availability. This is because products are allowed to be displayed and sold where persons under age 21 are admitted (and other products are sold) and allows sale for consumption where alcohol is sold.
 - HF100 exempts these misnamed “lower-potency edibles” from the stricter regulations on the sale and licensing of the newly available adult-use cannabis products. (Art. 1, Sec. 40 at proposed § 342.41 Subd. 2) This second-tier regulatory structure allows “lower potency edibles” to be displayed and sold where other products are available for sale and there is no exclusive requirement that only cannabis products are sold and only persons aged 21 and older are admitted. HF100 also allows the sale of “lower potency edibles” and on-site consumption in stores selling alcoholic beverages, greatly increasing the risk of combined drugged and drunk driving, the most lethal combination.
 - Amend the legislation to require that all intoxicating products that are legalized (including lower-potency edibles) are regulated under a single regulatory structure. This regulatory structure should advance public health protections by eliminating youth access and exposure to the products at retailers that sell other products and admit persons under age 21, as is done under HF Art. 1, Sec. 20 (see proposed § 432.21 Subd.1(b)) and Sec. 26 (see proposed § 432.27 Subd.2)) and should prohibit cannabinoid containing products where alcohol is sold.
- 2. Cannabis products should be limited in the amount and potency of THC they contain, available in adult-only purchase environments, and require standard serving sizes, specific warning labels, advertising restrictions, and packaging and labeling restrictions.**
 - Daily or near daily use of cannabis products above 10% in THC has been associated with as much as a 5-fold increase in onset of psychosis and other adverse effects. Higher potency is also associated with increasing dependency. Reducing the trend to a higher potency cannabis market should be a public policy priority. Products allowed for

sale on the legal market should be chosen to offer a selection of safer products that allow the consumer the experience, while lessening risks of the most severe adverse effects, and not be driven by matching whatever the licit or illicit industries can invent.

- In addition to potency linked taxes adopted by other states, several U.S. state and governments in other countries have taken steps to address this. Vermont maintains a cap of 60% on concentrates, which excludes some of the highest risk concentrates such as shatter (typically 90+% THC). Connecticut caps flower at 30% THC and all other products except pre-filled vape cartridges at 60%. Quebec prohibits concentrates above 30% THC (surveys of consumers in Quebec have found high levels of satisfaction and transition to the legal market despite restrictions on potency). The Czech Republic caps THC at 21%; Israel, a pioneer in cannabis science, caps at 12%; Uruguay at 9%; and The Netherlands caps THC in medical products at 22%. New Jersey requires the following prominent warning on products with more than 40% THC: "This is a high potency product and may increase your risk for psychosis," printed in no less than 10-point font, completely on the front of the package.
- While the ideal cut points and approaches to minimize risks from potency are still being studied, risk increases even above 10% THC. Hennepin County Public Health recommends taking a cautious initial approach by adopting a THC based tax such as New York's, capping maximum flower potency at 15% and maximum concentrate potency of 50%, while allowing only solvents or other ingredients for use in liquid concentrates for inhalation, such as vaping products, that are considered safe for inhalation by the FDA. Requiring dose diversity in retailers, e.g., stocking of lower potency options, is also a complementary strategy. Further study of best policies on this issue should be a research priority.

3. Use the more protective standard to determine if a cannabis advertisement targets a youth audience (i.e., 15 percent or more of the expected audience is under 21 years of age).

- Although cannabis can negatively impact the developing brain, data show that many youth do not believe cannabis use is harmful or underestimate the health risks. Advertising restrictions are critical to reducing youth appeal and consumption of cannabis.
- Currently, the bill prohibits advertising in a medium if 30 percent or more of the expected audience is under 21 years of age. This is the least protective standard utilized by states in restricting advertising to youth broadcast programming, print media, and websites. (Art. 1, Sec. 58)
- Hennepin County Public Health recommends utilizing the 15 percent standard used by Vermont and Massachusetts.

4. Set clear parameters for plain packaging and product warnings on cannabis products.

- Packaging design is a critical tool for reducing the appeal of cannabis products to youth. With legalization, states have seen an increase in accidental consumption of cannabis products by children.

- While HF100 includes important provisions prohibiting packaging that is attractive to people under 21 years of age and packaging that resembles existing non-cannabis products, it fails to provide further guidance on what qualifies as appealing to children. (Art.1, Sec. 56)
- HF100 proposes two product label warnings related to (1) pregnant or breastfeeding individuals and (2) children or animals. HF100 also instructs retailers to provide information about the “expected timing of impairment effects” for all cannabis products, not just edible products, but does not require the information to be contained on the product label.
- Hennepin County Public Health recommends that Minnesota adopt a clear plain packaging standard like Connecticut, which requires that the package be “entirely and uniformly one color, and shall not incorporate any information, print, embossing, debossing, graphic or hidden feature, other than (the required) labeling.” Connecticut also requires that packaging for edible cannabis products shall be entirely and uniformly white.”
- HF100 should also set specific font size and style standards for cannabis product labels to ensure that critical consumer information is legible.
- Additionally, HF100 should require that the warnings pertaining to delayed onset of intoxication from cannabis edibles and the dangers of operating motor vehicles or heavy machinery while under the influence of cannabis be placed on the product label itself.

5. Ensure that all HF100 provisions are compliant with the Minnesota Clean Indoor Air Act (MCIAA) and that current restrictions in the medical cannabis law are continued.

- Any compromise of the MCIAA will harm the public. Legislation should not allow on-site consumption in violation of the MCIAA and should ensure that local clean indoor air laws are followed.
- Under the MCIAA, the definition of “smoking” includes “inhaling, exhaling, burning, or carrying any lighted or heated [product] containing, made, or derived from ... marijuana, or other plant ... that is intended for inhalation.” Minn. Stat. § 144.413, Subd. By way of example, the following sections of HF100 conflict with the MCIAA:
 - Under Cannabis Event Organizer Licensing (Article 1, Sec. 35), event space may be used without any explicit exclusion of indoor public spaces. Anyone seeking a permit for a temporary cannabis event must only provide a “diagram of the physical layout of the temporary cannabis event showing where the event will place on the grounds, all entrances and exits that will be used by participants during the event, all cannabis consumption areas...” without prohibition of indoor smoking or vaping.
 - Cannabis Event Organizer Operations (Article 1, Sec. 36) does not prohibit events in indoor public spaces. Under section 342.37, subd. 8 (Cannabis event on-site consumption), there should be added MCIAA-compliant language and a requirement to follow any local clean air restrictions. As written, HF100 allows for a designated area for adult, on-site consumption, but does not explicitly prohibit smoking and vaping indoors.

- HF100 permits on-site consumption at certain cannabis businesses. In section 342.21, subd. 2, the operational requirements and prohibitions for cannabis businesses lacks language ensuring MCIAA compliance, as well as clear anti-preemption language that requires local, more stringent clean air laws be followed.
- The following is possible sample language for each section in which indoor smoking and vaping is not expressly prohibited: "Limitations on consumption; locations of consumption. Nothing in section [e.g. 342.35] permits any person to engage in, and does not prevent the imposition of any civil, criminal, or other penalties for vaporizing or smoking cannabis in any public place, including any indoor or outdoor area used by or open to the general public or a place of employment, as defined in section 144.413, or in violation of any local clean air provision that is more stringent than state law."
- The current medical cannabis use limitations in law should not be relaxed and it should be made clear that medical cannabis use that violates the MCIAA is not allowed.

Robust regulatory framework and rule-making authority

- 6. Ensure the primacy of public health in all aspects of regulation. Establish a clear purpose of protecting public health and youth, and not driving up consumption; assure that public health and welfare has primacy over economic interests where these issues conflict.**
 - Establish for the Office of Cannabis Management, and cannabis regulation in general, a clear purpose of protecting public health and youth and not driving up consumption.
 - A primary goal should be to establish a legal market while at the same time mitigating and preventing harm through careful regulation.
 - Require that Office of Cannabis Management leadership and staff have strong, professional qualifications related to public health and substance use. Other skills are also relevant (toxicology, good manufacturing practices food safety, business administration, etc.).
- 7. Structure the Office of Cannabis Management to ensure primacy of public health in all regulations. This involves including more representation from LPHA and LPH on the Advisory Council. Strengthen conflict of interest protections and add a firewall to ensure that the cannabis industry does not shape regulations.**
 - Given the important role the proposed Advisory Council plays in reviewing, informing, and recommending policy, two designated public health voices (the state health department and a substance abuse expert) are insufficient to address the broad spectrum of public health issues presented by cannabis legalization. (Art. 1, Sec. 3)
 - Create regulatory, scientific, and medical advisory bodies free from conflict of interest, including financial conflict of interest, to advise the OCM on their responsibilities, powers, and duties.

8. Regulate density limits and buffer zones at the state level, rather than the local level.

Establish criteria to uniformly limit the density of cannabis retailers in communities statewide and require uniform buffer zones between cannabis businesses and locations frequented by vulnerable populations.

- Inconsistent density limits and buffer zone distances established by local communities will create an inconsistent patchwork of protection for vulnerable populations statewide.
- HF 100 does not establish criteria to limit the density of retailers, whether storefront or delivery, in communities. Research has shown, for example, that use during pregnancy is proportional to the number of retailers within a 15-minute drive of a woman's home. (Young-Wolff, 2021) The legislation should, therefore, consider mandating an initial limit on retailer density of the order of 1:20,000 residents (e.g., roughly the density of Washington state's previous alcohol monopoly stores which met population demand), with possible adjustment in low density rural areas. The density can always be adjusted in the future, but once opened, licensed retailers are very difficult to close.
- HF 100 does not require buffer zones between cannabis businesses and locations frequented by vulnerable populations (e.g., public parks, playgrounds, schools, recreation centers, youth centers, community centers, post-secondary education, and substance use disorder treatment facilities). Assuring a minimum distance between cannabis businesses and these types of public places is essential to minimizing cannabis use among youth, pregnant women, and other vulnerable populations.
- To limit the presence and reach of the cannabis industry in neighborhoods, HF 100 should require that cannabis businesses statewide be restricted to at least 1,000 feet from schools, residential areas, public libraries, colleges and universities (since the majority of students are under 21), day cares, nursing homes, union headquarters, houses of worship, substance abuse treatment centers, etc. Currently, Article 1, Section 13(c) [342.14] allows the option, but does not require local governments to impose this restriction.

9. Preserve local control to ensure local community health boards can innovate and regulate cannabis according to their unique community needs such as delegating all or part of registering/licensing, inspection, reporting, and enforcement duties and the ability to set fees for services provided.

- Minnesota has a strong track record of ensuring local control of regulation of tobacco and liquor to protect local communities from the deleterious effects and other public health measures.
- The current bill includes "time/place/manner" authority and ability to approve or not approve a cannabis event but does not allow the ability to regulate the types of products allowed for sale in the jurisdiction or to opt-out to prohibit cannabis retailers or collect a local tax. (Art. 1, Sec. 13 (local control); Art. 1 Sec. 36 (events); Art. 2 Sec. 12 (tax))

- Initial research shows that every adult-use state, except New Mexico, Oregon, and Rhode Island, grants local government the power to completely prohibit and/or limit the number of cannabis businesses in their community.
- Add language stating that the Director of the Office of Cannabis Management shall enter into an agreement, at the discretion of any Community Health Board, to delegate all or part of the registering/licensing, inspection, reporting, and enforcement duties authorized under law. Sample delegation language is provided in Appendix A.
- Add strong anti-preemption language to the legislation to ensure that local governments have similar control over the sale and regulations of cannabis as they do for commercial tobacco.
- Stronger provisions for local control could be added to the legislation, including the ability to: issue local licenses and regulation for the sale of cannabis, including delegating inspections and enforcement authority to local jurisdictions; limit the number and location of licensees in their jurisdiction; require all or some portion of licensees to be social equity applicants; limit or regulate the sales of specific products; constrain advertising; allow local tax and application fees; adopt a publicly provided or contracted non-profit model or a delivery-only model or allow delivery only from outside businesses.

Social justice and equity

No true public health-oriented reform could move forward without undoing the harms of the punitive criminalization of cannabis that impacts lifelong access to housing, education, employment, access to health care and treatment, and a host of related determinants of health.

10. Ensure civil penalties for minor infractions and “buffer” before criminal sanctions are triggered for more significant infractions.

- Under H.F. 100, as soon as an individual exceeds the legal possession, they are subject to criminal repercussions. (Art. 4, Sec. 8)
- A civil use amount creates a buffer zone between the legal possession amount (Art. 1, Sec. 9) and criminal repercussions. (Art. 4, Sec. 8) This helps individuals avoid the negative and long-term effects of having a criminal record.

11. Remove criminal sanctions for underage purchase/use/possession (PUP) infractions. If penalties are allowed, provide for civil/remedial penalties.

- The legislation permits criminal penalties for underage persons who purchase, use, or possess cannabis in violation of the law. (Art. 1 Sec. 9 establishing Sec. 342.09 Subd. 1(b)(1) and Subd. 6(a)) This maintains a criminalization for cannabis that undermines a key purpose of the law.
- Criminal penalties for youth purchase/use/possession should be removed and if there are penalties, they should be civil alternative measures to connect youth with treatment, mental health support, and prevention education.
- Similar to commercial tobacco regulation, where the state repealed purchase/use/possession penalties in 2020, the penalties are more appropriately placed on the retailers and sources of underage access.

12. Ensure communities most impacted by the criminalization of cannabis benefit from cannabis legalization; Minnesota should exclusively award social equity applicants the cannabis business subsidies and supports.

- Proposed programs in the legislation should be exclusively focused on social equity applicants, including: the CanStartup grant program and loans. (Art. 3, Sec. 1); the CanTrain; and CanNavigate (Art. 3, Sec. 3).
- H.F. 100 does not provide special licensing opportunities for social equity applicants. Minnesota should consider exclusivity periods, in which social equity applicants are the only parties eligible for a specific type of license and should establish social equity licensing goals to ensure diversity, equity, and inclusion (DEI) in an adult-use cannabis market.

13. Include a statutory deadline for automatic expungements and expand to include pardons in addition to expungements.

- While the effective date for the automatic expungement provision is August 1, 2023, the bill does not provide a timeline for the completion of these expungements. A statutory deadline for completing this task would help ensure that this important restorative justice process is completed in a timely manner and creates accountability for the government bodies involved. (Art. 5, Sec. 4)

14. Apply the education, housing, healthcare, and parental rights protections for medical cannabis use to adult-use cannabis.

- Minnesota already provides protections against discrimination for medical cannabis patients, including workplace, school, medical care, housing, and custody/visitation rights. Apply the education, housing, healthcare, and parental rights protections for medical cannabis use to adult-use cannabis. This is the laudable approach H.F. 100 has taken with employment and it should be expanded to these other areas. (Art. 6, Sec. 9)

15. Community reinvestment — see appropriations under adequate funding and appropriations below.

Adequate funding and appropriations

16. Taxation: Local public health will need revenues for prevention either directly from the state or by allowing a local tax. Adequate funding to cover all costs of the program relies on adequate taxation—strong regulation, enforcement of regulations, substance abuse prevention and treatment, public education, and community reinvestment to repair the damage caused by disparate enforcement of criminalization of the cannabis market. Hennepin County Public Health recommends increasing tax to at least 20-35% as done in other states and tax based on potency to discourage incentive for more potent products.

- Local Tax Revenue. Authority for local taxation should be strengthened to complement state taxation because localities will need supplemental funding for programs related to education, prevention, and protection of youth, pregnant women, and other vulnerable populations. Allowing for local taxation will also ensure a locality can

implement and enforce all provisions of the law where state enforcement resources are scarce. Preemption of local taxation prevents localities from tailoring cannabis legalization to their community.

- State Tax Revenue. H.F. 100 proposes an 8% gross receipt tax on cannabis flower, adult-use cannabis products, adult-use cannabis solutions, and lower potency cannabis edibles. (Art. 2, Sec. 6). This tax revenue is paid into the state's general fund. Taxation of adult-use/recreational cannabis should be sufficient and structured to discourage an increase in consumption, abuse, and further escalation of product potency, while not encouraging an illicit market. The tax should also be based on potency to incentivize the purchase of less potent cannabis, which is safer for consumers, and may protect against tax revenue declines by focusing a tax on the THC content rather than the price of the product.

17. New revenue should be channeled toward the establishment and long-term maintenance of a robust program (administered at both the state and local levels) to fund public health prevention approaches, substance abuse prevention and treatment, support of youth and public education on cannabis, support for a cannabis control system, epidemiologic surveillance, and reparations to and reinvestment in communities harmed by the enforcement of punitive drug laws.

- Article 9, H.F. 100 should be amended to fund public health initiatives more directly and fully. Current funding in the legislation is inadequate to meet the need and falls far below the investment made in other states.
- Revenues generated by the tax are channeled to the state's General Fund.
- Application fees are not adequate to pay for the costs of administering all facets of the program.
- Local governments will be responsible for addressing local challenges and added costs without the ability to collect fees or taxes.
- Provide additional revenues to community reinvestment, ideally in non-cannabis businesses, to strengthen communities most harmed by the enforcement of punitive drug laws.
- The CanRenew grant program which invests in social equity communities does not receive funding until 2026. However, Minnesota should consider committing funds earlier, even if the desired level of cannabis tax revenue has not been collected.

Contact information

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Appendix

Appendix A – Delegation Authority — sample language

Subd. 1. Agreements to perform duties of the Office of Cannabis Management. (a) The Director of the Office of Cannabis Management shall enter into an agreement, at the discretion of any Community Health Board, to delegate all or part of the licensing, inspection, reporting, and enforcement duties authorized under law.

Subd. 2. Terms of agreements.

(a) Agreements authorized under this section must be in writing and signed by the delegating authority and the designated agent.

(b) The agreement must list criteria the delegating authority will use to determine if the designated agent's performance meets appropriate standards and is sufficient to replace performance by the delegating authority.

(c) The agreement may specify minimum staff requirements and qualifications, set procedures for the assessment of costs, and provide for termination procedures if the delegating authority finds that the designated agent fails to comply with the agreement.

(d) A designated agent must not perform licensing, inspection, or enforcement duties under the agreement in territory outside its jurisdiction unless approved by the governing body for that territory through a separate agreement.

(e) The scope of agreements established under this section is limited to duties and responsibilities agreed upon by the parties. The agreement may provide for automatic renewal and for notice of intent to terminate by either party.

(f) During the life of the agreement, the delegating authority shall not perform duties that the designated agent is required to perform under the agreement, except inspections necessary to determine compliance with the agreement and this section or as agreed to by the parties.

(g) The delegating authority shall consult with, advise, and assist a designated agent in the performance of its duties under the agreement.

(h) This section does not alter the responsibility of the delegating authority for the performance of duties specified in law.

Appendices B-D:

- **Appendix B — Evaluation checklist for Minnesota’s adult-use cannabis bill, HF100 (as introduced in 2023) from Getting it Right from the Start**
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Art. – Article Sec. – Section Subd. – Subdivision

Policies to Avert the Emergence of a New Tobacco-Like Industry

Place public health authorities in leadership roles.

Yes No Partially

Notes: The bill takes regulatory power to regulate medical cannabis away from the Minnesota Department of Health (MDH) and places it under the Office of Cannabis Management (OCM) (Art. 1, Sec. 2, Subd. 3). Additionally, there are no relevant qualifications listed for the Director of OCM (Art. 1, Sec. 2, Sub 6 (a)), nor are there sufficient requirements to include public health and substance abuse authorities and experts among OCM’s leadership, Advisory Council members, or employees.

Instead, OCM should be placed under MDH and receive the necessary funding from taxes to support effective regulatory and enforcement action, as well as public education and epidemiologic surveillance. At minimum, even if cannabis licenses are handled under a different regulatory body, MDH should have full authority to regulate the approval of products, packaging, labeling, health warnings, consumer information, marketing, and claims, and product testing requirements. Strong, professional qualifications related to public health and substance use should be required for many OCM leadership and staff, although other skills are also relevant (toxicology, GMP, food safety, business administration, etc.).

Favor public or nonprofit monopoly models to allow legal access without creating a profit-driven market (e.g., Quebec cannabis model, state alcohol monopoly models).

Yes No Partially

Notes: HF 100 does allow a city or county to “establish and operate a municipal cannabis store” (Art. 1, Sec. 25, Subd. 4), but it does not favor or provide sufficient fiduciary or regulatory means for a public or nonprofit monopoly model to be established at either the state or local level.

Instead, a statewide public monopoly or contracted nonprofit approach should be considered, similar to a public utility model, in order to provide legal access to cannabis without creating a profit-driven market. At minimum, Article 1, Section 25, Subdivision 4 could be amended

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Art. – Article

Sec. – Section

Subd. – Subdivision

to make clearer that a city or county may establish municipal cannabis stores or contract with a nonprofit as an exclusive arrangement for providing legal cannabis in their jurisdiction.

Prohibit conflicts of interest in regulatory bodies and advisory commissions/boards.

Yes No Partially

Notes: The bill does prohibit license holders being “employed by the office or any state agency with regulatory authority under this chapter or the rules adopted pursuant to this chapter” (Art. 1, Sec. 19, Subd. 4(a)(7)) and restricts advisory council members from lobbying for two years after service on the council, but this restriction should also exist for two years before service on the advisory council (Art. 1, Sec. 3, Subd. (b)). The Director of OCM is also prohibited from having any financial interest in a licensed cannabis business, but only within two years after service, which should extend to two years before service (Art 1, Sec 2, Subd. 6(c)). The same issue exists for employees of OCM (Art. 1, Sec. 2, Subd. 7(c)). The bill also restricts these interests to Minnesota licensees, whereas these restrictions should be more clearly expanded to include other state and local regulatory bodies than just OCM (e.g., DOH). The bill should also prohibit any financial interests in the cannabis or hemp industry for any role with the authority to regulate cannabis.

Prohibit healthcare practitioners who certify qualifying conditions for medical cannabis patients from being owners of a cannabis business.

Yes No Partially

Notes: Article 1 of the bill clearly prohibits health care practitioners from holding any economic interest, having any professional affiliation (“serving as a serving as a cooperative member, director, manager, general partner, or employee”), advertising, or receiving any form of remuneration from cannabis cultivators (Art. 1, Sec.21, Subd. 4), manufacturers (Art. 1, Sec. 23, Subd. 4), retailers (Art. 1, Sec. 25, Subd. 5), or medical cannabis businesses (Art. 1, Sec. 41, Subd. 4).

However, the bill should more clearly specify whether these restrictions also apply to hemp-derived products (see. Art 1, Sec. 1—Definitions).

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Art. – Article

Sec. – Section

Subd. – Subdivision

Policies that Promote Public Health

Ensure that a system goal is not driving increased consumption.

Yes No Partially

Notes: Rather than establishing a clear directive to not to drive up consumption, the bill lists two directives of the Office of Cannabis Management that directly contradict this goal: “(4) meet the market demand for cannabis flower and cannabinoid products” and “(5) promote a craft industry for cannabis flower and cannabinoid products” (Art. 1, Sec. 2, Subd. 1).

The bill should establish for OCM and cannabis regulation in general a clear purpose of protecting of public health and youth, with a goal to not drive up consumption. It should also clarify that the protection of public health and welfare has primacy over economic interests whenever these two goals conflict.

Tax adult-use cannabis.

Yes No Partially

Notes: The bill imposes an 8 percent tax on gross retail sales (including “adult-use cannabis products, adult use cannabis solution products, and lower potency edible products”) (Art. 2, Sec. 6, Subds. 2-3). This tax is far below that of other states, and patently insufficient to fund regulatory and enforcement infrastructure, education, and prevention of substance abuse. An excise tax of between 30-40% would be consistent with other states and would meet the revenue needs created by this new cannabis system. Tax revenue should clearly and permanently be dedicated to supporting a) an effective regulatory and enforcement system; b) community-based prevention of substance abuse and support to vulnerable youth; c) public education on cannabis and other substance use prevention; and d) other community reinvestment in communities hit hardest by the criminalization of cannabis. Any funding to the cannabis industry that transitions to the legal sector should be time-limited (e.g., 3 to 4 years) and restricted to equity applicants.

Tax adult-use cannabis based on THC content.

Yes No Partially

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Notes: The bill—unlike, for example, the adult-use cannabis laws of Illinois, New York, or Connecticut, does not levy any tax proportional to THC content (see, for example, Article 2), which should be done to encourage safer, lower potency cannabis.

Extend smoke-free air restrictions to consistently include smoking and vaporizing cannabis indoors and outdoors.

Yes No Partially

Notes: Article 1 extends smoke-free air restrictions to include “cannabis flower or cannabinoid products” among locations referenced in Minnesota’s Clean Indoor Air Act (Chapter 144.414: “Smoking shall not be permitted in and no person shall smoke in a public place, at a public meeting, in a place of employment, or in public transportation, except as provided in this section or section 144.4167”) (Art. 1, Sec. 9, Subd. 1(b)(3)).

However, Article 1 does not clearly and consistently prohibit smoking and “vaporizing” “cannabis flower or cannabinoid products” in any place where smoking is prohibited by the Minnesota Clean Indoor Air Act. It appears that smoking/vaping is permitted for limited on-site consumption and at licensed, public cannabis events (Art. 1, Sec. 9., Subd. 1(a)(7)(iii); Art. 1, Secs. 35-36). These cannabis events allow for on-site consumption within on-site lounges—“If approved by the local unit of government, a cannabis event may designate an area for consumption of adult-use cannabis flower, adult-use cannabinoid products, or both...within a designated consumption area [that] is not visible from any public place [*sic*]” (Art. 1, Sec. 36, Subd. 8(a)-(c)). Temporary cannabis events are akin to tobacco promotions at sports stadiums, and they are simply tools for social normalization of consumption. These events should not be allowed, or, if they are allowed, there should be explicit, stipulated prohibitions for any venues that are currently smoke-free, including parks; beaches; concerts or other shows; state, county, or other fairs; or sporting events. Article 1, Sec. 20 also allows limited on-site consumption by employees for the purposes of sampling, or if they are medical cannabis patients, but smoking or “vaporizing” cannabis should be prohibited in either of these cases to ensure the bill does not violate of the Minnesota Clean Indoor Air Act.

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Require health warnings in text and pictorial warnings on packages and ensure they are clearly visible from the outside of the package.

Yes No Partially

Notes: The bill requires product labels to include a “Keep this product out of reach of children” warning (Art. 1, Sec. 57, Subd. 2(8)) but, otherwise, only provides the *option* (“may provide customers and patients with the following information”) for cannabis or hemp packages or labels to include warnings regarding impairment effects, adverse effects or health risks, statements discouraging operating heavy machinery or vehicles, or contact information for poison control or safety hotlines (Art. 1, Sec. 57, Subd. 6).

We recommend prominent, rotating, front-of-pack, graphic health warnings on packages and ads, consistent with those now being adopted by FDA for cigarettes and used by Canada for cannabis. One model is outlined in CA’s [SB 1097](#) proposed legislation.

Require prominent health warnings to be posted in stores and provide safer use information to consumers.

Yes No Partially

Notes: The bill does not include any language that requires prominent health warnings to be posted in stores (see, for example, Art. 1, Secs. 20, 26, 28, 58—respectively, Cannabis Business, General Operational Requirements and Prohibitions; Cannabis Retailer Operations; Cannabis Wholesaler Operations; and Advertisement). The bill only provides that retailers must post notices regarding product recalls, state about operating motor vehicles under the influence, and that sales are prohibited to persons under age 21 (Art. 1, Sec. 26, Subd. 5). Otherwise, the only other mention is an **option** (“may provide customers and patients with the following information”) for cannabis or hemp packages or labels to include health warnings (Art. 1, Sec. 57, Subd. 6). We recommend that state-specified health warnings and information on safer use guidance be posted in retail establishments and required to be provided to all consumers.

Use a specialized business model for cannabis retailers (i.e., no food, tobacco, alcohol, or other product sales).

Yes No Partially

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Notes: The bill allows cannabis retailers to sell other products, especially those that can be used in marketing and/or that can be used to encourage cannabis consumption and promote the cannabis industry (“drinks that do not contain alcohol”; “books and videos on the cultivation and use of cannabis flower and cannabinoid products”; “magazines and other publications published primarily for information and education on cannabis plants, cannabis flower, and cannabinoid products”; “multiple-use bags designed to carry purchased items”; “clothing marked with the specific name, brand, or identifying logo of the cannabis”; and “hemp fiber products and products that contain hemp grain.”) (Art. 1, Sec. 26, Subd. 2). While these weak product limitations exist for the cannabis retailers, “lower-potency edible” retailers have no limitations on the range of products that may be sold (Art. 1, Sec. 40, Subd. 2).

Instead, a specialized model that only allows the sale of cannabis, cannabis products and accessories, and hemp derived products should be implemented, and said model should exclude food, tobacco, alcohol, drinks, or branded merchandise, which become forms of advertising that appeal to children and youth. Additionally, so-called “lower-potency edibles” should not be regulated more leniently because, at 5 mg per serving, these products are still impairing. These products should not be sold where people under age 21 are admitted. The law passed in 2022 that allowed the sale of these products widely across the state was counter to public health best practices and has resulted in unprecedented youth exposure and accessibility to these intoxicating products. Almost every other state with legalized adult use/recreational cannabis use this specialized model of exclusive sales of cannabis products with no entrance allowed for any person under age 21.

Prohibit healthcare practitioners who certify qualifying medical conditions for medical cannabis patients from operating at or under contract to retail licensees.

Yes No Partially

Notes: The bill (Art. 1, Sec. 25, Subd. 5) prohibits health care practitioners who certify patients from working for cannabis retailers from holding an interest, work role, or advertising with a cannabis retailer. It does not, however, address the problem of businesses

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that sell hemp-derived or “lower-potency” edibles (Art. 1, Secs. 39, 40). Healthcare practitioners should not hold any interest in hemp derived or “lower-potency” markets.

The definition is: *“Health care practitioner” means Minnesota-licensed doctor of medicine, a Minnesota-licensed physician assistant acting within the scope of authorized practice, or a Minnesota-licensed advanced practice registered nurse who has the primary responsibility for the care and treatment of the qualifying medical condition of an individual diagnosed with a qualifying medical condition. (Art. 1, Sec. 1, Subd. 30).*

Prohibit on-site cannabis consumption to protect smoke-free air, prevent drugged driving, and avoid social normalization.

Yes No Partially

Notes: Article 1, Section 20, Subdivision 2 allows businesses to permit non-employees to use cannabis products if the business has a permit for on-site consumption or if they have been authorized to sell lower potency edibles. Particularly worrisome is Article 1, Section 40, Subdivision 6, which allows for on-site consumption of “lower- potency edibles” at sites that also sell alcohol—precisely the highest risk combination for causing motor vehicle crashes. Article 1, Section 33, Subdivision 1(6) and Section 34, Subdivision 5 allow for on-site edible consumption at cannabis microbusinesses with on-site endorsement, even though both sections limit consumption to edible products only (Art. 1, Sec. 33, Subd. 1 (6), Sec. 34, Subd. 35(h)(8)). The legislation also allows onsite food consumption and live entertainment, which may create environments conducive to drugged driving, given the delayed absorption of edibles. Additionally, Article 1 Sections 35 and 36 allow for on-site consumption at licensed temporary cannabis events and do not clearly prohibit smoking and vaping wherever smoking is prohibited by the Minnesota Clean Indoor Air Act or local laws.

We recommend unequivocally protecting the progress that has been made in maintaining smoke-free air, ensuring employee health, and preventing drugged driving by not allowing on-site consumption of edibles or inhaled products at temporary events, microbusinesses, including at low potency edible retailers or other retailers.

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Article 1 also, ostensibly, prohibits on-site consumption of “cannabis flower and cannabinoid products” at business facilities for both the public and employees, but provides significant exceptions allowing consumption: 1) if the business is licensed to permit on-site consumption to an individual who is not an employee; 2) if the business has an on-site endorsement to a license that allows for the sale of “lower potency edible products”; 3) if an employee is a medical cannabis patient (with no limitations specified); and 4) for “quality control,” in which employees may sample cannabis flower or cannabinoid products (with no interactions with customers at least three hours after sampling, and three samples maximum per 24-hour period) (Art. 1, Sec. 20, Subd. 2). While Article 1, Section 20 includes several stipulations that prohibit on-site consumption at cannabis businesses, there are several key loopholes in which repeated consumption of THC may occur.

Prohibit temporary cannabis events to protect smoke-free air, prevent drugged driving, and avoid social normalization.

Yes No Partially

Notes: Article 1 explicitly allows for cannabis events and cannabis event licenses (Art. 1, Secs. 35-36). Sections 35-36, regarding events, do not specifically prohibit smoking or vaping products (Sec 36, Sub 8). Article 1, Section 35, Subdivision 8 and Section 36, Subdivision 1 require local government approval for hosting temporary events and for allowing onsite consumption. Additionally, as noted above, Article 1, Section 20 also allows for several key loopholes (e.g., temporary cannabis events, endorsement for on-site consumption, employees testing products for “quality control”) in which repeated on-site consumption of THC at intoxicating levels may occur. Temporary cannabis events (especially those that allow on-site consumption) should not be allowed, except as internal industry exchanges, in order to avoid the social normalization of cannabis consumption and of smoking.

Restrict Discounting

Yes No Partially

Notes: There is no language in the bill that restricts or prohibits price discounts for cannabis products. As experience from tobacco has demonstrated, coupons and other forms of point-of-sale discounting should not be allowed, as they lower prices and encourage people

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(especially youth) to purchase more products than they might have otherwise purchased, thereby driving up consumption.

Establish a minimum price (price floor).

Yes No Partially

Notes: There is no language in the bill that stipulates a minimum price for cannabis products. A price floor for cannabis should be established, which can be adjusted over time. This has the purpose of assuring that markets do not increase consumption, even if overproduction occurs, and can keep wealthier investors from driving out less resourced competitors from the market by subsidizing low pricing.

Eliminate the “Cannabis Kids Menu” by prohibiting:

- Cannabis-infused beverages.
- Inhalable products that are flavored or marketed using flavor-indicating names.
- Flavored joint/blunt wrappers.
- Other youth-appealing products.

Yes No Partially

Yes No Partially

Yes No Partially

Yes No Partially

Notes: Beverages are allowed as “lower potency edible products,” in which a beverage or edible that is “approved for sale by the office [Office of Cannabis Management, or OCM] or is substantially similar to a product approved by the office, including but not limited to products that resemble nonalcoholic beverages, candy, and baked goods” (Art. 1, Sec. 1, Subd. 45). Article 1 prohibits OCM from approving any cannabinoid or hemp-derived product that “appears to be a lollipop or ice cream”; “bears the likeness or characteristics of a real or fictional person, animal, or fruit”; or “is modeled after a type or brand of products primarily consumed by or marketed to children” (Art. 1, Sec. 6(b)). Article 1 also prohibits OCM from approving any “cannabis flower, cannabinoid product, or hemp-derived consumer product that: (1) is intended to be consumed by combustion or vaporization of the

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product and inhalation of smoke, aerosol, or vapor from the product; and (2) imparts a taste or smell, other than the taste or smell of cannabis flower, that...is designed or likely to appeal to individuals under 21 years of age,” although examples or criteria for appealing to under-21 consumers are not specified (Art. 1, Sec. 6(c)). Additionally, Article 1 Section 58 prohibits “phrases” for “cannabis flower, a cannabis business, a cannabinoid product, or a hemp-derived consumer product...that is designed to be appealing to individuals under 21” (Art. 1, Sec. 58, Subd. 1(5)). The bill does not, however, specify any restrictions on flavored joint/blunt wrappers.

This language and its restrictions are crucial; they are essential to the pre-approval process, which allows confirmation that a product is not in violation by design. We recommend prohibiting both added non-cannabis flavors, as well as packaging, labeling, and advertising that would lead a reasonable consumer to believe that an inhalable product has a flavor other than that of cannabis.

Apply clear age limits (must be at least 21 years old) to both cannabis and hemp-based products.

Notes: Article 1 establishes that one goal of the Office of Cannabis Management is “to prevent unauthorized access to cannabis flower, cannabinoid products, and hemp-derived consumer products by individuals under 21 years of age (Art. 1, Sec. 2, Subd. 2), and the under-21 age restriction is applied to both cannabis and hemp-based products throughout the bill.

Yes No Partially

Prohibit packaging/labeling that is attractive to children or youth and clearly define what that means.

Notes: Article 1 of the bill explicitly stipulates that both pre-packaging containers and packaging containers of “cannabis flower, cannabinoid products, and hemp-derived consumer products sold to customers or patients” must be “plain, child-resistant, tamper evident, and opaque” (Art. 1, Sec 56, Sub 2). However, the meaning of the word “plain” is not defined in HF100. Globally, “plain packaging” is defined as “measures to restrict or

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prohibit the use of logos, colours, brand images or promotional information on packaging other than brand names and product names displayed in a standard colour and font style.” Some U.S. states such as Hawaii have adopted plain packaging for cannabis, as has Canada. If this is the intent, it would be a very positive step, and a definition for “plain packaging” should be added to Article 1, Section 1. Article 1 also prohibits packaging that “bears a reasonable resemblance to any commercially available product that does not contain cannabinoids, whether the manufacturer of the product holds a registered trademark or has registered the trade dress” or “is designed to appeal to persons under 21 years of age” (Art. 1, Sec. 56, Subd. 3(a)). However, the bill does not specify criteria for packaging/labeling that would appeal to minors, even though the bill provides explicit criteria for advertising (see discussion below). In summary, plain packaging language should be clearly defined and maintained, and the WHO Framework Convention on Tobacco Control guidance regarding plain packaging should be adopted (<https://fctc.who.int/publications/i/item/9241591013>).

Prohibit marketing that is attractive to children or youth and clearly define what that means.

Yes No Partially

Notes: Article 1 explicitly prohibits advertisements of “cannabis flower, a cannabis business, a cannabinoid product, or a hemp-derived consumer product” in a manner that “depicts a person under 21 years of age consuming cannabis flower, cannabinoid products, or hemp-derived consumer products; or includes an image designed or likely to appeal to individuals under 21 years of age, including cartoons, toys, animals, or children, or any other likeness to images, characters, or phrases that is designed to be appealing to individuals under 21 years of age or encourage consumption by individuals under 21 years of age” (Art. 1, Sec. 58, Subd. 1). Article 1 also prohibits outdoor advertisements and cannabis business signs (“An outdoor advertisement of cannabis flower, a cannabis business, a cannabinoid product, or a hemp-derived consumer product is prohibited.”); a maximum of two outdoor signs fixed outside the building or property of a cannabis business may only include its “name,” “address,” and “nature of the cannabis business” and no logos or images of any kind (Art. 1, Sec. 58, Subd. 2). These provisions should be maintained and strengthened with the recommendation below to limit advertising to an adult audience.

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Restrict advertising where the audience will likely be more than 15% children or youth.

Yes No Partially

Notes: The law follows the alcohol industry’s voluntary guidance, which allows advertising to the general population—30 percent of the general population is over 21. The Institute of Medicine has proposed a higher standard of no more than 15 percent for alcohol advertising to not target adolescents, requiring it to be limited to adult targeted audiences. In this bill, Article 1 prohibits a cannabis business from publishing (or causing to be published) advertisements for “cannabis flower, a cannabis business, a cannabinoid product, or a hemp-derived consumer product in any print publication or on radio, television, or any other medium if 30 percent or more of the audience of that medium is reasonably expected to be...under 21 years of age, as determined by reliable, current audience composition data” (Art. 1, Sec. 58, Subd. 3). A more rigorous 15 percent threshold should be applied.

Limit the number of storefront retail outlets to fewer than 1 per 15,000 people.

Yes No Partially

Notes: The bill does not include any language that limits the number of storefront retail outlets. Retailer density is associated with consumption. For example, one study finds that, in California, cannabis use during pregnancy increased in direct relationship with the number of dispensaries within a 15-minute drive of the women’s home ([Young-Wolff et al., 2021](#)). The bill requires that OCM adjust licensing to meet demand, but without including language that specifically notes “avoiding increasing demand for cannabis.”

The number of retailers should be limited based on population. It is always possible to increase the number of dispensaries later; conversely, once dispensaries are opened, it is very difficult to go back. Additionally, the category of licenses for “low potency edible products” should be eliminated altogether, as these products are no different than typical cannabis edibles allowing for up to 5mg of THC, which is impairing and strong enough to cause intoxication. Allowing the wide availability and lax limits on sale of the so-called “lower-potency” edibles will greatly increase social normalization, co-use with alcohol, and risk of youth access.

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Require buffer zones between cannabis businesses and youth-serving facilities such as schools/colleges and public libraries.

Yes No Partially

Notes: The bill allows but does not require local government to restrict cannabis businesses from 1,000 feet of a “school, day care, nursing home, union headquarters, house of worship, or the Capitol or Capitol grounds provided that the prohibition does not have the effect of prohibiting the establishment or operation of a cannabis business within the boundaries of that local unit of government” (Art. 1, Sec. 13(c)). This weak restriction is not guaranteed to be implemented and instead should be a statewide requirement. The list of institutions referenced above should be expanded to include additional facilities (e.g., universities, public libraries, parks, substance use treatment facilities, health care facilities, etc.), and buffer zones should be required. Additionally, local government should have the ability to restrict or prohibit cannabis industry activity within its borders as it deems appropriate.

Require buffer zones between storefront retail outlets.

Yes No Partially

Notes: There is no language in the bill that limits the number or operation of retail outlets within an established distance of other retail outlets (see, for example, Art. 1, Sec. 26—Cannabis Retailer Operations). A minimum distance between retailers should be required.

Require buffer zones between cannabis businesses and substance abuse treatment centers.

Yes No Partially

Notes: HF 100 does not require buffer zones between any cannabis business and substance use disorder treatment centers. Cannabis retailers, microbusinesses, and low potency edible outlets should not be located near existing substance abuse treatment centers, and the market for low potency edible products should not be allowed outside of the cannabis system (see below).

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Policies to Limit Aggressive Cannabis Marketing and Dangerous Product Diversification

Require pre-approval of cannabis products and any additives.

Yes No Partially

Notes: HF 100 requires “cannabis plants, cannabis flower, cannabinoid products, and artificially derived cannabinoids” to be approved by OCM according to standards set in the bill (“testing, packaging, and labeling”) (Art. 1, Sec. 20, Subd. 9). The bill also prohibits cultivators from adulterating the cannabis plant or flower in a way that alters the color, appearance, weight, or smell (Art. 1, Sec. 22, Subd. 5). The bill does require manufacturers to get approval by OCM to add any chemicals or compounds to cannabis concentrate, hemp concentrate, or artificially derived compounds (Art. 1, Sec. 24, Subd. 3(d)). These provisions are positive and incredibly important to maintain; they should include additional clarification that products, packaging, and labeling must be reviewed and approved by OCM for compliance and attractiveness to children prior to marketing. This pre-approval process allows OCM to detect and control harmful trends in product diversification.

Limit THC content of cannabis and cannabis products.

Yes No Partially

Notes: Article 1 limits the edible products up to 100mg THC per package, and up to 10mg THC per serving (Art. 1, Sec. 26, Subd. 1(d)), but there are no THC limits established for flower, concentrates, or other products. Overall, these limits allowed for transactions, including two ounces for flower, should be more restrictive. While the best solutions for more dangerous, high potency products are being studied, the interim solution is to not allow them to proliferate. Stricter limits on high-potency concentrates and flower—which carry greater risks of impairment, dependency, and psychosis—should be imposed. We recommend a 15 percent THC maximum for flower and concentrates using metered 5 mg doses, or a maximum of 50 percent THC. Edibles should have 5mg maximum for standard doses, and standard doses should each be physically separated in easily definable, geometric shapes (e.g., squares, circles), separate wrapping per dose could be considered. Beverages, if allowed, should not contain more than a single dose.

Furthermore, so-called “lower-potency edible products” should not be allowed for sale outside of the restriction required for other legal cannabis product. The definition of “lower potency” proposed in this bill (i.e., up to 5mg THC) is, in fact, not low and is still

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intoxicating. Lower potency products in general (which can be consumed repeatedly) should not be available in stores that are not controlled for age at entry and where other products are available.

Additionally, no artificially derived intoxicating cannabinoids (e.g., delta 8 THC, delta 10 THC, THC-O-acetate, hexahydrocannabinol) or synthetic cannabinoids (e.g., “K2,” “Spice”) should be allowed for sale. Unlike traditional cannabinoids, for which there are several decades of research showing both harms and, in some cases, benefits, there is simply no evidence of safety for these artificially synthesized products. These products must undergo substantial safety assessment, including in human trials, prior to any large-scale legal commercialization. They were invented as untested workarounds to the 2018 Farm Bill definition for “hemp” to extract and concentrate THC and these products allowed in the legalized adult-use market.

Require stocking of lower THC products.

Yes No Partially

Notes: There is no language in the bill requiring retailers to stock lower THC products and higher CBD to THC ratio products, a strategy that can reduce adverse effects. Products with a large CBD to THC ratio is also needed by many medical cannabis patients. HF 100 should require greater dose diversity.

Require standardized 5 mg THC dosing of concentrates.

Yes No Partially

Notes: Article 1 specifies that retailers may sell up to 8g of “adult use cannabis concentrate” but does not require any metered dosing system for THC in concentrates (Art. 1, Sec. 26, Subd. 1(c)). The 8mg standard is also excessively high. The bill should require metered dosing in vaping devices and packaging, and additional measures to control and reduce the typical amount of THC dispensed.

Limit cannabis business signage that is visible to the public.

Yes No Partially

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Notes: Article 1 prohibits outdoor advertisements and cannabis business signs (“An outdoor advertisement of cannabis flower, a cannabis business, a cannabinoid product, or a hemp-derived consumer product is prohibited.”); a maximum of two outdoor signs fixed outside the building or property of a cannabis business may only include its “name,” “address,” and “nature of the cannabis business” and no logos or images of any kind (Art. 1, Sec. 58, Subd. 2). Article 1 also prohibits “identifying logos or business names” on cannabis delivery service vehicles (“including but not limited to an image depicting a cannabis or hemp leaf, or a name suggesting that the cannabis delivery service vehicle is used for transporting cannabis flower, cannabinoid products, or hemp-derived consumer products”) (Art. 1, Sec. 38, Sub 6). These measures are positive and should be maintained.

Require prominent health warnings on cannabis advertisements.

Yes No Partially

Notes: The bill does not include any language that requires prominent health warnings on cannabis or hemp advertisements (see Art. 1, Sec. 58—Advertisement). Prominent, rotating, boxed health warning messages should be required on all cannabis advertisements.

Prohibit therapeutic or health claims related to cannabis products.

Yes No Partially

Notes: The bill requires product labels for hemp-derived topical products and “lower potency edible products” to include a statement that the product “does not claim to diagnose, treat, cure, or prevent any disease and that the product has not been evaluated or approved by the United States Food and Drug Administration, unless the product has been so approved” (Art. 1, Sec. 57, Subd. 5 (7); Art 7, Sec 3, Subd. 5(4)(d)). However, Article 1, Section 58 prohibits “unverified claims about health or therapeutic benefits,” which suggests that some claims may be allowed. A single, clear standard should be used on all products that prohibits health or therapeutic claims in the absence of FDA-approval (which involves a complex, multi-level system for the verification of scientific accuracy).

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Policies that Promote Social Equity and Mitigate Harms from the War on Drugs

Decriminalize cannabis possession to reduce cannabis-related incarceration.

Yes No Partially

Notes: Article 1 permits individuals 21-years-old or older to use, possess, and transport cannabis and cannabis products (Art. 1, Sec. 9, Subd. 1). However, according to Article 4, possession by an underage person (for which “unlawful possession” still technically includes individuals under 21) is still punishable as a petty misdemeanor for possessing between two and up to four ounces of cannabis flower, between 8g and up to 18g of cannabis concentrate, and edibles infused with between 800 and up to 1,600mg of THC. Additionally, unlawful possession of between four ounces and one pound of cannabis flower, between 16 and up to 80 grams of cannabis concentrate, and edibles infused with between 1,600mg and up to 8g of THC are all still punishable by imprisonment up to 90 days or a fine up to \$1,000 (Art. 4, Sec. 8). Penalties for possession crimes of this level are excessive and should instead be imposed only on licit and illicit businesses that sell to underage people, with an emphasis on rehabilitation in the case of individual, small-scale illicit sales (and excluding, of course, underage persons). If HF 100 includes penalties related to possession by underage individuals, they should be non-criminal and focus on education and support in order to minimize interactions between youth and the criminal justice system.

Automatically expunge past criminal convictions for non-violent cannabis-related offenses and establish a streamlined process for pardons.

Yes No Partially

Notes: Article 5 establishes that individuals who were charged with possession of cannabis are eligible for an order of expungement, and that the Bureau of Criminal Apprehension is to identify records of qualifying individuals and grant an expungement to these individuals (Art. 5, Sec. 4, Subd. 1-2) automatically. Although this is a positive and noteworthy component of HF 100, it should include a deadline for expungements and be expanded to include pardons in addition to expungement.

Article 5 also establishes that a Cannabis Expungement Board will review individuals’ records who are eligible for expungement or resentencing to a lesser offense due to illegally selling cannabis if the offense did not involve “a dangerous weapon, the intentional infliction of bodily harm on another, an attempt to inflict bodily harm on another, an attempt to inflict

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bodily harm on another, or an act committed with the intent to cause fear in another of immediate bodily harm or death” (Art. 5, Sec. 5, Subd. 2). These provisions, too, should be maintained, strengthened, and given greater funding, as well as a required date for completion.

Capture most or all tax revenue for substance abuse prevention, public education campaigns, mitigating negative social impacts of the criminalization of cannabis, and promoting healthy youth development.

Yes No Partially

Notes: The overall tax rate is very low, and the amounts specified for prevention or mitigation purposes are exceedingly low and unlikely to have a significant impact. Article 9, Section 1 specifies appropriations from the general fund to dedicate toward educating pregnant or nursing women (\$1.6M to \$3.1M) and youth (\$3M) (Subd. 8(b),(e)); covering the costs of the Substance Use Disorder Advisory Council (Subd. 8(d)); staffing the Cannabis Expungement Board and covering related costs (\$921k) (Subd. 3); funding the Department of Employment and Economic Development (\$10.4M in FY2024 and \$6.7M in FY2025 only) for the CanStartup, CanNavigate, and CanTrain programs (Subd. 7); funding the Bureau of Criminal Apprehension for expenses related to identifying felonies eligible for expungement or resentencing (Subd. 14) (\$1.5 to \$3M); and substance use treatment and prevention (Subd. 19) (\$4M to \$16M). It is not clear, however, how these funding amounts were formed. Higher taxes proportionate to product potency should also be levied. Additionally, the majority of these taxes should be used for prevention of substance use for youth, public education, community reinvestment, and regulation enforcement, and these dedications should be specified and long-term. Support to business development should focus exclusively on social equity businesses. In sum, the tax rate should be raised, and revenue should be primarily devoted to cannabis regulation, costs related to legalization, and reinvestment in communities most impacted by the criminalization of cannabis.

Prioritize equity when licensing business applicants (e.g., residents of communities impacted by high drug incarceration rates, people with past cannabis convictions).

Yes No Partially

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Sec. – Section

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Notes: Article 1 specifies criteria for social equity applicants (Art. 1, Sec. 15), stipulating that OCM must establish application materials for applicants to demonstrate the harmful impacts of cannabis prohibition (e.g., arrest or imprisonment) (Art. 1, Sec. 16, Subd. 4 (c)). The bill also awards status as a social equity applicant (Art. 1, Sec. 16, Subd. 4, (a), (d)) at least 20 percent of the point system for cannabis license applications. However, the bill should have a more robust preference for social equity applicants (e.g., requiring 50 to 100 percent of licenses to be awarded to social equity applicants, either in the long-term or at least within the first 2 years). Additionally, if a nonprofit or public monopoly approach is used (see above), there should be requirements for equity-in-hiring. This allows social equity applicants to become immediately involved and successfully established before wealthier, non-equity competitors dominate the market.

Implement equity-in-hiring requirements.

Yes No Partially

Notes: Article 1 requires cannabis businesses to provide an annual report on the status of diversity in business ownership, management, employment, and services for which the businesses contract, but there are no criteria or benchmarks specified for cannabis businesses (Art. 1, Sec. 20, Subd. 6) (see the entry above).

Provide cost deferrals for equity cannabis business license applicants.

Yes No Partially

Notes: The bill does not waive fees for social equity applicants, although the proposed fees are very low. Article 3 does establish several programs to award funds to social equity applicants, but because there are no quotas established for these programs (just that these programs must give greater preference to organizations that serve equity communities), there is not a clear guarantee that social equity license applicants will necessarily be successful as a result. CanStartup awards grants to nonprofit corporations in communities where long-term residents are eligible to identify as social equity applicants (Art. 3, Sec. 1); CanNavigate awards grants to organizations that help individuals navigate the regulatory structure of the legal cannabis market (Art. 3, Sec. 2); and CanTrain awards grants to organizations that train people to work in the cannabis industry (“particularly for individuals facing barriers to

Evaluation Checklist for Minnesota’s Adult-Use Cannabis Bill, HF100 (as introduced in January 2023)



Art. – Article

Sec. – Section

Subd. – Subdivision

education or employment”) (Art. 3, Sec. 3). These grants should exclusively focus on social equity applicants.

Inform vulnerable groups and all consumers of the risks associated with cannabis use.

Yes No Partially

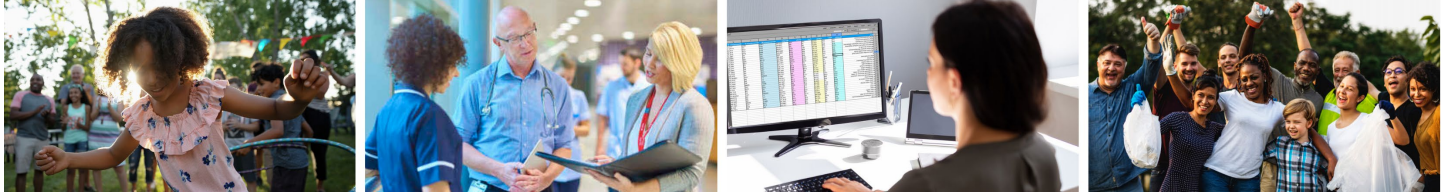
Notes: Article 1 requires “Keep this product out of reach of children” labels on cannabis or hemp products (Art. 1, Sec. 57, Subd. 2(8)) and provides the option (“may provide customers and patients with the following information”) for cannabis or hemp products to include warnings regarding adverse effects or health risks (Sec 57, Sub 6). However, the bill does not require additional warnings for pregnant or nursing women or other vulnerable groups (e.g., high-THC products for individuals with a history of psychosis).

Article 9 does stipulate general fund appropriations of \$1.6M to \$3.1M for educating women who are pregnant, breastfeeding, or may become pregnant (Sec 1, Sub 8(b)); \$3M for educating youth (Sec 1, Sub 8(e)); and \$369k to \$411k (only for FY 2024 and 2025, respectively) for covering costs of the Substance Use Disorder Advisory Council (Sec 1, Sub 8(d)). The amount of funding dedicated to each of these pursuits is abysmally low, particularly considering that there are no requirements in the bill for warning labels on cannabis or hemp products for pregnant or nursing women or for adverse risks and health effects of cannabis use on developing brains (e.g., increased risk of cannabis use disorder or psychosis).

The bill should guarantee long-term, dedicated funding from its cannabis tax revenue streams to statewide public education campaigns related to substance use prevention, especially for youth, pregnant women, and people with mental illness. At least \$10-\$15 million annually should be available for this purpose.

Getting it Right from the Start, a project of the Public Health Institute, works with states, cities, counties and community partners to develop evidence-based model policies and provide guidance on cannabis policies that can help reduce harms, protect against youth and problem cannabis use, and advance social equity.

This information should not be considered legal advice.



SUMMARY AND ANALYSIS OF MINNESOTA'S ADULT-USE CANNABIS LEGALIZATION BILL (H.F. 100)

Introduction

This resource provides a summary and analysis of Minnesota's adult-use cannabis legalization bill, H.F. 100. The review focuses on the provisions of the bill that have important public health and social justice implications. The analysis covers twelve categories of policy, which range from the legal possession amounts to social equity policies. When practicable, the analysis for each subject will provide a brief background on why the policy is important, how other states approach the issue, how H.F. 100 addresses it, and recommendations for improving the policy. When addressing provisions of the bill, the article and section information for the provision will be provided as reference. To facilitate navigation of the resource, a table of contents has been provided that has internal links to each of the twelve sections/categories of discussion. In addition, there is an appendix which contains all twenty-eight policy recommendations provided in the analysis. Some of the recommendations contain more information than they do in the body of the resource. This is intended to provide important background so the appendix can serve as an executive summary. With regards to the priority of each recommendation, I have identified measures that will have a larger public health and social justice impact. However, the political viability and the specific priorities of your agency may direct your efforts elsewhere.

If you any questions regarding this resource or the bill, please contact mshwinburne@law.umaryland.edu

This resource was developed by Mathew R. Swinburne, Associate Director, Network for Public Health Law—Eastern Region Office. The Network for Public Health Law provides information and technical assistance on issues related to public health. The legal information and assistance provided in this document do not constitute legal advice or legal representation. For legal advice, readers should consult a lawyer in their state.



Table of Contents:

To facilitate navigation of this large resource, the table of contents contains links in the subject column that connect to the relevant section of the resource. In addition, in the body of resource the section headers link back to the table of contents.

Section	Subject
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II.	Regulatory Body : required studies and Cannabis Advisory Council
III.	Tax Rate and Revenue
IV.	Home Cultivation
V.	Local Authority : the ability to prohibit cannabis businesses in a local jurisdiction, zoning authority, local input on licensing decisions, and local cannabis education
VI.	Cannabis Consumption Sites : microbusinesses, cannabis events, and lower potency edible product retailers
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I. Cannabis Possession

H.F. 100 legalizes the use, possession, and transportation of cannabis for individuals 21 and older. The bill permits adults to possess and transport up to the following amounts of cannabis and cannabis products. (Art. 1, Sec. 9)

- 2 ounces of adult-use cannabis flower in public
- 5 pounds of adult use cannabis flower in the individual’s private residence.
- 8 grams of adult-use cannabis concentrate.¹
- Edible cannabinoid products with a total of 800 milligrams of tetrahydrocannabinol.

Adult cannabis use is permitted at private residences, private property which is not generally accessible by the public, and licensed cannabis consumption sites.² In addition, H.F. 100 expressly prohibits cannabis use in a broad selection of locations including: motor vehicles, a public school, a state correctional facility, and any location smoking is prohibited by Minnesota’s clean indoor air laws. The restriction related to the clean indoor provisions includes the smoking of cannabis and the use of any “cannabinoid product.” Cannabinoid product is a broad category that captures edibles, concentrates, products infused with cannabinoids, and vaporized cannabis products. The possession provisions go into effect July 1, 2023.

(A.) Repercussions for possessing more than the personal use amount.


Under H.F. 100, as soon as an individual exceeds the legal possession amount discussed above, they are subject to criminal repercussions. (Art. 4, Sec. 8). For example, if an individual possesses more than two but less than four ounce of cannabis flower, they are guilty of possession of cannabis in the fourth degree. This is a petty misdemeanor which goes on the individual’s record. Having a cannabis offense on your criminal record has a negative impact on an individual’s employment, housing, and educational opportunities, in addition it can impact their parental rights.

As part of cannabis legalization, many states have decriminalized possession of certain amount of cannabis beyond the legal possession amount. The goal is to create a buffer zone before criminal sanctions are used. This civil use amount is usually subject to small civil fines and there is no criminal record generated. For example, in Connecticut an individual can possess up to 1.5 ounce of cannabis flower legally. If an individual exceeds this amount but possesses less than 5 ounces, they are subject to a civil fine of one hundred dollars. Each subsequent civil use amount infraction is subject to a fine of two-hundred and fifty dollars.³

Recommendation: Create a civil use amount for cannabis possession. A civil use amount creates a buffer zone between the legal possession amount and criminal repercussions. This helps individuals avoid the negative and long-term effects of having a criminal record. This can be done by eliminating the crime of possession of cannabis in the fourth degree. Instead, if an individual possesses more than two but less than four ounces of cannabis flower, they should be subject to a small fine. For repeated infractions of the civil use amount, the courts could be permitted to escalate the civil fine.

(B.) Gifting Cannabis

Adults may gift cannabis to another adult. However, they cannot give more than the respective possession amount for that product. H.F. 100 utilizes that language “give for no remuneration.” The policy of allowing cannabis gifting can be used to create a gray market, in which individuals sell overpriced items (*see e.g.*, t-shirts and stickers) which are accompanied by a gift of cannabis. This practice has been seen in several jurisdictions during the gap between legal possession and the opening of the licensed cannabis market.⁴ It is also the basis of adult-use cannabis market in the D.C. which is prohibited by the federal government from creating licensed adult-use cannabis retailers.⁵ To address this gray market, states need to use language that captures this practice of parallel transactions. H.F. 100 has a separate provision that states an individual may not “give for no remuneration cannabis flower or cannabinoid products as a sample or promotional gift if the giver is in the business of selling goods or services.” (25.30-25.31). This language targets the



parallel transaction of gifting cannabis for the purchase of another item or service. However, when is a party considered to be “in the business of selling goods or services”? This is not defined in the bill and could create confusion regarding the prohibition’s applicability.

Recommendation: Clearly define behavior that does not qualify as legal gifting of cannabis. While H.F. 100 provides a general prohibition on gray market transactions, key terms are undefined and could create confusion. Gray markets represent a product safety concern because they do not subject their products to the same testing, product restrictions, labeling requirements, and packaging requirements as the licensed market. They also undermine the effectiveness of the licensed businesses and can decrease potential tax revenue for the state. Maryland passed legislation that addresses the problem of gray market gifting. While Maryland allows adult sharing of cannabis for individuals “21 years of age or older without remuneration.”⁶ It goes on to clearly prohibit parallel gifting transactions by stating

*Adult sharing does not include instances in which: 1. cannabis is given away contemporaneously with another reciprocal transaction between the same parties; 2. a gift of cannabis is offered or advertised in conjunction with an offer for the sale of goods or services; or 3. a gift of cannabis is contingent on a separate reciprocal transaction for goods or services.*⁷


This approach reduces confusion because it prohibits specific types of transactions and does not restrict them to a specific type of participant. Adopting a similar provision would improve the cannabis gifting language of H.F. 100. However, even with precise language in place, the challenge in curbing the gray market will be one of enforcement.

II. Regulatory Body

H.F. 100 creates a new regulatory body, the Office of Cannabis Management (OCM) which is tasked with developing and enforcing the cannabis regulatory system. (Art. 1, Sec. 2). This includes both the adult-use and the medical cannabis programs. The OCM assumes authority over the adult-use system on July 1, 2023. However, the OCM does not assume authority over the medical cannabis system until January 1, 2024. Until this time, the Department of Health retains authority over the medical cannabis system.

(A.) Required Studies

H.F. 100 requires the OCM to conduct a series of five studies to help inform the state’s regulatory efforts. (Art. I, Sec. 4). The first study is a market evaluation to determine the expected size of the legal industry, the demand for product, the number and geographic distribution of cannabis businesses to meet the market demand, and the anticipated business from out of state residents. The second study evaluates the size and geographic distribution of the illicit cannabis market in Minnesota. The third study focuses on cannabis and impaired driving incidents. OCM is required to provide preliminary reports for these three studies to the legislature by January 15, 2024 and shall provide final reports by January 15, 2025. OCM is also responsible for conducting a study of the state’s mental health and substance abuse services. This study requires a broad spectrum of data analysis including emergency room visits for mental health or substance abuse treatment and court ordered mental health and substance abuse services. This report is due to the legislature by January 15, 2027. These studies are critical tools that help the legislature and OCM create an efficient and safer cannabis regulatory system. It is important to have baseline data to measure the impact of legalization, especially when it pertains to public health concerns. As a result, the timing of the studies is critical. To appropriately guide policy decisions, they must be completed before the market is established and operational. Reports with preliminary findings due on January 15, 2024, will likely be timely enough to inform policy. However, the mental health and substance abuse study is not timely. With a due date of 2027, it will not be completed before the state’s adult-use market is operation, which undercuts the study’s ability to inform policy. Early access to this information is also essential to allocation of



resources to ensure adequate support for state’s mental health and substance abuse services. The final report required by H.F. 100 is an annual report. OCM must submit this report to the legislature by January 15 each year. This report must contain data concerning the licensed cannabis market, the illicit cannabis market, a broad spectrum of public health issues, educational efforts, social equity, law enforcement, policy recommendations, and funding recommendations.

Recommendation: Set an earlier due date for the required report on mental health and substance abuse. While this report will take substantial effort to complete, the metal health and substance abuse study is not timely. With a due date of 2027, it will not be completed before the state’s adult-use market is operation, which undercuts the study’s ability to inform policy. Early access to this information is also essential to allocation of resources to ensure adequate support for state’s mental health and substance abuse services.

(B). Cannabis Advisor Council


H.F. 100 creates the Cannabis Advisory Council which is responsible for “reviewing national cannabis policy; examining the effectiveness of state cannabis policy; reviewing developments in the cannabis industry; reviewing developments in the study of cannabis flower and cannabinoid products; taking public testimony; and making recommendations to the Office of Cannabis Management.” (Art. 1, Sec. 3). The council is made up of over forty specified representatives. These council members represent a broad spectrum of views and experiences in business, government, community, and individual experiences. The bill should be commended for designating eleven representatives from first nation or tribal communities. With regards to representation of local government interests, the league of Minnesota Cities and the Association of Minnesota Counties are each allotted a spot on the council. With regards to public health representation, the State Health Commissioner or their designee sits on the council and an expert in substance abuse prevention and treatment is also required. However, the council does not provide for the representation of local public health interests.

Recommendation: The Cannabis Advisory Council should include a local public health representative. Given the important role the council plays in reviewing, informing, and recommending policy, local public health should have a seat at the table. In a body with over forty representatives, two designated public health voices are insufficient to address the broad spectrum of issues presented by cannabis legalization. Requiring a representative from the Local Public Health Association of Minnesota would add an important perspective.

III. Tax Rate and Revenue

H.F. 100 proposes an 8% gross receipt tax on cannabis flower, adult-use cannabis products, adult-use cannabis solutions, and lower potency cannabis edibles. (Art. 2, Sec. 6). This tax takes effect December 31, 2023. This tax revenue is paid into the state’s general fund. In addition, effective December 31, 2023, these cannabis sales would also be subject to the state’s base 6.5% sales tax which is also paid into the state’s general fund and the 0.375% sales tax that is paid into the Natural Resources and Arts Fund. (Art. 2, Sec. 7). A revenue analysis for H.F.100 is not yet available. However, there is a tax revenue analysis for H.F 600 (2021), the previous legalization bill.⁸ This analysis projected 14.5 million in state tax revenue in the first year, 66 million in the second year, and 98.9 million in the third year. However, this bill subjected cannabis sales to a 10% gross receipt tax. If all other variables remain constant, H.F. 100 would result in less state tax revenue than its predecessor. With regards to local tax revenue, cannabis sales are still subject to local sales taxes, but H.F. 100 prohibits local governments from enacting cannabis specific taxes. (Art. 2, Sec. 12).

Recommendation: Allow local jurisdictions to impose a cannabis specific tax to help them address potential increased costs related to regulating cannabis businesses and increases in public health and safety issues. Our research indicates that 11 of the 18 states that have licensed adult-use cannabis systems impose or allow local cannabis-specific taxes (AK, CA, CO, CT, IL, MA, MT, NJ, NY, OR, RI). Of these 11 states, only Alaska and California do not explicitly set caps on the



local tax rate. Connecticut, New York, and Rhode Island set the local rate specifically (3%, 4%, and 3%, respectively), and the remaining six states cap the rate at 2%-8%. However, only 5 of these states (AK, CA, CO, IL, and NJ) also allow the local jurisdiction to impose their local sales tax.⁹

The total overall tax rate is the state's major concern in this area. If the overall tax rate is too high, the legal cannabis market will not be competitive with the unlicensed or illicit market. One of the major policy goals of legalization is to diminish the size of the illicit market. As a result, finding a balance in helpful tax revenue and a competitive price point can be a challenge. Hopefully, the fiscal policy note will have research into this price point. However, we can compare the proposed total tax against other jurisdictions. To estimate this value, Hennepin County's sales and use tax will be utilized (0.65%). As the bill stands, the total effective tax rate on a cannabis purchase would be 15.525%. Some states utilize other tax structures such as excise taxes earlier in the supply chain, potency taxes, variable tax rates based on product type, and tax by product weight. As a result, the best comparison is with other states that utilize a flat cannabis specific sales tax. When we do this H.F. 100 proposed overall tax rate is very low. A list of total tax rates is provided below for comparison.


- Michigan is 16% and does not allow any local taxes.
- New Mexico is 17% before the addition of local sales tax.
- Oregon is 20% which includes a 3% local cannabis tax.
- Massachusetts is 20% which includes a 3% local cannabis tax.
- Vermont is 20% before the addition of local sales tax.
- California is 22.5% before the addition of an uncapped local cannabis tax.
- Montana is 23% which includes a 3% local cannabis tax.
- Washington is 43.5% before the addition of local sales tax.

This data indicates that allowing local jurisdictions in Minnesota to impose a 3% cannabis specific tax would maintain a relatively low overall tax rate. Of course, tax rates impact demand differently in each state depending on the price sensitivity of cannabis consumers. This metric would help determine the impact of any potential increase in the overall tax rate.

IV. [Cannabis Home Cultivation](#)

Sixteen of the twenty jurisdictions that allow adult-use cannabis, allow home cultivation. Home cultivation is a tool to increase access to cannabis when geographic or financial barriers exist. This is particularly relevant to the medical cannabis market. However, allowing home cultivation can create enforcement challenges, especially with regards to gray markets. There are also concerns with diversion of cannabis to youth. The analysis of home cultivation provisions in H.F. 100 is based on six policy variables identified in our earlier research into adult-use cannabis regulation: (1) individual cultivation limits, (2) household cultivation limits, (3) permissibility of indoor grows, (4) permissibility of outdoor grows, (5) grow security, and (6) visibility restrictions.¹⁰ These policy variables address the issue of potential diversion to a gray market or to youth. If a state allows home cultivation that exceeds the needs of the adults in a household, the excess could be diverted into the gray market. Where the cannabis is grown, the security required, and visibility restrictions are all aimed at restricting unauthorized access.

H.F. 100 allows an adult to grow up to 8 cannabis plants at the primary residence of an individual 21 years of age or older. (Art. 1, Sec. 9). Only 4 of these plants may be mature, flowering plants. At first glance, this grow limit is slightly higher than the average limit of 6 plants, adopted by 10 of the 16 jurisdictions that allow home grow. However, this limit applies to the entire residence. So, if there were two adults at a location, they could not each grow 8 plants for a total of 16 plants. They would be restricted to the location limit of 8 plants. This policy is more restrictive than most states that



allow a household with multiple adults to grow double the individual grow amount. For example, a state that limits individual cultivation of 6 plants would allow a household limit of 12 plants.

With regards to permissible cultivation areas, indoor cultivation is permissible in all adult-use home grow programs. While indoor cultivation limits access and visibility, which are positives for cannabis diversion, individuals may not have the space or the equipment necessary for indoor cultivation. As a result, 11 of 16 adult-use home cultivation programs permit outdoor grows. H.F. 100 allows indoor and outdoor cultivation of cannabis plants. With regards to outdoor cultivation, the bill specifically permits cultivation in the curtilage or yard. (Art. 1, Sec. 9). Allowing outdoor cultivation has the potential to increase diversion but it is utilized by most states. That is why security and visibility requirements are critical to discouraging this diversion. 11 of the 16 adult-use home cultivation programs require that the grow location be secure. While 10 of the 16 adult-use home cultivation programs require the grow to be shielded from public view. H.F. 100 requires all home cultivation to be done “in an enclosed, locked space that is not open to public view.” (Art. 1, Sec. 9).

The home cultivation measures of H.F. 100 are standard. While the individual grow limit is slightly higher than average, the household limit is lower than average. H.F. 100 also tracks the standard policy trend of allowing outdoor cultivation if the grow is secure and shielded from public view.

V. [Local Authority](#)

The level of local control in cannabis regulation is dictated largely by state’s use of preemption. The critical areas of local authority covered in this analysis are the ability to prohibit cannabis businesses in a local jurisdiction, zoning authority, and input on local licensing decisions. Local tax authority is discussed above in Section III.


(A.) *Prohibiting Adult-Use Cannabis Businesses*

Traditionally, states have allowed local jurisdiction to decide whether to allow adult-use cannabis businesses to operate in their community. This preservation of local authority does not allow local governments to prevent the legal use of cannabis in their jurisdiction. Also, it does not extend to the transport of cannabis through a jurisdiction. The issue of cannabis delivery to consumers in a local jurisdiction is often protected by the state as well.

With regards to the prohibition of cannabis businesses by local government, H.F. 100 defines a “*local unit of government*” as a “home rule charter or statutory city, county, town, or other political subdivision.” (Art. 1, Sec. 1). A local unit of government may not prohibit the possession, transportation, or use of cannabis flower or cannabinoid products authorized under this chapter. (Art. 1, Sec. 13). In addition, a local unit of government may not prohibit the establishment or operation of a licensed cannabis business. Denying local governments the authority to prohibit adult-use cannabis businesses from operating in their community is unusual. While the establishment of medical cannabis businesses is seen as necessary part of this emerging field of health care, greater deference to local authority is seen with adult-use cannabis businesses. Our initial research shows that every adult-use state, except New Mexico, Oregon, and Rhode Island, grant local government the power to completely prohibit and/or limit the number of cannabis businesses in their community.¹¹

(B.) Zoning Authority

While H.F. 100 prevents local government from completely prohibiting the operation of cannabis businesses, it allows a local unit of government to adopt reasonable restrictions on the time, place, and manner of the operation. (Art. 1, Sec. 17). However, these restrictions cannot serve as a de facto ban on cannabis businesses. The bill also indicates that the Office of Cannabis Management will work with local government to develop model time, place, and manner ordinances. (Art. 1, Sec. 17). H.F. 100 also allows local units of government to prohibit the operation of a cannabis business within



1,000 feet of a school, day care, nursing home, union headquarters, house of worship, or the Capitol or Capitol grounds. (Art. 1, Sec. 17) However, this type of exclusionary zone is prohibited if it would serve as a de facto ban within the local jurisdiction.

When evaluating state zoning restrictions for cannabis businesses, there are two variables to consider: (1) the size of the exclusionary zone and (2) the protected locations.¹² Currently, thirteen of the eighteen states with licensed adult-use cannabis markets set specific restrictions on local zoning authority in this area. The size of the exclusionary zone varies considerably amongst these states. The most common buffer zone size is 500 feet which is used by 6 states (AK, MA, MT, NY, RI, and VT). By allowing local government units to create up to a 1,000-foot exclusionary zone, H.F. 100 matches the most protective buffer standard found in our research.¹³ Five states use this standard (ME, MI, NV, OR, and WA).

Advocating for a larger exclusionary zone would be difficult because there is no precedent in other jurisdictions, and it could push against the prohibition of using zoning restriction as a de facto ban.

With regards to protected locations, H.F. 100 covers several common places: schools, day cares, nursing homes, union headquarters, houses of worship, or the Capitol or Capitol grounds. However, our research has revealed that there are other locations that should be considered. These locations include playgrounds, public parks, recreation centers, youth centers, and community centers.

Recognizing that reasonable time, place, and manner restrictions will take time to develop, H.F. 100 permits interim local ordinances that regulate, restrict, or **prohibit** the operation of a cannabis business within part or all the jurisdiction. (Art. 1, Sec. 17). The purpose of these interim ordinances must be to protect the planning process and the health, safety, and welfare of the community. To pass the interim ordinance, the local unit of government must be conducting studies or authorized a study or held or scheduled a hearing for the purpose of considering or amending reasonable time place manner restriction for cannabis businesses. In addition, the local government must hold a public hearing before passing the interim ordinance. These interim ordinances can only last until January 1, 2025.


Recommendations: Consider including playgrounds, public parks, recreation centers, youth centers, and community centers to the list of protected locations subject to the cannabis business zoning restriction. The use of a state zoning restrictions around child focused locations helps decrease youth exposure to cannabis.

(C.) Local Input on Licensing

A local unit of government can provide input during a cannabis businesses application process. Within 30 days of receiving an application, the Office off Cannabis Management will contact the local government regarding the applicant. The local government will need to confirm that the applicant and its proposed locations comply with local zoning ordinances, as well as state fire and building codes. (Art. 1, Sec. 17). In addition, once the Office of Cannabis Management contacts the local government, it has 30 days to “provide input on the application. The local unit of government may provide the office with any additional information it believes is relevant to the office's decision on whether to issue a license, including but not limited to identifying concerns about the proposed location of a cannabis business or sharing public information about an applicant.” (Art. 1, Sec. 17)

In addition to the initial feedback process for applicants, the Office of Cannabis Management has been mandated to create an expedited process for complaints made by local units of government about cannabis businesses. At a minimum, this process must respond to the local concerns within 7 days and conduct any necessary inspections within 30 days. (Art. 1, Sec. 17).

(D.) Local Cannabis Education



H.F. 100 allocates \$6.235 million to the Department of Health in 2024 and \$6.231 million in 2025. The allocation decreases considerably in 2026 and 2027 to around \$9 million. These funds are primarily focused on education. Some of the key education appropriation for 2024 are:

- \$1.674 million for education for women who are pregnant, breastfeeding, or who may become pregnant. Of these funds, \$1 million must be allocated to media campaign contracts.
- \$330,000 is allocated to data collection and reports.
- \$2,998,000 is allocated to youth education. Of these funds, \$1 million must be allocated to public awareness campaigns. (Art. 9, Sec. 1).

It is critical to note that there are no education funds directly allocated to local public health. This is an issue that I have discussed with Kari Oldfield-Tabbert, J.D., the executive director of the Local Public Health Association of Minnesota. She has drafted an amendment to allocate an additional \$2.5 million in annual funds for local health departments. These funds are to be used for cannabis prevention community education, community engagement and education for women who are pregnant, breastfeeding, or who may become pregnant. This is an excellent policy. It would help address the lack of a local cannabis tax and provide local government key support in address the impact of legalization.

Recommendation: Each year, appropriate \$2.5 million for local health departments to support their public education efforts regarding cannabis.

VI. [Cannabis Consumption Sites](#)


Cannabis consumption sites are licensed locations where individuals can legally consume cannabis in public. These locations are an emerging trend in cannabis policy. While often seen as a social venue, they are also a tool for increasing access to cannabis and the economic opportunities of the cannabis market. First, some individuals do not have a legal location to consume cannabis because of the prevalent policy of only allowing cannabis use on private property. This creates issues for individuals who live at properties with policies prohibiting cannabis use (see e.g., public housing). This can be particularly challenging for medical cannabis users. Second, consumption sites can be a low-cost point of entry into the cannabis market because they require a lower upfront investment than a cultivation, processor, or retailer license.

Currently, 10 of 18 states with licensed adult-use cannabis systems allow consumption sites (AK, CA, CO, IL, MA, MI, NV, NJ, NM, and NY).¹⁴ H.F. 100 would allow on-site consumption at three locations: cannabis microbusiness licensees, lower potency edible product retailers, and cannabis events. As a result, it is important to look at five variables: (1) the sale of alcohol, (2) the sale of tobacco, (3) sale of food, (4) whether outdoor consumption of cannabis is permitted, and (5) visibility restrictions for cannabis consumption.

(A.) Microbusinesses

H.F. 100 proposes the creation of a cannabis microbusiness license. This license is a vertically integrated license that would allow the licensee to conduct all the operations in the cannabis supply chain (cultivation, processing, and retail), but on a restricted scale. (Art. 1 Sec. 34). In addition, a cannabis microbusiness may permit the on-site consumption of edible cannabinoid products in a distinct section of its premises. (Art. 1 Sec. 34). This provision is unique in that it limits consumption to edibles, a restriction not utilized by other states. This has interesting public health benefits in that it avoids the problem of second-hand cannabis smoke and issues with the state's clean indoor air act.

The bill also takes the positive step of prohibiting the sale and consumption of alcohol and tobacco at microbusinesses. With regards to the sale of food, the bill states “[f]ood and beverages not otherwise prohibited by this subdivision may be prepared and sold on site provided that the cannabis microbusiness complies with all relevant state and local laws,



ordinances, licensing requirements, and zoning requirements.” (Art. 1 Sec. 34). This means that local food safety authorities may need to work with microbusinesses with regards to their food operations.

With regards to outdoor consumption of cannabis, the bill uses ambiguous terminology. The restricts cannabis consumption to the “premise” of the microbusiness. This is the term used by most states that permit consumption sites. However, “premise” is not defined in the bill’s consumption site provisions. This is also common practice amongst states that use this term. As a result, interpretation must start with the general definition of the term includes “the building or buildings and surrounding land that a business or person owns or uses.”¹⁵

Restricting cannabis consumption from public view is a common provision, with 7 of the 10 states that permit cannabis consumption sites adopting this policy (AK, CA, CO, MA, NV, NJ, and NM).¹⁶ H.F. 100 also adopts this policy. The bill states “a cannabis microbusiness shall ensure that the display and consumption of any edible cannabinoid product is not visible from outside of the licensed premises of the business.” (Art. 1 Sec. 34). This policy is an important intervention to help decrease youth exposure to cannabis consumption.

(B.) Lower potency edible product retailers

The lower potency edible product retailers license allows the licensee to sell lower potency edible products which can contain up to 5 mg of THC per serving and 25 mg of THC per package. However, if a retailer also has certain on-site liquor licenses, they can also allow onsite consumption of low potency cannabis beverages. (Art. 1, Sec. 40). By limiting the onsite consumption to cannabis beverages, the policy avoids the problem of second-hand cannabis smoke. However, these sites, based on the prerequisite alcohol license, can sell alcohol. However, the bill prohibits the sale of these cannabis beverages to anyone who is visibly intoxicated or who the retailer knows or reasonably should know has consumed alcohol sold or provided by the retailer within the previous five hours. This is an attempt prevent cross consumption of intoxicating beverages, which is an implicit challenge to this licensing structure.


There are no provisions addressing the sale and consumption of tobacco at these locations. This contravenes the trend scene in states that allow adult-use consumption sites. Currently, 7 of 10 states explicitly prohibit the sale and/or consumption of tobacco at cannabis consumption sites (AK, CA, CO, MA, MI, NV, and NJ).

Food and beverages may be prepared and sold at these locations, provided that the lower potency edible product retailer complies with all relevant state and local laws. Again, this provision means that local food safety authority may need to work with retailers with regards to their food operations.

With regards to lower potency edible retailers, the bill does not explicitly address outdoor consumption. It restricts use to “onsite.” The restrictions also prohibit open cannabis products from being removed from the premises. Again, the ambiguity in the language could be interpreted to allow outdoor consumption.

Finally, there are no visibility restrictions for the consumption of cannabis beverages at these sites. Since these sites are restricted to cannabis beverages, youth exposure to cannabis consumption is naturally hidden to a greater degree than with combustible products.

Recommendation: Prohibit the sale of alcohol at these consumption sites. Allowing the sale and consumption of alcohol at a consumption site allows for the cross consumption of intoxicants. 8 of 10 states with consumption site laws explicitly prohibit the sale and/or consumption of alcohol at a consumption site, to avoid the mixing of intoxicants. This problem is complicated by the delayed onset of intoxication with edible cannabis products. An individual may not feel the effects of the edible for hours and continue to consume additional cannabis beverages. Given the challenges of



limiting over consumption of intoxicants, it would be safest to prohibit the consumption of alcohol at these businesses. It would be safer to adopt a consumption site model used by microbusiness.

(C.) Cannabis Events

A cannabis event organizer license allows the licensee to organize temporary cannabis events lasting no more than four days. (Art. 1, Sec. 35). A cannabis event organizer must receive local approval, including any necessary permits or licenses issued by a local unit of government, before holding a cannabis event. At these events licensed retailers and microbusinesses may sell cannabis products in an age restricted retail area. The event organizer can also establish an age restricted area for the consumption of cannabis products. Unlike other consumption sites, there are no restrictions on the type of legal cannabis products that can be consumed (*see e.g.*, cannabis flower). However, the licensee must receive approval from the local government to host a consumption area at the event.

The consumption of alcohol and tobacco are prohibited at licensed cannabis events. In addition, there are no restrictions on the sale of food or outside consumption. However, the event organizer is responsible for ensuring that the consumption of cannabis is not visible to the public.

Recommendation: The key element of this provision is local approval requirement for the event itself and the use of a cannabis consumption area. While the local government cannot create a flat ban on these events, as discussed in the local control section. It can create reasonable time, place, and manner restrictions, as previously discussed. The Office of Cannabis Management is directed to develop model ordinances for this purpose in conjunction with local government. This is an opportunity for local engagement and input on the issue of cannabis events.

VII. [Cannabis Product Design](#)

Product design restriction can help reduce the appeal of cannabis products to children, especially edible cannabis products. With legalization, states have seen an increase in accidental consumption of cannabis products by children.¹⁷ This is understandable given that cannabis edibles can easily be mistaken for regular food and candy without proper regulation. Preventing accidental ingestion of cannabis products by children is critical because their smaller size puts them at higher risk for cannabis poisoning.


H.F. 100 requires that all types of cannabis flower, cannabinoid products, and hemp-derived consumer products other than hemp-derived topical products be approved for retail sale by the Office of Cannabis Management. (Art. 1, Sec. 6). This approval process is guided by statutory restrictions on cannabis design. The evaluation of the proposed product regulations is based on three policy interventions: generally prohibiting products that appeal to children, restricting novel product shapes, and prohibiting products that mimic non-cannabis products that appeal to children. H.F. 100 tracks with the national best practices in this area.

(A.) General Prohibition on Appealing to Children

Twelve states with legal adult-use cannabis prohibit products that appeal to children/youth/minors.¹⁸ H.F. 100 follows this trend by prohibiting products “modeled after a type or brand of products primarily consumed by or marketed to children,” and products that are or appear to be lollipops or ice cream. (Art. I, Sec. 6).

(B.) Restrict Novel Shapes

Nine states restrict the sale and/or production of products formed in certain shapes, though these jurisdictions take varying approaches.¹⁹ This restriction is especially important for edible cannabis products. Seven states prohibit the sale of products in the shape of some or all the following items: human, animal, fruit, toy, cartoon, insect, character, or vehicle. Only two states (CT and ME) directly limit products to geometric shapes.



H.F. 100 prohibits products that “[bear] the likeness or [contain] characteristics of a real or fictional person, animal, or fruit.” (Art. I, Sec. 6).

Recommendation: Restrict edible cannabis products to geometric shapes. This is a clearer standard for the industry and prevents the creation of products that are particularly attractive to children. H.F. 100 follows the most prevalent approach to product shape restriction by listing prohibited novel shapes (a person, animal, or fruit). However, this list is incomplete. For example, an edible cannabis product could be made in the shape of a race car under its standard. A geometric shape restriction removes the need to have an exhaustive list of prohibited novel shapes.

(C.) Prohibit Products that Imitate Non-Cannabis Products that are Appealing to Children

Twelve states prohibit products that imitate non-cannabis products that appeal to children. There are differing approaches to this restriction. For example, three states (AK, AZ, WA) prohibit products which “closely resemble a food or drink item marketed to children” or have “similarities to products marketed” to children/people under age 21. While CA, MI, and MT prohibit products that are “easily confused with commercially sold products.” As mentioned above, H.F. 100 prohibits products “modeled after a type or brand of products primarily consumed by or marketed to children. (Art. I, Sec. 6).

VIII. [Cannabis Packaging Requirements](#)


Packaging design helps reduce the appeal of cannabis products to children, especially edible cannabis products. The evaluation of the proposed packaging provisions is based on the eight policy interventions.²⁰ A strong packaging policy does not require the adoption of all eight provision because several of these are alternate approaches to achieving the same goal, decreasing child exposure to cannabis. The eight policy variables can be broken into three categories (1) appearance of packaging, (2) physical integrity of the packaging, and (3) inclusion of poison control information.

(D.) Appearance of Packaging

There are five policy variables that states utilize to address the appearance of cannabis product packaging. First, fifteen states utilize a general prohibition on making the package attractive to children. This policy approach would be open to interpretation without further guidance. As a result, thirteen jurisdictions have prohibited specific images and language deemed appealing to children. For example, Illinois prohibits packaging that “includes any image designed or likely to appeal to minors, including cartoons, toys, animals, or children, or any other likeness to images, characters, or phrases that are popularly used to advertise to children.”²¹ Next, to decrease accidental ingestion of cannabis products by children, fourteen states prohibit packaging that resembles commercially available food that appeals to children. States will often provide examples of these foods, including candy, snacks, baked goods, and beverages. While these are useful policies to address the appeal of the packaging to children, the concept of attractiveness to children can be subject to interpretation even with clear examples in place.

The stronger approach to package appearance is the use of the next two policy levers: a detailed plain packaging mandate and a requirement for opaque packaging. If clearly crafted these policies are less ambiguous and more protective. Only three states utilize a plain packaging mandate (CT, MA, and NJ). Each of these states defines their plain packaging requirement differently and we will discuss this in greater detail below. To prevent children from seeing cannabis products that would be appealing to them (*see e.g.*, cookies, gummies, candies), nine states require opaque packaging for cannabis products (AK, CA, CT, ME, MA, MI, MT, NV, NJ).

H.F. 100 has strong packaging requirements related to appearance. First, the bill includes a general prohibition on cannabis flower, cannabis products, and hemp derived consumer products being packaged in a way that is attractive to people under 21 years of age. (Art. 1, Sec. 56). However, the bill does not provide further guidance on what would be



prohibited. Second, it prohibits these products from resembling commercially available products that do not contain cannabis. Third, it requires these products to be prepackaged in opaque packing or to be placed in opaque package or container before leaving the retail location. Finally, the bill requires the use of plain packaging. However, it does not define plain packaging.

Recommendation: Set clear parameters for the plain packaging for cannabis products. While H.F. 100 requires packaging to be plain it does not provide guidance on what qualifies as “plain” packaging. The Office of Cannabis Management could later clarify this term. However, it would be prudent to define what qualifies as plain packaging in the bill because it ensures that the issue is addressed, reduces ambiguity for the industry, and better protects children. States that have adopted the plain packaging requirement define it in different ways. For example, New Jersey requires the packaging to be a single color, but may contain a logo or symbol of a different color or colors, provided the logo is no larger than one inch in length and one inch in height. Connecticut requires that the package be “entirely and uniformly one color, and shall not incorporate any information, print, embossing, debossing, graphic or hidden feature, other than (the required) labeling.” Connecticut also requires that packaging for edible cannabis products shall be entirely and uniformly white. While Connecticut’s standard is restrictive, it ensures that the product packaging is not attractive to children and provides clear parameters to the industry. Adopting a clear plain packaging standard, like Connecticut, is a way to create a more protective packaging standard.

(E.) Physical Integrity of the Packaging

There are two key policy interventions that focus on reducing youth access by addressing the integrity of the cannabis packaging. First, every state requires that the packaging be child resistant. Most states incorporate the pre-existing federal standards established by the Poison Prevention Packaging Act of 1970. Second, three states require tamper-evident packing for cannabis products (CA, CT, and ME). Tamper evident packaging contains indicators or barriers that if breached provide visible evidence of this breach.

H.F. 100 requires child resistant and tamper evident packaging. (Art. 1, Sec. 56). It also uses the federal child resistant standards of the Poison Prevention Packaging Act of 1970 (Art. 1, Sec. 1).

(C.) Poison Control Contact Information


Four states require the poison control phone number on cannabis packaging (NJ, NM, VT, and WA). While Michigan does not require this information on the packaging, it must be provided on a pamphlet at the point of sale. In a case of accidental cannabis ingestion, this information can facilitate securing help for the individual. H.F. 100 requires that packaging include a label with the “contact information for the poison control center and a safety hotline or website for customers to report and obtain advice about side effects and adverse effects of cannabis flower and cannabinoid products” (Art. 1, Sec. 57).

IX. Labeling Requirements

Product labeling is a critical public health tool for consumer education and safety. Product labels help consumers make informed decisions and help prevent accidental ingestion. Product labels contain important information regarding product ingredients, concentrations and amount of cannabinoids, health warnings, and manufacturer information. Our analysis of labeling requirements focuses on ensuring legibility of information and inclusion of necessary product warnings.

(A.) General Label Legibility Requirements

To ensure that critical product information is legible, ten states have general text size and/or style requirements that apply to all required cannabis product label.²² Text size requirements are described either as a font point-size or in



inches. Six states have text size requirements in inches, ranging from 1/10 inch to 1/16 inch, with some specifying whether that measurement is based on lowercase letter “o” or uppercase letter “K.”²³ Three jurisdictions describe text size requirements in font point-size, ranging from 4.5-point in New York to 8-point in Nevada. Maine describes text size with both font point-size (6-point) and inches (1/12). Two jurisdictions have text style requirements (i.e., Connecticut requires labels to be printed in Times New Roman). H.F. 100 does not contain specific text size or style or location requirements for cannabis product labels. While the Office of Cannabis Management has the authority to draft additional labeling requirements, it would be useful to define an overall minimum font size or style on cannabis product labels to ensure the information is consistently legible for consumers and to reduce the risk that manufacturers will hide required warnings and other information in small or illegible text.

Recommendation: Set specific font size and style standards for cannabis product labels to ensure that critical consumer information is legible.

(B.) Product Warnings


Every adult-use cannabis state requires health warnings on cannabis product labels. The health warnings include those concerning: (1) delayed onset of intoxication for edible products, (2) use while driving or operating machinery, (3) use by pregnant or breastfeeding individuals, (4) use by children or animals, and (5) inclusion of a “Not Safe for Kids” icon.²⁴ The “Not Safe for Kids Icon” is used by only three states and generally resembles a red octagon containing “NOT SAFE FOR KIDS” in black text.

H.F. 100 proposes two product label warnings related to (1) pregnant or breastfeeding individuals and (2) children or animals. H.F. 100 also instructs retailers to provide information about the “expected timing of impairment effects” for all cannabis products, not just edible products, but does not require the information to be contained on the product label – it may be posted on a sign at the retailer, included in a separate pamphlet, etc. It would be prudent to consider requiring this kind of information on the product label itself. Like the provisions regarding delayed onset for edibles, H.F. 100 instructs retailers to provide a “statement that customers and patients must not operate a motor vehicle or heavy machinery while under the influence of cannabis,” but does not require that warning to be on the product label. Again, it might be useful to consider requiring this statement to be on the product label itself.

Recommendation: Require that the warnings pertaining to delayed onset of intoxication from cannabis edibles and the dangers of operating of motor vehicles or heavy machinery while under the influence of cannabis be placed on the product label itself. The addition of new warning requirements may be opposed by the industry because of concerns regarding the appearance of the packaging and sufficient space for all the required information. However, a strict plain packaging requirement, discussed above, would help address these concerns.

(C.) Universal Symbol Requirements

Twelve states require labels to contain a universal symbol that indicates that the product contains cannabis.²⁵ Nine of the twelve states have minimum size requirements ranging from a minimum of one-fourth of an inch width and height to three-quarters of an inch width and height. CA and VT have different size requirements based on the type of product. Four of the 12 states dictate that the symbol must be located on the principal display panel, the front of the product, or predominantly displayed. CA simply requires the symbol to be “visible.” While H.F. 100 requires use of a universal symbol, it does not specify size or location requirements for the symbol. The Office of Cannabis Management could draft regulations to address this issue, but inclusion of a minimum size (i.e., “1/2 inch”) and required placement in the statutory language would help ensure the effectiveness of the symbol requirement.



Recommendation: Set a standard size and location for the universal symbol. This would help ensure the symbol is easily visible, helping to delivery its intended message that the product contains cannabis.

X. [Advertising Restrictions](#)

Most adult-use states have developed advertising restrictions (16 out of 20 jurisdictions) to help reduce youth exposure to cannabis, ensure truthful information is conveyed, and provide important public health warnings. Advertising restrictions are especially critical to reducing youth appeal and consumption. Although cannabis can negatively impact the developing brain, data shows that many youth do not believe cannabis use is harmful or underestimate the health risks.²⁶ To address this challenge and achieve the goals listed above, states use three categories of advertising restrictions: medium-based restrictions that focus on the method of advertising, content-based restrictions, and physical location restrictions.²⁷


(A.) Medium-Based Restrictions

The primary objective of medium-based restriction is to prevent the targeting of children through broadcast (radio and television), print, or internet advertising. To determine if the advertising targets children, most state laws look at the intended audience of the broadcast program, print media, or the website. For example, nine states only permit broadcast advertising if a certain percent of the audience is reasonably expected to be at least 21, based on current audience composition data. However, the percentage of the audience that must be 21 varies considerably between jurisdictions. For example, Connecticut requires 90% of the audience to be at least 21 and Oregon requires 70%. These are the highest and lowest metrics used in determining the intended audience. There are other approaches to medium based restrictions. Montana completely prohibits the use of broadcast media for advertising. New Mexico only permits broadcast advertising on subscription services and the subscriber must be twenty-one years of age. Although these examples highlight broadcast media, the same approaches are used for print and internet advertising.

Another area of regulation is event sponsorship. Nine states restrict event sponsorship by adult-use cannabis companies. Six states only permit event sponsorship if a certain percentage of attendees is reasonably expected to be at least 21. Again, this percentage mirrors the states' other media-based restrictions discussed above.

States are also adapting their advertising restrictions to incorporate modern technology. Location-based marketing (LMS) uses a mobile device's location to alert the device's owner about an offering from a nearby business. 7 of 16 states with advertising restrictions regulate LMS. While all these states allow LMS, they require that the advertising is limited to individuals 21 years of age or older. 6 of these states require that the individual solicits these advertisements. For example, Connecticut limits LMS to applications installed by the owner of the device and that the applications have an easy opt out option.

H.F. 100 has good medium-based advertising restrictions. First, the bill prohibits advertisement for “cannabis flower, a cannabis business, a cannabinoid product, or a hemp-derived consumer product in any print publication or on radio, television, or any other medium if 30 percent or more of the audience of that medium is reasonably expected to be individuals who are under 21 years of age.” (Art. 1, Sec. 58). It is important to note that setting the youth audience metric at 30 percent matches the most lenient standard used by states. Vermont and Massachusetts limit the expected youth audience to 15 percent and Connecticut limits it to 10 percent. Second, the bill prohibits the use of unsolicited internet pop-up ads. (Art. 1, Sec. 58). Third, location-based marketing through a mobile device is prohibited unless the user is 21 years of age and the advertisement is through an application that the user has subscribed to.



Recommendation: Use a more protective standard to determine if an advertisement targets a youth audience. Currently, the bill prohibits advertising in a medium if 30 percent or more of the expected audience is under 21 years of age. Minnesota should consider utilizing the 15 percent standard used by Vermont and Massachusetts.

Recommendation: Clarify whether cannabis businesses may sponsor events that have a predominately adult audience. It is unclear if sponsorship would be captured under the general prohibition against advertising “cannabis flower, a cannabis business, a cannabinoid product, or a hemp-derived consumer product in any print publication or on radio, television, or any other medium if 30 percent or more of the audience of that medium is reasonably expected to be individuals who are under 21 years of age.” The term “any other medium” may capture sponsorship. However, specific language would manage expectations of the industry and the community at large.

(B.) Content Restrictions

Content restrictions look at what is being said in an advertisement rather than the medium it is being communicated through. There are five content restrictions relevant to the analysis of H.F. 100: (1) therapeutic claims, (2) safety claims, (3) content that targets children, (4) product warnings, and (5) misleading information. First, thirteen states regulate the use of therapeutic or curative claims. Six of these states prohibit the use of therapeutic or curative claims in cannabis advertising. The remaining seven states require the claims to be substantiated.


Second, six states restrict safety claims in cannabis advertising. Four states prohibit safety claims based on the fact that cannabis is regulated by the state and/or tested in a licensed laboratory. Two states will permit safety claims if they are scientifically substantiated. Montana prohibits these claims all together.

Third, every state with advertising regulations explicitly prohibits advertising content that targets children. The degree of detail in this prohibition varies considerably. Michigan simply prohibits advertising that targets individuals under the age of 21. New Jersey takes a more detailed approach by prohibiting a depiction of a person under 21 years of age consuming cannabis items; the inclusion of objects, “such as toys, characters, or cartoon characters suggesting the presence of a person under 21 years of age, or any other depiction designed in any manner to be especially appealing to a person under 21 years of age.”

Fourth, ten states require product warnings in cannabis advertisements. There are a broad range of required warnings including warnings related to the: possible impairment from the consumption of cannabis, intoxicating or addictive effects of cannabis, health risks associated with consumption of cannabis, use by pregnant or breast-feeding women, lack of FDA approval, age requirement of at least 21 years of age, and keeping cannabis and cannabis products away from minors.

Fifth, every state except Montana explicitly prohibits false and/or misleading statements. California goes further by defining what can create a misleading impression, such as ambiguity, omission or inference, or by the addition of irrelevant, scientific, or technical matters.²⁸

H.F. 100 imposes three important content-based restrictions for the advertisement of cannabis flower, a cannabis business, a cannabinoid product, or a hemp-derived consumer product. First, the bill prohibits “unverified claims about the health or therapeutic benefits or effects of consuming cannabis or a cannabis product.” (Art. 1, Sec. 58). Second, H.F. 100 prohibits false or misleading claims. Third, H.F. 100 has a detailed prohibition on content that targets children. Advertisements may not depict “a person under 21 years of age consuming cannabis flower, cannabinoid products, or hemp-derived consumer products; or includes an image designed or likely to appeal to individuals under 21 years of age, including cartoons, toys, animals, or children, or any other likeness to images, characters, or phrases that is designed to be appealing to individuals under 21 years of age or encourage consumption by individuals under 21 years of age.” This



provision is strong because it provides specificity in its examples but has general language that is expansive enough to capture a broad range of youth focused content.

Recommendation: Include product warning requirements in the advertising restrictions. H.F. 100 does not require any. There are a broad range of warnings required in other states including warning addressing: possible impairment from the consumption of cannabis, intoxicating or addictive effects of cannabis, health risks associated with consumption of cannabis, use by pregnant or breast-feeding individuals, lack of FDA approval, the age requirement of at least 21 years of age, and the need to keep cannabis and cannabis products away from minors. These are all important public health messages and advertisements are another opportunity to remind the public of the issues surrounding cannabis.

(C.) Physical Restrictions

Physical advertising restrictions focus on the physical properties and the location of outdoor advertising. There are a broad range of policies utilized in this category of advertising including restricting outdoor advertisements near schools and other child-focused locations. Some states restrict the placement of advertisements on public transportation and cabs. Other states restrict the size of outdoor advertisements and the use of illuminated signs.

H.F. 100 takes a strong stance on outdoor advertising and prohibits it. However, it does allow a cannabis business to have two fixed outdoor signs on the exterior of its building or on its property. The signs may contain the name of the business, its address, and the nature of the cannabis business (*see e.g.*, retailer, processor, cultivator, microbusiness). The sign cannot include a logo or an image of any kind. (Art. 1, Sec. 58).


XI. [Protection for Medical Cannabis Users](#)

Thirty-eight states and Washington, D.C. recognize medical cannabis as a lawful medication. But many of these jurisdictions fail to protect these patients from discrimination in the areas of employment, education, housing, and parental rights. Treating medical cannabis patients differently from other patients is inherently discriminatory. It also creates a harmful stigma, associated with chronic stress and underutilization of health care which can lead to negative health outcomes.²⁹ As mentioned above, this discrimination also impacts critical determinants of health (*see e.g.*, housing, employment, education,).

Our research examined the prevalence of key protections for medical cannabis patients and revealed that

- Nineteen states and Washington, D.C. have laws that provide medical cannabis patients explicit protection from workplace discrimination.
- Ten states prohibit schools from denying enrollment or otherwise penalizing medical cannabis patients.
- Eleven states prohibit the disqualification of a patient from medical care, including organ transplants, because of their status as a medical cannabis patient.
- Eleven states prohibit landlords from refusing to lease to or otherwise penalizing a tenant solely for the tenant's status as a medical cannabis patient.
- Twelve states provide that a person entitled to child custody or visitation rights may not be denied these rights solely due to their use of medical cannabis unless their use creates an unreasonable danger to the minor child.³⁰

Minnesota already provides all these protections for medical cannabis patients.³¹ However, H.F. 100 creates employment protections for the lawful use of adult-use cannabis. (Art. 6, Sec. 9). The bills state that an employer cannot fire, refuse to hire, or discipline for their lawful use of cannabis outside of the workplace. However, nothing prohibits the employer from acting if the individual uses cannabis at work, during work hours, or while operating the employer's



vehicle, equipment, or machinery. This policy is an excellent policy in that protects the legal, reasonable, and safe cannabis use from unnecessary employment action.

Recommendations: Apply the education, housing, healthcare, and parental rights protections for medical cannabis use to adult-use cannabis. If the recreational use of cannabis is lawful and does not place others at risk, individuals should not be discriminated against in these critical determinants of health. This is the laudable approach H.F. 100 has taken with employment and it should be expanded to these other areas.

XII. [Social Equity](#)

There are three pillars of a social equity program in the context of adult-use cannabis. These pillars are (1) expunging and resentencing of cannabis crimes, (2) creating diversity, equity, and inclusion (DEI) in the cannabis industry, and (3) reinvesting in the communities that have been disproportionately harmed by the war on drugs.

(A.) Expungement and Resentencing


Expungement is the process of removing a criminal violation from an individual's record so that it is no longer visible to the public. Expunging certain cannabis offenses is part of the restorative justice process that should accompany cannabis legalization. Having a cannabis offense on one's record can create problems accessing employment, housing, and government benefits. With state legalization, states generally have expungement provisions that address the level of cannabis possession that has been legalized. However, the key measure in ensuring the restorative justice goals of these provisions is the use of an automatic expungement process that places the administrative burden on the state to identify eligible individuals and expunge their records. When the burden of the expungement processes is placed on the individual, very few individuals take advantage of the process. One study estimates that only four to six percent of people eligible for expungement apply.³²

(1.) Automatic Expungement of Petty Misdemeanor and Misdemeanor Cannabis Crimes

H.F. 100 has taken the positive step of including an automatic expungement provision to maximize the effectiveness of this restorative justice measure. Individuals with petty misdemeanors and misdemeanors under Min. Stat. §§152.027 (3,4) are eligible for automatic expungement of their records. (Art. 5, Sec. 4). The qualifying crimes under these provisions are possession of cannabis in a motor vehicle and the possession or sale, without remuneration, of a small amount of cannabis. A small amount of cannabis is currently defined as up to 42.5 grams or approximately 1.5 ounces.³³ This is less than the proposed possession amount of 2 ounces of cannabis flower. It also does not consider a specific amount of cannabis concentrates or cannabis edibles, which each have proposed legal possession amounts.

The Bureau of Criminal Apprehension would be responsible for identifying eligible individuals. Once identified, the records are sent to the judicial branch for an expungement order. Law enforcement must also be informed of the eligible records, so that they can be sealed. The effected individual must also be notified, as well as the Commissioner of Human Services. This system is excellent because it does not require qualifying individuals to self-identify and apply for expungement. It also ensures that other relevant government entities are informed of the expungement to help ensure this information is protected and potential ancillary impacts in the delivery of human services are addressed. However, it does not provide a deadline for the expungement of eligible records.

Recommendation: Align the cannabis possession crimes that qualify for automatic expungement with the proposed civil use amount to better serve the goal of restorative justice. Currently, this automatic expungement process covers crimes involving up to 42.5 grams/1.5 ounces of cannabis. However, the bill legalizes the possession of 2 ounces of cannabis flower, 8 grams of adult-use cannabis concentrate, and edible cannabinoid products with a total of 800 milligrams of



THC. So, the current automatic expungement scheme does not even cover all legalized behavior. In addition, this resource proposes the creation of civil use amount, discussed above in Section I. Aligning the expungable offenses with these civil use possession amounts better serves the goal of restorative justice. However, it may require the Bureau of Criminal Apprehension to examine additional records to identify eligible individuals. (Art. 5, Sec. 4)

Recommendation: Create a statutory deadline for the automatic expungement of qualify cannabis offenses. While the effective date for this expungement provision is August 1, 2023, the bill does not provide a timeline for the completion of these expungements. A statutory deadline for completing this task would help ensure that this important restorative justice process is completed in a timely manner and creates accountability for the government bodies involved.

(2.) Expungement and Resentencing of Certain Felony Possession Offenses.


H.F. 100 creates a five-member Cannabis Expungement Board (CEB). (Art. 5, Sec. 5). The CEB is responsible for reviewing certain cannabis felony records to determine if they should be expunged and resentenced if the individual is currently incarcerated. To qualify for review, an individual must have a marijuana possession felony. In addition, the offense must not involve a dangerous weapon or harming another. Also, the offense must no longer be criminalized or is no longer a felony under H.F. 100. The Bureau of Criminal Apprehension is responsible for identifying records that qualify for review. As discussed above, placing the burden on the government increases the impact of this expungement. When the CEB reviews records, it must determine if the expungement or resentencing is in the public interest. The presumption is that it is in the public interest. However, the CEB must consider a range of factors including the amount of cannabis involved; does the individual present a risk to other individuals or society; aggravating or mitigating factors relating to the underlying crime, including the person's level of participation; statements from law enforcement or victims (if they exist); and the context and circumstances of the underlying crime. (Art. 5, Sec. 5). The CEB has until June 30, 2028, to complete its review of cannabis records. The automatic review of cannabis possession felonies for expungement or resentencing is a strong social justice policy because it provides restorative justice to a larger population of individuals impacted by the War on Drugs.

(B.) DEI in the Adult-Use Cannabis Industry

The projected economic success of the licensed cannabis market is impressive. As more states legalize adult-use cannabis and existing markets mature, estimates value the industry at approximately \$44 billion in legal sales by 2025.³⁴ This economic success occurs in the shadow of the racist War on Drugs. People of color have been disproportionately targeted by this war, while the economic benefits of cannabis legalization are mostly enjoyed by White Americans.³⁵ Many states are trying to address the moral disconnect of this reality by developing programs to increase diversity, equity, and inclusion (DEI) in the licensed cannabis industry. These programs all focus on creating and supporting licensing opportunities for the social equity population because business ownership is the building block of economic opportunity in the licensed industry.³⁶

(1.) Defining the Population Targeted by DEI Policies.

The first step a state must take in developing a social equity program is to define the populations they seek to assist. While people of color are disproportionately impacted by the War on Drugs and underrepresented in the cannabis industry, the use of race forward language in defining the targeted population can run into strict legal scrutiny because of its constitutional implications.³⁷ As a result, states have developed race neutral language to reach individuals disproportionately impacted by the war on drugs. However, in some cases states have expanded their social equity definitions beyond the scope of this population. Our research identifies nine metrics used by states in defining their social equity population. The variables include race, gender, disabled veterans, farmers, individuals from communities disproportionately impacted by the war on drugs, individuals with certain cannabis offenses, income restrictions, the



proposed businesses is located in disproportionately impacted communities, and employment of individuals from disproportionately impacted communities or with cannabis offenses.³⁸ There is not correct definition for the targeted population. It is simply a reflection of a state's equity goal. However, the definition will determine who will receive assistance.

H.F. 100 defines social equity applicants as an individual who **meets one of the following three metrics.**

- A military veteran who lost honorable status due to a cannabis-related offense.
- A resident for the last five years of a community that experienced a disproportionately large amount of cannabis enforcement. The Office of Cannabis Management is tasked with conducting a study to identify these communities.
- A resident for the last five years of a low-income community, as defined by poverty rate or median family income. (Art. 1, Sec. 15)

This definition of social equity applicant achieves two things. First, it minimizes constitutional challenges by avoiding race forward language. Second, it avoids the risk of mission creep by keeping the definition focused on individuals impacted by the War on Drugs. While only 2 of the states with social equity programs use veteran status as a qualifying metric (NY and NJ), H.F. 100's approach is unique in that target's veterans negatively impacted by cannabis prohibition. The next two metrics that look at rate of cannabis enforcement and community poverty rate, define the communities the state deems as disproportionately impacted by the War on Drugs. This is the most prevalent approach to defining social equity applicants and is used by 14 of the 15 states with social equity programs. This focused approach should reach minority communities because of the racial contours of poverty and Minnesota's struggle with equitable enforcement of cannabis laws. The ACLU released a report which indicated that in Minnesota Black people were 5.4 times more likely to be arrested for cannabis than their white counterparts.³⁹ It is critical to note that this is the 8th highest disparity for this metric in the country.


Recommendation: Oppose any attempts to include employee status in the definition of social equity applicant. 4 of the 15 states with social equity programs (IL, MA, NJ, and RI) consider the status of a business's employees in their social equity programs. In these situations, a business can be granted social equity status if it employs individuals who come from a disproportionately impacted community or have been arrested or convicted of a cannabis crime. For example, Illinois provides social equity status to businesses that have a minimum of 10 full-time employees, of whom at least 51%: (i) currently reside in a Disproportionately Impacted Area; or (ii) have been arrested for, convicted of, or adjudicated delinquent for any cannabis offense that is eligible for expungement or are a member of an impacted family (an immediate family member has an expungable cannabis offense).⁴⁰ The primary focus of the equity program should be providing underrepresented populations with ownership opportunities. Using employee status as an equity metric allows wealthy-white applicants to participate in the social equity program, undercutting the effectiveness of the state's program.

(2) Policies to Increase DEI by supporting Social Equity Applicants.

To help create and support opportunities for social equity applicants, states use a variety of licensing, training, and financial policies. Our research into these policies has identified ten critical social equity policies.⁴¹ For the analysis of H.F. 100, we will focus on the policies included in the bill and the policies that could improve the DEI impact of the bill.

(a) Social Equity Lead

Designating a position or body focused on the implementation the social equity program is an important tool for program accountability and success. Currently, 12 of 15 states with social equity programs have a designated position or



body focused on the implementation of their social equity program.⁴² H.F. 100 creates the Division of Social Equity in the Office of Cannabis Management. (Art. 1, Secs. 1,3). This division is responsible for promoting “development, stability, and safety in communities that have experienced a disproportionate, negative impact from cannabis prohibition.” The bill states at a minimum the division must administer community grants, act as an ombudsman to investigate complaints and facilitate dispute resolution, and report to the OCM on the status of complaints and social equity in the cannabis industry. The bill indicates that OCM can add responsibilities to this division.

Recommendation: Require the Division of Social Equity to oversee the social equity licensing program. This in combination with a concrete equity licensing goal will create additional accountability in the program.

(b.) License Preference

H.F. 100 requires the Office of Cannabis Management (OCM) to issue sufficient cannabis licenses to meet the demand of the market. (Art. 1, Sec. 16). While this is not an explicit license cap, it gives the OCM flexibility in determining the appropriate number of licenses to issue. This decision will be informed by the market studies required of the OCM by the bill. (Art. 1, Sec. 4). In a system with a licensing cap, applicants must be evaluated and scored to prioritize the issuance of licenses. In the application scoring system proposed by H.F. 100, social equity applicants are awarded additional points for their equity status. The bill mandates social equity status must be valued at least 20 percent of the total available points. (Art. 1, Sec. 16). These bonus application points can also be awarded to applicants that demonstrate certain personal negative caused by cannabis prohibition “including but not limited to the arrest or imprisonment of the applicant or a member of the applicant's immediate family” This type of licensing preference is a positive policy adopted by 4 of the 15 states with equity programs (IL, NV, NY, and VT). However, Illinois is the only state that has established the specifics of its scoring preference system. Illinois scores cannabis licenses on a 250-point scale. An applicant automatically receives a 50-point bonus if they are a social equity applicant.⁴³

(c.) Microbusiness and Wholesaler Licenses


The use of microbusiness and wholesaler licenses in an adult-use system provides valuable licensing opportunities that have lower entry costs. These types of licenses can support social equity applicant entry into the market because the high cost of market participation is a major barrier. Currently, 14 states use microbusiness licenses and 5 states provide wholesaler licenses. H.F. 100 provides both of these license categories.

(d.) Financial Services.

13 of the 15 states with social equity programs provide some form of financial service to social equity applicants. The services can include decreased or waived administrative fees. For example, Nevada has reduced administrative fees for social equity applicants by 75%.⁴⁴ They can also include low interest loans and/or grants to cover the start-up and operational costs. The funding for these loans and grants can come from a variety of sources. In New Mexico, the state provided an initial \$5 million infusion into the fund that provides these financial services.⁴⁵ Other states like Massachusetts, utilize a portion of the tax revenue received from the adult-use cannabis industry.⁴⁶

H.F. 100 prohibits the Office of Cannabis Management from charging an annual licensing fee to any category of licensee. (Art. 1 Sec. 11). This is a positive policy that reduces the financial barriers to entry into the licensed cannabis industry. However, OCM is allowed to charge up to \$250 as an application fee. (Art.1 Sec. 12). A waiver of this application fee would further decrease financial barriers for social equity applicants.

The federal prohibition of cannabis makes accessing traditional banking services, especially loans, very difficult for cannabis businesses.⁴⁷ As a result, some states have low-interest loans and/or grants for social equity applicants. H.F.



100 creates the CanStartup grant program run by the Department of Employment and Economic Development. (Art. 3, Sec. 1). This program provides grants to nonprofits to help subsidize loans to new cannabis businesses. In the issuance of loans, the nonprofit must prioritize loans to social equity applicants and businesses located in areas where the residents would qualify as social equity applicants. While prioritization of social equity applicants is important, non-equity applicants are still eligible for these loans. Also, while it is laudable to focus on job creation in disproportionately impacted communities, providing grants based on business location allows non-equity applicants to secure loans. H.F. 100 would allocate \$4,000,000 in fiscal year 2024 and \$2,619,000 in fiscal year 2025 from the general fund to the CanStartup grant program. (Art. 9, Sec. 1).

Recommendation: The loans of the CanStartup Grant program should be restricted to social equity applicants, rather than just prioritizing equity applicants. Allowing non-equity applicants to apply dilutes the DEI impact of this policy. Also, prioritizing loans to businesses located in disproportionately impacted communities, without looking at business ownership, diverts critical financial resources to non-equity applicants. Again, these loans should be restricted to social equity applicants.

(e.) Technical Support


To help social equity businesses succeed in the adult-use cannabis market, 12 of the 15 states with equity programs provide training services. These training services can be provided directly by the state, or the state can provide funding to private contractors or local government to provide the training services.

H.F. 100 has a series of funding streams for education and training services. First, CanTrain is a program that award grants to (1) organizations to train people for work in the legal cannabis industry, and (2) individuals to acquire such training. (Art. 3, Sec. 3). There are no social equity requirements for organizations to receive these grants. Organizations can provide training to anyone and are not restricted to an equity applicant student base. However, the individual grants utilize a slight equity preference. All applications for personal training funds are placed in a lottery system. Social equity applicants are awarded one extra ticket for the lottery based solely on their equity status. The bill appropriates \$4,400,000 in fiscal year 2024 and \$2,197,000 in fiscal year 2025 for the CanTrain program. (Art. 9, Sec. 1).

Second, the bill creates the CanNavigate grant program that funds organizations that provide technical assistance in navigating the cannabis regulatory system. (Art. 3, Sec. 2). In awarding these grants, the state will “give weight” to organizations that plan to serve areas where long-term residents are eligible to be social equity applicants. The bill appropriates \$2,000,000 in fiscal year 2024 and \$1,884,000 in fiscal year 2025 for the CanNavigate program. (Art. 9, Sec. 1).

Third, the bill appropriates \$1,000,000 in fiscal year 2024 and \$1,000,000 in fiscal year 2025 to the Office of Higher Education’s dual training account. (Art. 9, Sec. 1). These funds are used to provide grants to cannabis employers to help cover the costs of training their employees.⁴⁸ In the issuance of these grants, preference is to be given to employers that are social equity applicants or who are training employees that would qualify as social equity applicants.

Recommendation: Ensure that training funds support the efforts of social equity applicants by making the training funds exclusive to social equity applicants or require that a specific portion of these funds be allocated to support equity applicants. Currently, the CanTrain, CanNavigate, and dual training funds have weak or amorphous preference systems that do not adequately target social equity applicants. While the administrative agencies responsible for these grant programs (Department of Employment and Economic Development and the Office of Higher Education) may refine the amorphous preference language, there is no guarantee that this will happen or that the revised language will be




sufficient. It is better to make the funding exclusive or to specify that a certain amount of funds be allocated to equity applicants, in the bill itself.

(f.) Independent Recommendations

Recommendation: Create an incubator program for social equity applicants that utilizes the knowledge and resources of experienced cannabis licensees. Often these potential mentors are medical cannabis licensees seeking dual licensing, licensing in both the adult-use and medical markets. Five of the states with equity programs (CO, CT, IL, MI, and NY) have created incubator or accelerator programs that partner a social equity licensee with an established cannabis business.⁴⁹ The established business is expected to provide training, mentoring, and often financial support to the social equity applicant. The specifics of these programs vary considerably. Michigan has the Joint Ventures Pathway Program (JVPP). The JVPP connects social equity participants with adult-use licensees, potential adult-use licensees, and any businesses that wish to work with social equity participants. There is not a lot of information on this program, but it appears to simply match interested parties.⁵⁰ Colorado has an accelerator program that connects social equity applicants with experienced business who provide special financial and technical support.⁵¹ However, to encourage participation by the mentor business, Colorado uses a series of incentives. In exchange for their mentoring and support, the experienced business receives special recognition from the state as a “Social Equity Leader.” Also, their status as mentor may be used as a mitigating factor in disciplinary actions. It also entitles them to preference in on-site compliance assistance and education. Finally, Connecticut encourages businesses seeking dual licensing to provide support to social equity applicants.⁵² Connecticut imposes large fees to become a dual licensed business. The state offers to waive a significant portion of these fees if a business engages in specific technical and financial relationships with social equity applicants. Connecticut’s model would not work with H.F. 100. H.F. 100 lacks large dual licensing fees to serve as the leverage. However, Minnesota should consider adopting an incentive program like Colorado’s to help encourage mentorship of social equity applicants.

Recommendation: H.F. 100 should include concrete social equity licensing goals. Setting social equity licensing goals helps ensure diversity, equity, and inclusion (DEI) in an adult-use cannabis market. 9 of the 15 states with social equity programs have adopted a concrete performance metric for their social equity program. These goals focus on the number of social equity applicants that apply or are licensed in their adult-use cannabis industry. Some states set a specific number of licenses that will be awarded to social equity applicants. For example, Arizona allocated an additional 26 marijuana establishment licenses for social equity applicants.⁵³ These licenses were subject to a separate lottery dedicated to social equity applications. Other states set their goal as a percentage of the total licenses awarded. For example, New York set a goal of awarding fifty percent of all adult-use licenses to social and economic equity applicants.⁵⁴ H.F. 100 does not set concrete social equity licensing goals. Minnesota should establish a licensing metric to help guide and measure the success of its DEI efforts in the cannabis industry. Without concrete goals, social equity applicants can be underrepresented despite other equity licensing provisions.

Recommendation: Provide special licensing opportunities for social equity applicants. Providing special licensing opportunities for social equity applicants helps increase DEI in the adult-use industry. These opportunities can take the form of exclusivity periods, in which social equity applicants are the only parties eligible for a specific type of license. 4 of the 15 states with social equity programs (CA, CO, MA, and NY) have special licensing opportunities. Massachusetts is the clearest example of this policy variable. It has created two special license opportunities for equity applicants, the marijuana courier license, and the marijuana delivery operator license. These two licenses are exclusively available to equity applicants for the first three years that they are available. The Massachusetts Cannabis Control Commission has the authority to extend this exclusivity period to promote its diversity goals. H.F. 100 does not provide special licensing opportunities for social equity applicants. Minnesota should consider including this policy. As with the example of



Massachusetts, having these opportunities focus on license categories with lower start-up costs is helpful. The expense of participating in the regulated cannabis industry is one of largest barriers to social equity participation. H.F. 100 provides ten new licenses for the adult-use industry. (Art. 1, Sec. 1). The cannabis delivery, cannabis event organizer, lower-potency edible retailer, cannabis wholesaler, and cannabis microbusiness licenses are viable candidates for special licensing opportunities based on their lower entry costs.

(C.) Community Reinvestment

The War on Drugs has devastated communities, especially black and brown communities. With legalization of cannabis there is a moral imperative to allocate a portion of the cannabis tax revenue to uplifting communities disproportionately impacted by the War on Drugs. In our research, we identified funds specifically targeting these communities or funds that support key services generally, such as education, healthcare, and substance abuse prevention and treatment. Every state, except New Mexico, reinvests a portion of its adult-use cannabis tax revenue into disproportionately impacted communities.⁵⁵

H.F. 100 creates two grant programs that would focus on community reinvestment. First, the CanRenew grant program, administered by the Division of Social Equity within Office of Cannabis Management, provides funding to organizations for development in social equity communities. (Art.1, Secs. 3, 61). Specifically, grant funding is meant for projects or programs “designed to improve community-wide outcomes or experiences and may include efforts targeting economic development, violence prevention, youth development, or civil legal aid” The bill appropriates \$12,000,000 in fiscal year 2026 and \$20,000,000 in fiscal year 2027 for these community renewal grants. (Art. 9, Sec. 1). This grant funding is most likely delayed until 2026 to allow for the establishment of the licensed industry and for the maturing of market to provide sufficient tax revenue. However, if possible, Minnesota should consider committing funds earlier, even if amount allocated is considerably smaller than the 2026 and 2027 numbers. This would show a stronger commitment to the disproportionately impacted communities.

Second, H.F. 100 also appropriates funds for substance abuse and prevention grants. The bill allocates \$4,000,000 in fiscal years 2024 and 2025. The base allocation is \$12,000,000 in fiscal year 2026 and \$16,000,000 in fiscal year 2027. (Art. 9, Sec. 1).

Recommendation: Start investing in CanRenew grant program in 2024. H.F. 100 begins providing allocations for all the administrative costs associated with establishing and running an adult-use market in 2024. It also provides funding for substance abuse treatment and prevention grants in 2024. The CanRenew grant program which invests in social equity communities does not receive funding until 2026. This grant funding is likely delayed to allow for the establishment of the licensed industry and the maturing of market to provide sufficient tax revenue. However, Minnesota should consider committing funds earlier, even if the desired level of cannabis tax revenue has not been collected. This approach better prioritizes the revitalization of communities disproportionately harmed by the War on Drugs.


This resource was developed by Mathew R. Swinburne, Associate Director, Network for Public Health Law—Eastern Region Office. The Network for Public Health Law provides information and technical assistance on issues related to public health. The legal information and assistance provided in this document do not constitute legal advice or legal representation. For legal advice, readers should consult a lawyer in their state.

Appendix: Compiled Policy Recommendations

This appendix contains all twenty-eight policy recommendations provided in the analysis of H.F. 100. Some of the recommendations contain more information than they do in the body of the resource. This is intended to provide important background and context so the appendix can serve as an executive summary. Recommendations reference the article and section of the bill they apply to. However, recommendations that do not connect directly to a specific section of the bill will be labeled “independent recommendation.” The recommendations have been divided into four categories: social justice and equity, local authority, consumer safety, and youth exposure. With regards to the priority of each recommendation, we have identified measures that will have a larger public health and social justice impact. These recommendations are highlighted in green. However, we realize that political viability and the specific priorities of your agency may direct your efforts elsewhere.


Social Justice and Equity Recommendations

1. **Create a civil use amount for cannabis possession.** A civil use amount creates a buffer zone between the legal possession amount and criminal repercussions. This helps individuals avoid the negative and long-term effects of having a criminal record. This can be done by eliminating the crime of possession of cannabis in the fourth degree. Instead, if an individual possesses more than two but less than four ounces of cannabis flower, they should be subject to a small fine up to \$100. This approach should be applied to other categories of cannabis products as well (*see e.g.*, concentrates and edibles). Double the legal personal use amount to create the upper limit for each product’s civil use amount. For repeated infractions of the civil use amount, the courts could be permitted to escalate the civil fine. **(Art. 4 Sec. 8)**
2. **Align the cannabis possession crimes that qualify for automatic expungement with the proposed civil use amount to better serve the goal of restorative justice.** Currently, this automatic expungement process covers crimes involving up to 42.5 grams/1.5 ounces of cannabis. However, the bill legalizes the possession of 2 ounces of cannabis flower, 8 grams of adult-use cannabis concentrate, and edible cannabinoid products with a total of 800 milligrams of THC. So, the current automatic expungement scheme does not even cover all legalized behavior. In addition, this resource proposes the creation of civil use amount, discussed above. Aligning the expungable offenses with these civil use possession amounts better serves the goal of restorative justice. However, it may require the Bureau of Criminal Apprehension to examine additional records to identify eligible individuals. **(Art. 5, Sec. 4)**
3. **Create a statutory deadline for the automatic expungement of qualify cannabis offenses.** While the effective date for the automatic expungement provision is August 1, 2023, the bill does not provide a timeline for the completion of these expungements. A statutory deadline for completing this task would help ensure that this important restorative justice process is completed in a timely manner and creates accountability for the government bodies involved. These priorities should outweigh the administrative challenge of executing a process involving several government entities. **(Art. 5, Sec. 4)**
4. **Apply the education, housing, healthcare, and parental rights protections for medical cannabis use to adult-use cannabis.** If an individual’s recreational use of cannabis is lawful and does not place others at risk, they should not be discriminated against in these critical determinants of health. This is the laudable approach H.F. 100 has taken with employment and it should be expanded to these other areas. **(Art. 6, Sec. 9)**

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5. **Create concrete social equity licensing goals.** Setting social equity licensing goals helps ensure diversity, equity, and inclusion (DEI) in an adult-use cannabis market. 9 of the 15 states with social equity programs have adopted a concrete performance metric for their social equity program. These goals focus on the number of social equity applicants that apply or are licensed in their adult-use cannabis industry. Some states set a specific number of licenses that will be awarded to social equity applicants. For example, Arizona allocated an additional 26 marijuana establishment licenses for social equity applicants. These licenses were subject to a separate lottery dedicated to social equity applications. The marijuana establishment license is a vertically integrated license that allows the licensee to have one cultivation facility, one manufacturing facility and one retail outlet. Other states set their goal as a percentage of the total licenses awarded. For example, New York set a goal of awarding fifty percent of all adult-use licenses to social and economic equity applicants. H.F. 100 does not set concrete social equity licensing goals. Minnesota should establish a licensing metric to help guide and measure the success of its DEI efforts. Without concrete goals, social equity applicants can be underrepresented despite other equity licensing provisions. **(Independent Recommendation)**
 6. **The loans of the CanStartup grant program should be restricted to social equity applicants, rather than just prioritizing equity applicants.** The CanStartup grant program subsidizes loans to new cannabis businesses. Allowing non-equity applicants to apply dilutes the DEI impact of this policy. Also, prioritizing loans to businesses located in disproportionately impacted communities, without looking at business ownership, diverts critical financial resources to non-equity applicants. Again, these loans should be restricted to social equity applicants. **(Art. 3, Sec. 1)**
 7. **Ensure that state training funds support the efforts of social equity applicants by making the training funds exclusive to social equity applicants or require that a specific portion of these funds be allocated to support equity applicants.** Currently, the CanTrain, CanNavigate, and dual training funds have weak or amorphous preference systems that do not adequately target training resources to social equity applicants. While the administrative agencies responsible for these grant programs (Department of Employment and Economic Development and the Office of Higher Education) may refine the amorphous preference language, there is no guarantee that this will happen or that the revised language will be sufficient. It is better to make the funding exclusive or to specify that a certain amount of funds be allocated to equity applicants, in the bill itself. **(Art. 3, Sec. 3)**
 8. **Provide special licensing opportunities for social equity applicants.** Providing special licensing opportunities for social equity applicants is an important tool for increasing DEI in the adult-use industry. These opportunities can take the form of exclusivity periods, in which social equity applicants are the only parties eligible for a specific type of license. 4 of the 15 states with social equity programs (CA, CO, MA, and NY) have special licensing opportunities for social equity applicants. Massachusetts is the clearest example of this policy variable. It has created two special license opportunities for equity applicants, the marijuana courier license, and the marijuana delivery operator license. These two licenses are exclusively available to equity applicants for the first three years that they are available. The Massachusetts Cannabis Control Commission has the authority to extend this exclusivity period to promote its diversity goals. H.F. 100 does not provide special licensing opportunities for social equity applicants. Minnesota should consider including this policy. As with the example of Massachusetts, having these opportunities focus on license categories with lower start-up costs is helpful. The expense of participating in the regulated cannabis industry is one of largest barriers to social equity participation. H.F. 100 provides ten new licenses for the adult-use industry. The cannabis delivery, cannabis event organizer, lower-potency edible retailer, cannabis wholesaler, and cannabis microbusiness licenses are viable candidates for special licensing opportunities based on their lower entry costs. **(Independent Recommendation)**

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9. **Oppose any attempts to include employee status in the definition of social equity applicants.** 4 of the 15 states with social equity programs (IL, MA, NJ, and RI) consider the status of a business’s employees in their social equity programs. In these situations, a business can be granted social equity status if it employs individuals who come from a disproportionately impacted community or have been arrested or convicted of a cannabis crime. For example, Illinois provides social equity status to businesses that have a minimum of 10 full-time employees, of whom at least 51%: (i) currently reside in a Disproportionately Impacted Area; or (ii) have been arrested for, convicted of, or adjudicated delinquent for any cannabis offense that is eligible for expungement or are a member of an impacted family (an immediate family member has an expungable cannabis offense). The primary focus of the equity program should be providing underrepresented populations with ownership opportunities. Using employee status as an equity metric allows wealthy-white applicants to participate in the social equity program, undercutting the effectiveness of the state’s program. **(Art. 1, Sec. 15)**
10. **Require the Division of Social Equity to oversee the social equity licensing program.** This in combination with a concrete equity licensing goal will create additional accountability in the program. **(Art.1, Sec. 3)**
11. **Create an incubator program for social equity applicants that utilizes the knowledge and resources of experienced cannabis licensees.** Often these potential mentors are medical cannabis licensees seeking dual licensing, licensing in both the adult-use and medical markets. Five of the states with equity programs (CO, CT, IL, MI, and NY) have created incubator or accelerator programs that partner a social equity licensee with an established cannabis business. The established business is expected to provide training, mentoring, and often financial support to the social equity applicant. The specifics of these programs vary considerably. Michigan has the Joint Ventures Pathway Program (JVPP). The JVPP connects social equity participants with adult-use licensees, potential adult-use licensees, and any businesses that wish to work with social equity participants. There is not a lot of information on this program, but it appears to simply match interested parties. Colorado has an accelerator program that connects social equity applicants with experienced business who provide special financial and technical support. However, to encourage participation by the mentor business, Colorado uses a series of incentives. In exchange for their mentoring and support, the experienced business receives special recognition from the state as a “Social Equity Leader.” Also, their status as mentor may be used as a mitigating factor in disciplinary actions. It also entitles them to preference in on-site compliance assistance and education. Finally, Connecticut encourages businesses seeking dual licensing to provide support to social equity applicants. Connecticut imposes large fees to become a dual licensed business. The state offers to waive a significant portion of these fees if a business engages in specific technical and financial relationships with social equity applicants. Connecticut’s model would not work with H.F. 100. H.F. 100 lacks large dual licensing fees to serve as the leverage. However, Minnesota should consider adopting an incentive program like Colorado’s to help encourage mentorship of social equity applicants. **(Independent Recommendation)**
12. **Start investing in CanRenew grant program in 2024.** H.F. 100 begins providing allocations for all the administrative costs associated with establishing and running an adult-use market in 2024. It also provides funding for substance abuse treatment and prevention grants in 2024. The CanRenew grant program which invests in social equity communities does not receive funding until 2026. This grant funding is likely delayed to allow for the establishment of the licensed industry and the maturing of market to provide sufficient tax revenue. However, Minnesota should consider committing funds earlier, even if the desired level of cannabis tax revenue has not been collected. This approach better prioritizes the revitalization of communities disproportionately harmed by the War on Drugs. **(Independent Recommendation)**


Local Authority Recommendations

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1. **The new Cannabis Advisory Council should include a local public health representative.** Given the important role the council plays in reviewing, informing, and recommending policy, local public health should have a seat at the table. In a body with over forty representatives, two designated public health voices (the state health department and a substance abuse expert) are insufficient to address the broad spectrum of public health issues presented by cannabis legalization. Providing a representative from the Local Public Health Association of Minnesota would add an important perspective. **(Art. 1, Sec. 3)**
 2. **Each year, appropriate \$2.5 million for local health departments to support their public education efforts regarding cannabis.** H.F. 100 allocates \$6.235 million to the Department of Health in 2024 and \$6.231 million in 2025. The allocation decreases considerably in 2026 and 2027 to around \$9 million. These funds are primarily focused on cannabis education campaigns. However, there are no funds directly allocated for local education efforts. **(Art. 9, Sec. 1)**
 3. **Allow local jurisdictions to impose a cannabis specific tax to help them address potential increased costs related to regulating cannabis businesses and increases in public health and safety issues.** H.F. 100 does not allow local governments to impose a cannabis specific tax. Our research indicates that 11 of the 18 states that have licensed adult-use cannabis systems impose or allow local cannabis-specific taxes (AK, CA, CO, CT, IL, MA, MT, NJ, NY, OR, RI). Of these 11 states, only Alaska and California do not explicitly set caps on the local tax rate. Connecticut, New York, and Rhode Island set the local rate specifically (3%, 4%, and 3%, respectively), and the remaining six states cap the rate at 2%-8%. However, only 5 of these states (AK, CA, CO, IL, and NJ) also allow the local jurisdiction to impose their local sales tax.

The total overall tax rate is the state's major concern in this area. If the overall tax rate is too high, the legal cannabis market will not be competitive with the unlicensed or illicit market. One of the major policy goals of legalization is to diminish the size of the illicit market. As a result, finding a balance in helpful tax revenue and a competitive price point can be a challenge. Hopefully, the fiscal policy note will have research into this price point. However, we can compare the proposed total tax against other jurisdictions. To estimate this value, Hennepin County's sales and use tax will be utilized (0.65%). As the bill stands, the total effective tax rate on a cannabis purchase would be 15.525%. Some states utilize other tax structures such as excise taxes earlier in the supply chain, potency taxes, variable tax rates based on product type, and tax by product weight. As a result, the best comparison is with other states that utilize a flat cannabis specific sales tax. When we do this H.F. 100 proposed overall tax rate is very low. A list of total tax rates is provided below for comparison.

- Michigan is 16% and does not allow any local taxes.
- New Mexico is 17% before the addition of local sales tax.
- Oregon is 20% which includes a 3% local cannabis tax.
- Massachusetts is 20% which includes a 3% local cannabis tax.
- Vermont is 20% before the addition of local sales tax.
- California is 22.5% before the addition of an uncapped local cannabis tax.
- Montana is 23% which includes a 3% local cannabis tax.
- Washington is 43.5% before the addition of local sales tax.

This data indicates that allowing local jurisdictions in Minnesota to impose a 3% cannabis specific tax would maintain a relatively low overall tax rate. Of course, tax rates impact demand differently in each state depending on the price sensitivity of cannabis consumers. This metric would help determine the impact of any potential increase in the overall tax rate. **(Art. 2, Sec. 12)**


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4. **Local government should actively engage with the Office of Cannabis Management to develop reasonable time, place, and manner restrictions for cannabis events where cannabis consumption is permitted.** H.F. 100 allows cannabis consumption at licensed cannabis events. However, local approval is required for the event itself and the use of a cannabis consumption area. While the local government cannot create a flat ban on these events. It can create reasonable time, place, and manner restrictions. The Office of Cannabis Management is directed to develop model ordinances for this purpose in conjunction with local government. This is an opportunity for local engagement and input on the issue of cannabis events. **(Art. 1, Sec. 36)**

Consumer Safety Recommendations

1. **Prohibit the sale of alcohol at lower potency edible product retailers.** Cannabis consumption sites are licensed locations where individuals can legally consume cannabis in public. These locations are an emerging trend in cannabis policy. While often seen as a social venue, they are also a tool for increasing access to cannabis and the economic opportunities of the cannabis market. First, some individuals do not have a legal location to consume cannabis because of the prevalent policy of only allowing cannabis use on private property. This creates issues for individuals who live at properties with policies prohibiting cannabis use (see e.g., public housing). This can be particularly challenging for medical cannabis users. Second, consumption sites can be a low-cost point of entry into the cannabis market because they require a lower upfront investment than a cultivation, processor, or retailer license.

Currently, 10 of 18 states with licensed adult-use cannabis systems allow consumption sites either as a separate license or as option for an existing licensee (AK, CA, CO, IL, MA, MI, NV, NJ, NM, and NY). H.F. 100 allows on-site consumption at three categories of locations: cannabis microbusinesses, cannabis events, and lower potency edible product retailers. The system established at lower potency edible product retailers is problematic. These licensees are permitted to sell lower potency edible products which can contain up to 5 mg of THC per serving and 25 mg of THC per package. However, if a retailer also has certain onsite liquor licenses, they can also allow onsite consumption of low potency cannabis beverages. Based on the prerequisite alcohol license, these locations can also sell alcohol for onsite consumption. The bill prohibits the sale of these cannabis beverages to anyone who is visibly intoxicated or who the retailer knows or reasonably should know has consumed alcohol sold or provided by the retailer within the previous five hours. This is an inefficient attempt prevent cross consumption of intoxicating beverages, which is an implicit challenge to this licensing structure. 8 of the 10 states with consumption site laws explicitly prohibit the sale and/or consumption of alcohol at a consumption site, to avoid the mixing of intoxicants. This problem is complicated by the delayed onset of intoxication with edible cannabis products. An individual may not feel the effects of the edible for hours and continue to consume additional intoxicating beverages. To highlight this dilemma, the bill does not provide restrictions on selling alcohol to a customer who has purchased/consumed a cannabis beverage. This would allow an individual to drink several alcoholic beverages after consuming a cannabis beverage. Given the challenges of limiting over consumption of intoxicants, it would be safest to prohibit the consumption of alcohol at these consumption sites. **(Art. 1, Sec. 40)**

2. **Clearly define behavior that does not qualify as legal gifting of cannabis.** H.F. 100 allows adults to gift cannabis equal to the legal possession amount without remuneration. However, cannabis gifting can be used to create a gray market, in which individuals sell overpriced items (see e.g., t-shirts and stickers) which are accompanied by a gift of cannabis. Gray markets represent a product safety concern because they do not subject their products to the same



testing, product restrictions, labeling requirements, and packaging requirements as the licensed market. They also undermine the effectiveness of the licensed businesses and can decrease potential tax revenue for the state. H.F. 100 tries to address gray market by prohibiting gifting of cannabis as a promotional gift or sample “if the giver is in the business of selling goods or services.” This creates confusion regarding who qualifies for this prohibition. Maryland has passed legislation that addresses the problem of gray market gifting. While Maryland allows adult sharing of cannabis for individuals “21 years of age or older without remuneration.”⁵⁶ It goes on to clearly prohibit parallel gifting transactions by stating

*Adult sharing does not include instances in which: 1. cannabis is given away contemporaneously with another reciprocal transaction between the same parties; 2. a gift of cannabis is offered or advertised in conjunction with an offer for the sale of goods or services; or 3. a gift of cannabis is contingent on a separate reciprocal transaction for goods or services.*⁵⁷

This approach to gifting reduces confusion because it prohibits specific types of transactions and does not restrict them to a specific type of participant. Adopting a similar provision would improve the cannabis gifting language of H.F. 100. **(Art. 1, Sec. 9)**

3. **Set an earlier due date for the required report on mental health and substance abuse.** While this report will take substantial effort to complete, the mental health and substance abuse study is not timely. With a due date of 2027, it will not be completed before the state’s adult-use market is operation, which undercuts the study’s ability to inform policy. Early access to this information is also essential to allocation of resources to ensure adequate support for state’s mental health and substance abuse services. **(Art. 1, Sec. 4)**
4. **Require that the warnings pertaining to the delayed onset of intoxication from cannabis edibles and the dangers of operating of motor vehicles or heavy machinery while under the influence of cannabis be placed on the product label itself.** H.F. 100 does require these warnings, but cannabis retailer may post the warnings as a sign or include them in a separate pamphlet. The addition of new warning requirements may be opposed by the industry because of concerns regarding the appearance of the packaging and sufficient space for all the required information. However, a strict plain packaging requirement, discussed above, would help address these concerns. **(Art. 1, Sec. 57)**
5. **Include product warning requirements in the advertising restrictions.** H.F. 100 does not require any product warning in cannabis advertisements. There are a broad range of warnings required in other states including warning addressing: possible impairment from the consumption of cannabis, intoxicating or addictive effects of cannabis, health risks associated with consumption of cannabis, use by pregnant or breast-feeding individuals, lack of FDA approval, the age requirement of at least 21 years of age, and the need to keep cannabis and cannabis products away from minors. These are all important public health messages and advertisements are another opportunity to remind the public of the issues surrounding cannabis. **(Art. 1, Sec. 58)**
6. **Require specific font size and style for cannabis product labels to ensure that the information is legible.** Product labeling is a critical public health tool for consumer education and safety. Product labels help consumers make informed decisions and help prevent accidental ingestion. Product labels contain important information regarding product ingredients, concentrations and amount of cannabinoids, health warnings, and manufacturer information. H.F. 100 requires that product labels contain important information. However, the bill does not provide specific font standards to help ensure legibility. **(Art. 1, Sec. 57)**
7. **Set a standard size and location for the universal symbol.** This would help ensure the symbol is easily visible, helping to delivery its intended message that the product contains cannabis. While H.F. 100 requires the use of the

universal symbol, which is a cannabis leaf and the text “THC,” on the product label but it does not set a standard size or location. **(Art. 1, Sec. 57)**

Youth Exposure Recommendations

1. **Set clear parameters for the plain packaging for cannabis products.** Packaging design is a critical tool for reducing the appeal of cannabis products to children, especially edible cannabis products. With legalization, states have seen an increase in accidental consumption of cannabis products by children. While H.F. 100 includes important provisions prohibiting packaging that is attractive to people under 21 years of age and packaging that resembles existing non-cannabis products, it fails to provide further guidance on what qualifies as appealing to children. The proposed Office of Cannabis Management has the authority to draft further packaging regulations to define this prohibition. However, even with further guidance there is the potential for interpretation which could lead to packaging that skirts this prohibition. In addition, H.F. 100 also requires packaging to be plain but does not provide guidance on what qualifies as “plain” packaging. Again, the Office of Cannabis Management could later clarify this term. However, it would be prudent to define what qualifies as plain packaging in the bill because it ensures that the issue is addressed, reduces ambiguity for the industry, and better protects children. States that have adopted the plain packaging requirement define it in different ways. For example, New Jersey requires the packaging to be a single color, but may contain a logo or symbol of a different color or colors, provided the logo is no larger than one inch in length and one inch in height. Connecticut requires that the package be “entirely and uniformly one color, and shall not incorporate any information, print, embossing, debossing, graphic or hidden feature, other than (the required) labeling.” Connecticut also requires that packaging for edible cannabis products shall be entirely and uniformly white. While Connecticut’s standard is restrictive, it ensures that the product packaging is not attractive to children and provides clear parameters to the industry. Adopting a clear plain packaging standard, like Connecticut, is a way to create a more protective packaging standard. **(Art.1, Sec. 56)**
2. **Use a more protective standard to determine if a cannabis advertisement targets a youth audience.** Currently, the bill prohibits advertising in a medium if 30 percent or more of the expected audience is under 21 years of age. This is the least protective standard utilized by states in restricting advertising to youth broadcast programming, print media, and websites. Minnesota should consider utilizing the 15 percent standard used by Vermont and Massachusetts. Advertising restrictions are critical to reducing youth appeal and consumption of cannabis. Although cannabis can negatively impact the developing brain, data shows that many youth do not believe cannabis use is harmful or underestimate the health risks. **(Art. 1, Sec. 58)**
3. **Include playgrounds, public parks, recreation centers, youth centers, and community centers to the list of protected locations subject to the cannabis business zoning restriction.** The use of a state zoning restrictions around child focused locations helps decrease youth exposure to cannabis. H.F. 100 currently allows local units of government to prohibit the operation of a cannabis business within 1,000 feet of a school, day care, nursing home, union headquarters, house of worship, or the Capitol or Capitol grounds. **(Art. 1, Sec. 17)**
4. **Restrict edible cannabis products to geometric shapes.** This is a clear standard for the industry and prevents the creation of products that are particularly attractive to children. H.F. 100 follows the most prevalent approach to product shape restriction by listing prohibited novel shapes (a person, animal, or fruit). However, this list is incomplete. For example, an edible cannabis product could be made in the shape of a race car under its standard. A geometric shape restriction removes the need to have an exhaustive list of prohibited novel shapes. **(Art. 1, Sec. 6)**

5. **Clarify whether cannabis businesses may sponsor events that have a predominately adult audience.** It is unclear if sponsorship would be captured under the general prohibition against advertising “cannabis flower, a cannabis business, a cannabinoid product, or a hemp-derived consumer product in any print publication or on radio, television, or any other medium if 30 percent or more of the audience of that medium is reasonably expected to be individuals who are under 21 years of age.” The term “any other medium” may capture sponsorship. However, specific language would manage expectations of the industry and the community at large. **(Art. 1, Sec. 58)**

- ¹ Cannabis Concentrate includes the extracts or resins of the cannabis plant. These can be refined to concentrate specific cannabinoids. They can also include products made from these extracts or resins that can be smoked or vaporized. (Art. 1, Sec. 1).
- ² Cannabis consumption sites are discussed in detail below in Section VI.
- ³ Conn. Gen. Stat. § 21a-279a.
- ⁴ NBC News, 'There is not a gray market.' Chair of regulatory board issues warning about gifting cannabis, available at <https://www.wgrz.com/article/news/local/there-is-not-a-gray-market-chair-of-regulatory-board-issues-warning-about-gifting-cannabis/71-85ccf586-ef86-4069-9678-73c64d9f7b5e>.
- ⁵ MJBizDaily, DC to crack down on marijuana 'gifting' stores, available at <https://mjbizdaily.com/washington-dc-to-crack-down-on-marijuana-gifting-stores/>.
- ⁶ MD. CODE ANN. CRIM. LAW § 5-602.
- ⁷ *Id.*
- ⁸ Consolidated Fiscal Note 2021-2022 Legislative Session HF600 - 6E, page 120 available at <https://mn.gov/mmbapps/fnsearchlbo/?number=HF600&year=2021>.
- ⁹ This data is from unpublished research conducted for this resource. Once the research is finalized, a copy of the research will be provided.
- ¹⁰ Network for Public Law, *Regulation of Home Cultivation*, available at <https://www.networkforphl.org/wp-content/uploads/2022/11/Regulation-of-Home-Cultivation-in-Adult-Use-States.pdf>
- ¹¹ The research into the local authority to prohibit or limit cannabis business operations is being finalized and is not yet published. Once the research is completed a copy will be provided.
- ¹² Network for Public Health Law, *State Zoning Restrictions*, available at <https://www.networkforphl.org/wp-content/uploads/2022/11/State-Zoning-Restrictions.pdf>.
- ¹³ Nevada has a special 1,500 foot exclusionary zone around gaming establishments. However, this is not a location we prioritized as a relevant to preventing youth exposure.
- ¹⁴ Network for Public Health Law, *State Regulation of Consumption Sites*, available at <https://www.networkforphl.org/wp-content/uploads/2022/11/State-Regulation-of-Consumption-Sites.pdf>.
- ¹⁵ Oxford's Learner Dictionary, available at https://www.oxfordlearnersdictionaries.com/us/definition/american_english/premises#:~:text=premises%20%5Bpl.%5D,The%20police%20searched%20the%20premises.
- ¹⁶ Network for Public Health Law, *State Regulation of Consumption Sites*, available at <https://www.networkforphl.org/wp-content/uploads/2022/11/State-Regulation-of-Consumption-Sites.pdf>
- ¹⁷ See e.g., Dilley JA, Graves JM, Brooks-Russell A, Whitehill JM, Liebelt EL, Trends and Characteristics of Manufactured Cannabis Product and Cannabis Plant Product Exposures Reported to US Poison Control Centers, 2017-2019, JAMA Netw. Open. 2021;4(5) (May 24, 2021), available at <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2780068>.
- ¹⁸ Network for Public Health Law, *Product Regulation-Fact Sheet*, available at <https://www.networkforphl.org/wp-content/uploads/2022/11/Product-Regulation.pdf>.
- ¹⁹ *Id.*

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- 20 Network for Public Health Law, *Packaging Regulation-Fact Sheet*, available at <https://www.networkforphl.org/wp-content/uploads/2022/11/Packaging-Regulation.pdf>.
- 21 410 ILCS 705/55-21(f)(5).
- 22 Network for Public Health Law, *Cannabis Product Labeling Regulation-Fact Sheet*, available at <https://www.networkforphl.org/wp-content/uploads/2022/11/Cannabis-Product-Labeling-Regulation.pdf>.
- 23 See, e.g., N.M. Code R. § 16.8.3.9.
- 24 Network for Public Health Law, *Cannabis Product Labeling Regulation-Fact Sheet*, available at <https://www.networkforphl.org/wp-content/uploads/2022/11/Cannabis-Product-Labeling-Regulation.pdf> (discussing the prevalence of each of these health warnings).
- 25 Universal symbols generally include a cannabis leaf or “THC.”
- 26 Meich R et al. *Pediatrics*. 2017 Dec; Prevalence and Attitudes Regarding Marijuana Use Among Adolescents Over the Past Decade 140(6) available at <https://publications.aap.org/pediatrics/article-abstract/140/6/e20170982/38212/Prevalence-and-Attitudes-Regarding-Marijuana-Use?redirectedFrom=fulltext>.
- 27 Network for Public Health Law, *State Regulation of Adult-Use Cannabis Advertising*, available at <https://www.networkforphl.org/wp-content/uploads/2022/11/State-Regulation-of-Adult-Use-Cannabis-Advertising.pdf> (discussing the varying state approaches to the advertising of cannabis).
- 28 *Id.* (discussing content-based advertising restrictions).
- 29 Network for Public Health Law, *State Laws Addressing Discrimination Against Medical Cannabis Patients*, available at <https://www.networkforphl.org/wp-content/uploads/2021/04/Issue-Brief-State-Laws-Addressing-Discrimination-Against-Medical-Cannabis-Patients-1.pdf> (An updated version of this research will be posted soon. We use the updated data for the purposes of this report).
- 30 *Id.*
- 31 MINN. STAT. § 152.32 available at <https://www.revisor.mn.gov/statutes/cite/152.32> (providing protections for medical cannabis patients).
- 32 National Expungement Works, *National Expungement Week 2019-Impact Report*, available at https://static1.squarespace.com/static/5bab0afca0cd2771d54fb01b/t/5e176aa40c5a17560b7282f4/1578592944392/NEW2019_Impact_Report.pdf.
- 33 MINN. STAT. § 152.01
- 34 See Network for Public Health Law, *Adult-Use Cannabis Social Equity Tool Kit*, Mathew Swinburne and Brianne Schell, available at <https://www.networkforphl.org/wp-content/uploads/2022/09/Toolkit-Adult-Use-Cannabis-Revised-9-29-22-draft.pdf> (discussing the economic opportunities of the licensed industry and state efforts to increase access to the opportunities by underrepresented groups).
- 35 See Mathew Swinburne, & Kathleen Hoke, *State Efforts to Create an Inclusive Marijuana Industry in the Shadow of the Unjust War on Drugs*, 15 J. Bus. & Tech. L. 235 (2020) available at: <https://digitalcommons.law.umaryland.edu/jbtl/vol15/iss2/3> (providing a full discussion of the racist war on drugs and the distribution of opportunity in the new licensed cannabis economy).
- 36 *Id.*
- 37 See *Pharmacann Ohio, LLC v. Williams*, 2018 WL 7500067 (2018) available at <https://my.vanderbilt.edu/marijuanalaw/files/2018/11/Pharmacann-Ohio-v.-Ohio-Dept-Commerce-Summary-Judgment-Ruling.pdf> (striking down racial licensing quotas in Ohio’s medical cannabis system as unconstitutional).
- 38 See Network for Public Health Law, *Adult-Use Cannabis Social Equity Tool Kit*, Mathew Swinburne and Brianne Schell, available at <https://www.networkforphl.org/wp-content/uploads/2022/09/Toolkit-Adult-Use-Cannabis-Revised-9-29-22-draft.pdf>
- 39 American Civil Liberties Union, *A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform* (2020) available at https://www.aclu.org/sites/default/files/field_document/marijuanareport_03232021.pdf
- 40 410 ILL. COMP. STAT. 705/1-10.
- 41 See Network for Public Health Law, *Adult-Use Cannabis Social Equity Tool Kit*, Mathew Swinburne and Brianne Schell, available at <https://www.networkforphl.org/wp-content/uploads/2022/09/Toolkit-Adult-Use-Cannabis-Revised-9-29-22-draft.pdf>
- 42 *Id.*

⁴³ 410 ILL. COMP. STAT. 705/15-30.

⁴⁴ NEV. REV. STAT. § 678A.390.

⁴⁵ New Mexico Finance Authority, Cannabis Microbusiness Program, *available at* <https://www.nmfinance.com/new-cannabis-microbusiness-program>.

⁴⁶ Massachusetts Senate Bill 3096, An Act Relative to Equity in the Cannabis Industry, Section 17 *available at* <https://malegislature.gov/Bills/192/S3096>.

⁴⁷ See Mathew Swinburne, & Kathleen Hoke, *State Efforts to Create an Inclusive Marijuana Industry in the Shadow of the Unjust War on Drugs*, 15 J. Bus. & Tech. L. 235 (2020) *available at*: <https://digitalcommons.law.umaryland.edu/jbtl/vol15/iss2/3> (discussing legal barriers to securing banking services for cannabis businesses).

⁴⁸ See Minnesota Office of Higher Education, Dual Training Grant, *available at* <https://www.ohe.state.mn.us/mPg.cfm?pageID=2160> (discussing the purpose of the grant program).

⁴⁹ See Network for Public Health Law, Adult-Use Cannabis Social Equity Tool Kit, Mathew Swinburne and Brianne Schell, *available at* <https://www.networkforphl.org/wp-content/uploads/2022/09/Toolkit-Adult-Use-Cannabis-Revised-9-29-22-draft.pdf>

⁵⁰ Marijuana Regulatory Agency Announces the Joint Ventures Pathway Program, Michigan Department of Licensing and Regulatory Affairs (August 31, 2021) (announcing the creation of the program) *available at* <https://www.michigan.gov/mra/0,9306,7-386-79784-566990--,00.html>.

⁵¹ See COLO. REV. STAT. §§ 44-10-103, 602, 603 (describing the states accelerator program); *See also* COLO. CODE REGS. § 212-3.2-1105 (providing additional information on the accelerator program).

⁵² See Network for Public Health Law, Adult-Use Cannabis Social Equity Tool Kit, Mathew Swinburne and Brianne Schell, *available at* <https://www.networkforphl.org/wp-content/uploads/2022/09/Toolkit-Adult-Use-Cannabis-Revised-9-29-22-draft.pdf> (discussing the specifics of Connecticut's accelerator program).

⁵³ Ariz. Rev. Stat. Ann. § 36-2854.

⁵⁴ N.Y. Cannabis Law § 87.

⁵⁵ See Network for Public Health Law, Adult-Use Cannabis Social Equity Tool Kit, Mathew Swinburne and Brianne Schell, *available at* <https://www.networkforphl.org/wp-content/uploads/2022/09/Toolkit-Adult-Use-Cannabis-Revised-9-29-22-draft.pdf> (discussing community reinvestment efforts).

⁵⁶ MD. CODE ANN. CRIM. LAW § 5-602

⁵⁷ *Id.*



**PUBLIC HEALTH
LAW CENTER**
at Mitchell Hamline School of Law

Public Health Priorities in the Proposed Minnesota Legislation to Legalize Recreational/Commercialization/Adult-Use Cannabis (HF 100, as introduced in January 2023)

Staff from Public Health Institute and Public Health Law Center analyzed HF 100 as introduced and created this list of public health priorities in the proposed legislation to legalize recreational/adult-use cannabis. The Public Health Institute has also developed an “Evaluation Checklist for Minnesota’s Adult-Use Cannabis Bill, HF100” and PHI and PHLC collaborated on a section-by-section analysis of the legislation. These priorities were selected based on Minnesota’s specific experience with regulation of commercial tobacco and areas that are most impactful to protect public health and equity.

Summary of Key Public Health Priorities:

- I. Preserve local control to ensure local governments can innovate and regulate cannabis according to their unique community needs.**
- II. Assure that legislative purpose and intent in all aspects of the legislation prioritizes public health above all else. Cannabis, like commercial tobacco, is a harmful product that should likewise be regulated under public health authority.**
- III. Regulate and assure robust regulatory authority over the potency, design, packaging, labeling, marketing, and availability of cannabis products. Fold the regulations for so-called “low-potency edibles” into a unified regulatory system that treats all intoxicating products the same.**
- IV. Promote social justice through criminal justice reform, expungements, pardons, and economic equity, and redistribution of tax revenues.**
- V. Taxation should be sufficient and structured to discourage an increase in consumption, abuse, and further escalation of product potency, while not encouraging an illicit market. Revenues generated should first cover costs created by the emerging industry, including strong regulation and enforcement, substance abuse prevention and treatment, education and community reinvestment.**
- VI. Protect smoke-free air by not allowing on-site consumption or public indoor and outdoor events, and clarify that medical cannabis consumption should reflect use limitations in current law.**
- VII. Promote a nonprofit or public utility monopoly model to reduce the profit motive driving up consumption and predatory behavior of an increasingly powerful cannabis industry.**

This information is for educational purposes only; we do not request that a policymaker take any specific action in regard to our comments, nor should our comments be considered a replacement for legal advice. If you require a legal opinion, we encourage you to consult with local legal counsel.

I. Preserve local control to ensure local governments can innovate and regulate cannabis according to their unique community needs.

A. Why is local control important for public health?

1. Decades of commercial tobacco control efforts in Minnesota and nationwide have shown that localities have historically served as avenues for policy experimentation and have been at the forefront of adopting innovative policies that protect the public from the deleterious health effects of tobacco use.¹ We have already seen the same trend emerge in legal cannabis control,² expect it to expand, and need to allow that space for local innovation.
2. The role that local communities play in the advancement of public health cannot be overstated. The success of such innovative policies has, in turn, spurred other localities, states, and even the federal government, to adopt tried-and-tested policies to improve public health on a larger scale.³
3. Preemptive laws also prevent localities from adopting policies that are tailored to meet local needs. Our federal and state governments are composed of diverse constituencies, and policies adopted on a broad national or state level rarely address issues unique to those local communities and in an equitable fashion. To address community-specific public health issues, local communities must retain the power to adopt public health measures tailored to their needs.⁴ From a health equity standpoint, the use of local knowledge to forge community-specific solutions enables localities to employ a targeted approach to combat health disparities and ensure equitable access to better public health.⁵ Additionally, public health policies are most likely to succeed when they are adopted in a democratic process that ensures meaningful and direct engagement by the people most affected.⁶ Localities are in the best position to provide this type of engagement with stakeholders in their communities.
4. Local control also provides the necessary checks and balances to hold the cannabis industry to account, by requiring it to act more responsibly and to counterweight industry influence in state government regulation.

B. What's in the bill?

1. HF 100 includes express preemption that does not allow local government to license, adequately regulate sale, nor opt out of allowing cannabis commerce (Art. 1 Sec. 13, new Sec 342.14).

¹ In *New State Ice Co. v. Liebmann*, Justice Brandeis extolled the role local and state governments played as “laboratories of democracy.” 285 U.S. 262, 311 (1932).

² Best Practices in Action Map. Public Health Institute. Berkeley, CA 2022. https://gettingitrightfromthestart.org/wp-content/uploads/2022/11/2022BestPracticesinActionMap_10-31-22.pdf.

³ Paul Diller, *Intrastate Preemption*, 87 B.U. L. Rev. 1113, 1116 (2007) (discussing how state courts have applied preemption tests inconsistently, thus creating confusion that invites preemption challenges that would not have been brought if the law were clearer). Paul A. Diller, *Why Do Cities Innovate in Public Health? Implications of Scale and Structure*, 91 Wash. U.L. Rev. 1219, 1226 (2014).

⁴ See Frank J. Goodnow, *City Government in the United States* 39 (1908) (describing localities in the United States as “organ[s] for the satisfaction of local needs”); *State v. Hutchinson*, 624 P.2d 1116, 1122 (Utah 1980) (“The wide diversity of problems encountered by county and municipal governments are not all, and cannot realistically be, effectively dealt with by a state legislature which sits for sixty days every two years to deal with matters of general importance.”).

⁵ Julie Ralston Aoki et al., *Maximizing Community Voices to Address Health Inequities: How the Law Hinders and Helps*, 45 J. Law Med. Ethics, 11 (2017).

⁶ *Id.*

2. The legislation allows local units of government to adopt reasonable restrictions of time, place, and manner of the operation of a cannabis business if it does not prohibit the establishment or operation of a cannabis business. However, these limitations on local government control are not clearly defined (Art. 1 Sec. 13, new Sec. 342.14 (c)).
3. The legislation does allow for local government to approve or reject applications for local events where cannabis could be sold and consumed (Art. 1, Sec. 36, new Sec. 342.37, Subd. 1).
4. The legislation prohibits local taxation of cannabis products made legal under the legislation (Art. 2 Sec. 12, amending Minn. Stat. § 297A.99).

C. To protect public health the state could consider:

1. Ensure that local governments can:
 - a. Opt-out of allowing cannabis businesses to operate in the jurisdiction if the population so wishes.
 - b. Adopt a publicly provided or contracted non-profit model or a delivery-only model or allow delivery only from outside businesses.
 - c. Issue local licenses and regulation for sale of cannabis, similar to the licensing for retail sale of commercial tobacco.
 - d. Limit the number and location of licensees in their jurisdiction.
 - e. Require all or some portion of licensees to be social equity applicants.
 - f. Limit or regulate the sales of specific products.
 - g. Constrain advertising.
 - h. Allow local tax and application fees to permit the local government to fully recoup the costs of recreational/adult use cannabis and use the revenue to support economic development where communities have been particularly harmed by the criminalization of cannabis. Some states have used a standard local tax for local government allowing sale.
2. Strong anti-preemption language could be added to the legislation to ensure that local governments have similar control over the sale and regulations of cannabis as they do for commercial tobacco and alcohol.

II. Assure that legislative purpose and intent in all aspects of the legislation prioritizes public health above all else. Cannabis, like commercial tobacco, is a harmful product that should likewise be regulated under public health authority.

A. Why is an orientation of the cannabis law to public health important?

1. Cannabis, like alcohol and tobacco, is an addictive substance that should not be treated as an ordinary commercial commodity.⁷ There is no universally safe level of use.⁸ It causes serious and irreversible harms such as triggering psychosis and schizophrenia and harms to the developing brain when exposed. Regulation of cannabis must therefore be grounded in public health and safety.

⁷ Marijuana and Public Health. Centers for Disease Control and Prevention. Atlanta, Georgia 2023. <https://www.cdc.gov/marijuana/health-effects/addiction.html>.

⁸ Fischer, B., Robinson, T., Bullen, C., Curran, V., Jutras-Aswad, D., Medina-Mora, M. E., Pacula, R. L., Rehm, J., Room, R., Brink, W. V. D., & Hall, W. (2022). Lower-Risk Cannabis Use Guidelines (LRCUG) for reducing health harms from non-medical cannabis use: A comprehensive evidence and recommendations update. *The International Journal on Drug Policy*, 99, 103381.

2. While illegality did not keep youth from using cannabis, the rapid growth or “heating” of the new cannabis market is leading it to “boil over,” exposing young people to increasingly potent and addictive products and intensive marketing. That overheating is happening today – youth marijuana use has reached its highest levels in 35 years, daily use and use during pregnancy are climbing, and a vaping epidemic swept the nation.⁹
3. As currently drafted, H.F. 100 vests in the Office of Cannabis Management the duty to promote the cannabis industry and its economic growth, in contravention of its concurrent role in advancing public health, welfare, and public safety. Promoting the industry will invariably increase consumption, including youth consumption. H.F. 100 could, therefore, be amended to ensure that while OCM has the goal of establishing a system of legal production and access, it does not have a responsibility to promote the growth of the industry.
4. Cannabis represents a significant threat to public health and sends people to the hospital in growing numbers. This is particularly true with the shift from traditional low potency weed to ultra-high potency flower, turbocharged concentrates, and supermarkets of attractive edibles. Commercial tobacco was finally placed under FDA and HHS authority only in 2009, and we should not repeat the same mistakes of doing nothing for too long. Like tobacco, cannabis and hemp regulation should begin under public health, as it is a public health issue, with strong input from industry, agriculture, education, law enforcement and other sectors. The cannabis and commercial tobacco industries are intertwined, where the cannabis industry is widely adopting tobacco industry practices and major tobacco companies, like Altria, are buying into the cannabis industry.
5. A responsibility to “right-size” the market will help ensure that only the number and scope of licenses are issued that will meet demand but also guard against a glut in the market due to overproduction or manufacture, which can result in a resurgence of the illicit market, or desperate efforts to drive up demand to absorb excess production.

B. What’s in the bill?

1. While the bill requires the Office of Cannabis Management to promote the public health and welfare, it does not adequately establish a priority and commitment to public health and youth in provisions throughout the legislation (Art. 1 Sec. 2, establishing new Sec. 342.02 Subd. 1 (1)).
2. The specified requirements and duties of the OCM conflict. Instead, the role of the OCM should be clear in its responsibilities to enforce the regulatory system. In Section 2, the OCM is established “to make rules, establish policy, and exercise[e] its regulatory authority over the cannabis industry” and, in doing so, must “promote the public health and welfare,” but also “meet the market demand for cannabis flower and cannabinoid products;” and to “promote a craft industry for cannabis flower and cannabinoid products” (Art. 1 Sec. 2, establishing new Sec. 342.02 Subd. 1). The Office concurrently and contradictorily maintains the power and duty to “promote economic growth” and “to publish... information as may be deemed necessary for the welfare of cannabis businesses, cannabis workers, and the health and safety of citizens.”
3. HF100 establishes regulatory authority over adult-use/recreational cannabis to the OCM. The legislation transfers current authority of the Board of Pharmacy to regulate “low-potency edibles” to the OOCM and would transfer regulation of the Medical Cannabis

⁹ Silver, L., Padon, A., Soroosh, A., Naprawa, A., Gonzalez Garcia, K. (2021). Model Ordinance Regulating Local Cannabis Retail Sales & Marketing in California, Introduction, 2nd Ed., Getting it Right from the Start, a Project of the Public Health Institute.

Program from the Minnesota Department of Health to the OCM. Unlike with MDH's decades of experience with commercial tobacco control, the new OCM will lack the knowledge and experience of the many strategies used by the tobacco and cannabis industries to initiate youth, hide harmful effects, manipulate product design, and expand consumption.

4. The industry has a strong presence on the advisory council, although there are some protections to prevent lobbying (Art. 1; proposing new Sec. 342.03).
5. HF100 provides authority to issue licenses to meet demand but does not clearly establish authority and responsibility to constrain the number of licensees or scope of cannabis production to prevent overproduction, nor establish any initial limitations on licenses to be issued.

C. To protect public health the state could consider:

1. Locate the proposed Office of Cannabis Management under control of the Minnesota Department of Health (MDH) to regulate the proposed legalized recreational/adult use cannabis program, to integrate with regulation of medical products, and to ensure the primacy of public health in all aspects of regulation.
2. Strengthen intent language to include protecting youth and vulnerable populations, promoting health and social equity, remove all language about promoting the industry and market for cannabis. Add to intent language in 342.02, Sub 1:
 - a. Protect youth and populations vulnerable to harmful effects of cannabis.
 - b. Protect health, promote social equity, and repair harms to communities due to treatment of cannabis as an illicit drug.
 - c. Not contribute to increased consumption of cannabis in general and specifically among youth and pregnant women.
3. Ensure that, where protection of public health and industry interests conflict, the protection of public health shall have primacy and that regulations are supported by the current state of scientific evidence of harms, benefits and best practices.
4. Revise the Powers and Duties of the Office of Cannabis Management (342.02, Subd. 1) to ensure that regulation is driven by public health and social equity concerns:
 - a. Amend clause (2) to read: "To establish a product and marketing regulation system, programming, services, education and surveillance to protect, maintain and improve the health of residents";
 - b. Amend clause (4) to include "cultivation, manufacturing, product design and content, packaging, labeling and marketing";
 - c. Amend clause (5) to: "To promote economic and health equity with an emphasis on growth in areas that experienced a disproportionate negative impact from cannabis prohibition." (While economic and health equity should be objectives, economic growth, presumably through growth of the cannabis industry, currently specified as a goal rather than simply shifting benefits from the illicit to the licit market, should not be the goal. Rather, the goal should be overall economic growth in communities historically harmed due to treatment of cannabis as an illicit drug.);
 - d. Amend clause 6 to: "To issue and renew licenses in quantities and sizes that seek to establish legal cultivation, manufacture and retail access without increasing overall cannabis consumption;"
 - e. Add clause 7: "To enforce the cannabis and hemp legislative and regulatory framework created." (OCM duty is to promote cannabis businesses, which should

not be the case. See § 342.17, Subd. 1, which requires OCM to ensure sufficient supply of products and market stability.)

- f. The inclusion of clause (15) under Subd. 2: authority to limit potency is extremely important and should be maintained and expanded to be centered in public health and the most recent science.
5. Create regulatory, scientific and medical advisory bodies free from conflicts of interest to advise the OCM on their responsibilities outlined in their responsibilities, powers, and duties.
6. Ensure strong conflict of interest protections and firewall that ensure the cannabis industry does not shape regulations.

III. Assure robust regulatory authority over the potency, design, packaging, labeling, marketing, and availability of cannabis products. Fold the regulations for “low-potency edibles” into a unified regulatory system that treats all intoxicating products the same.

A. Why is robust product regulation and marketing control essential?

1. The U.S. cannabis market has, in recent decades, lead the world in a transformation of the cannabis industry from a traditional botanical product of 3-5% THC to one with flower that is now 5-10-fold stronger (15-30% THC), and includes a vast array of industrialized concentrates and tempting edibles, some of which exceed 95% THC content.
2. The National Institutes of Health,¹⁰ the National Academies of Science, the U.S. Senate,¹¹ the Surgeon General,¹² and numerous scientific experts and bodies have called attention to the dangerous risks of this trend, most notably the increased risk of psychosis and schizophrenia, which increase five-fold with daily use of products above 10% THC,¹³ worsen outcomes for those with existing schizophrenia, and increase rates of addiction. There are also harms to a developing fetus when used during pregnancy and to the developing brain and educational outcomes of adolescents. The epidemiologic effects are already being seen in increasing use during pregnancy, increasing cases of psychosis flooding emergency departments, increasing numbers of exposed babies and youth, and increasing daily use.
3. While other countries have placed limits on potency levels, such as the Czech Republic (21%), Uruguay (9%), Israel (12%) and the Netherlands (medical at 22%), only a few U.S. states have done so.

¹⁰ Weiss SRB, Howlett KD, Baler RD. Building smart cannabis policy from the science up. *Int J Drug Policy*. 2017 Apr;42:39-49. doi: 10.1016/j.drugpo.2017.01.007. Epub 2017 Feb 8. PMID: 28189459; PMCID: PMC5404989.

¹¹ UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL, Cannabis Policy: Public Health and Safety Issues and Recommendations, March 2021.

¹² U.S. Surgeon General Jerome Adams Advisory: Marijuana Use and the Developing Brain, 2019.

¹³ Di Forti M, Quattrone D, Freeman TP, Tripoli G, Gayer-Anderson C, Quigley H, Rodriguez V, Jongsma HE, Ferraro L, La Cascia C, La Barbera D, Tarricone I, Berardi D, Szöke A, Arango C, Tortelli A, Velthorst E, Bernardo M, Del-Ben CM, Menezes PR, Selten JP, Jones PB, Kirkbride JB, Rutten BP, de Haan L, Sham PC, van Os J, Lewis CM, Lynskey M, Morgan C, Murray RM; EU-GEI WP2 Group. The contribution of cannabis use to variation in the incidence of psychotic disorder across Europe (EU-GEI): a multicentre case-control study. *Lancet Psychiatry*. 2019 May;6(5):427-436. doi: 10.1016/S2215-0366(19)30048-3. Epub 2019 Mar 19. PMID: 30902669; PMCID: PMC7646282.

4. A vast array of “legal” cannabis and hemp products attractive to children and youth, employing flavors similar to Juul e-cigarettes, or imitating candies and foods commonly marketed to children have proliferated nationally.
5. Only robust regulation of product content and design, appropriate dosing, strict limitations on attractiveness of products to children and youth, limits on marketing, and health warning and information for consumers can best protect against the adverse effects of cannabis use and protecting youth

B. What’s in the bill?

1. HF100 provides authority for OCM to regulate the potency of cannabinoid products. This is of critical importance and should be maintained (Art 1, Sec. 1, Sub 2).
2. HF 100 established a parallel system for marketing of so-called “lower potency” edibles which are, in fact, no different from typical potency cannabis edibles marketed around the country and which range from 1-10 mg per dose. For example, 5 mg is the suggested standard THC dose used by NIH.
3. HF100 allows for the sale of “lower potency” edibles and on-site consumption in stores selling alcoholic beverages, greatly increasing the risk of combined drugged and drunk driving, the most lethal combination.
4. HF100 did not highlight power and responsibility to regulate health warnings and marketing.
5. HF100 requires, but does not clearly define, plain packaging, which is an important strategy used in international tobacco control and for cannabis in Canada, Hawaii, and Connecticut.
6. HF100 appears to allow limited use of artificially derived cannabinoids in certain products.
7. HF100 restricts the use of flavoring in inhaled products, but not with packaging and marketing that uses flavor descriptors.

C. To protect public health the state could consider:

1. Art. 1 Sec. 1 Sub 2 (4) should be amended to state that the powers and responsibility of OCM include “to establish and regularly update standards for cannabinoid product design, content, packaging, labeling, warnings, consumer information, and marketing with the goal of minimizing adverse effects, and protecting youth.”
2. The section assuring the power to regulate potency should be maintained: an initial limit of 15% THC for flower and 50% for concentrates should be adopted and a scientific advisory group commissioned to advise on longer-term best practices for regulation of potency. Edible products should not exceed 5 mg per dose and each dose should be physically separate (not simply scored or marked), including for beverages.
3. Retailers should be required to stock low potency flower and edible options.
4. The parallel category of lower potency edibles and lower potency edible retailers should be eliminated and integrated solely into the legal cannabis system. There should be no sale of cannabinoid containing products where alcohol is sold.
5. Products should require pre-market approval to avoid products attractive to children, and this process should be adequately funded.
6. The requirement for plain packaging should be clarified and maintained in accordance with the Framework Convention on Tobacco Control Guidance.

7. The requirement restricting use of flavors inhaled products should be maintained and strengthened to include product packaging, labeling, and marketing that convey to the consumer that the product has flavors other than those of cannabis.
8. Synthetic and artificially derived cannabinoids should not be allowed.
9. A strong model of rotating front of pack health warnings consistent with the new FDA cigarette warnings, and those used in Canada for cannabis, should be adopted and periodically updated.

IV. Promote social justice through criminal justice reform, expungements, pardons, economic equity, and redistribution of tax revenues.

A. Why is this important for public health?

1. The social determinants of health are deep and abiding and are inextricably linked with criminalization of cannabis. No true public health-oriented reform could move forward without undoing the harms of the punitive criminalization of cannabis that impacts lifelong access to housing, education, employment, access to health care and treatment, and a host of related determinants of health. Foremost, the legalization and commercialization of cannabis should not be able to perpetuate inequities in health, economic opportunity, and historical harms done to communities and families.

B. What's in the bill?

1. A strong point of the bill is the provisions for automatic expungement of criminal records and associated funding (Art. 5). This is a key step toward mitigation of harmful effects of the criminalization of cannabis. This could be strengthened to ensure that criminal records related to cannabis offenses are permanently expunged, that pardons are facilitated and granted to permanently remove criminal records and ensure the release of those currently incarcerated for cannabis-related offenses.
2. The legislation permits criminal penalties for underage persons who purchase, use, or possess cannabis in violation of the law (Art. 1 Sec. 9, establishing Sec. 342.09 Subd. 1(b)(1) and Subd. 6(a)). This maintains a criminalization for cannabis that undermines a key purpose of the law. Instead, penalties for underage access should be more strongly levied on retailers and those responsible for marketing to youth and failing to prevent youth access.
3. There are provisions to favor “social equity applicants,” but specific requirements could be included to reserve licenses for this group.

C. To protect public health and promote social justice the state could consider:

1. Strengthen the law to require expungement and pardons to remove criminal history.
2. Strong penalties should exist and target bad actors such as cartels and significant illicit cultivation, stores that repeatedly violate the law, illicit manufacturers, and violent actors, while seeking alternative penalties for less severe offenses.
3. Measures to strengthen the law to reduce youth access include:
 - a. Remove criminal penalties for youth purchase/use/possession. (Possible alternative measures include connecting youth with treatment, mental health support, and prevention education.)
 - b. Ensure all cannabis products, including “lower-potency” edibles, are sold only at exclusive cannabis retailers where no person under age 21 is admitted.

- c. Strong compliance check language with multiple checks per year and adequate funding to ensure that the compliance checks are carried out. The Minnesota model for commercial tobacco compliance checks is instructive and is part of a broader local licensing and locally controlled licensing structure.
4. Strengthen provisions and mechanisms to support social equity applicants and to ensure that people whose records have been expunged are provided support to seek employment and education.
5. If for-profit businesses are allowed, they should primarily benefit communities that have suffered from the criminalization of cannabis rather than creating powerful new financial interests that are likely to repeat the targeting and predatory behavior of the commercial tobacco industry. Notably, while the legislation creates a mechanism for social equity applicants the mechanism is weak, with only a small additional point award. This has not worked well in other states that have created social equity applicant systems. One method to promote economic equity in ownership of the cannabis industry is to ensure that the first year or two of licensing would go exclusively to equity applicants. At a minimum, 50% of licenses should go to these applicants long-term. Otherwise, the ability to snap up the best locations, to mobilize capital, to lobby and to navigate the application and startup system and risks inevitably leaves wealthy investors as the victors with equity applicants rapidly pushed aside.
6. Reinvestment in communities most harmed by the criminalization of cannabis.

V. Taxation should be sufficient and structured to discourage an increase in consumption, abuse, and further escalation of product potency, while not encouraging an illicit market. Revenues generated should first cover costs created by the emerging industry, including strong regulation and enforcement, substance abuse prevention and treatment, education, and community reinvestment.

A. How do taxation and appropriations in the legislation impact public health?

1. Adequate taxation and appropriations of the revenue gained in the sale of adult-use/recreational cannabis should, at a minimum, cover all related costs of regulation, enforcement, health impacts and their prevention, public education environmental impacts, and other costs that are the result of legalization. In addition to funding the administrative expenses of legalization, the purpose of cannabis taxes is to fund public health goals, such as prevention and community investment. An adequate level of state taxation should provide for these costs and related externalities. Additionally, authority for local taxation complements state taxation because localities can supplement the funding for such programs. Preemption of local taxation prevents localities from tailoring cannabis legalization to their community. Major flaws in the legislation include the preemption of local taxation, an excessively low rate of taxation, and collection of inappropriately low one-time application fee, and no annual licensing fees.
2. The taxation could also be amended to tax based on potency. A potency-based taxation is calculated based on the level of THC in the product. The goal of potency taxes is to incentivize the purchase of less potent cannabis, which is safer for consumers. This approach would align cannabis taxation with alcohol taxation in Minnesota, which taxes manufacturers and wholesalers based on alcohol content.

B. What's in the bill?

1. The taxation model proposed in the legislation is limited to an 8% tax on gross receipts unrelated to potency and accompanied by a minimal one-time application fee of \$250 for cannabis businesses (Art. 2, pp. 125.29, 8% tax; Art. 1, Sec. 11). This tax and fee are grossly insufficient to cover the costs associated with regulating the commercialization of cannabis and preventing associated harms.
2. Article 9, Appropriations of H.F. 100 could be amended to fund public health initiatives more directly and fully. As it stands, the bill lacks adequate funding for cannabis education and prevention. First, the bill does not appropriate enough money for youth education and prevention. Per the first engrossment, Subd. 8(e) of the bill appropriates \$2,998,000 in fiscal year 2024 to education for youth and youth awareness campaigns. This is less than 7% of the total appropriations for 2024, compared to states like California which dedicate 60% of tax revenue to youth education and prevention and have a significantly higher tax base. Second, the bill does not appropriate enough funding for adult education and prevention. The only appropriation aimed at adult education and prevention is in Subd. 8(b) for “education for women who are pregnant, breastfeeding, or who may become pregnant.” That group is clearly important, but by only funding education for that specific group of people, everyone else is left behind. While H.F. 100 does attempt to appropriate funds equitably and in the furtherance of public health goals, it does not do enough in these regards.
3. In Art. 1 Sec. 2 (establishing § 342.02, Subd. 1(6)), the legislation requires that the OCM “prioritize growth and recovery in communities that have experienced a disproportionate, negative impact from cannabis prohibition.” This indicates an intent that revenue derived from the commercialization of cannabis should be directed to support communities. However, the funds allocated to this are inadequate.

C. To protect public health and promote social justice the state could consider:

1. Tax by THC content and potency to reduce the availability and attractiveness of high-potency products.
2. Set a higher overall excise tax of 20-35% to ensure revenue generated covers the costs associated with regulation and compliance and other costs outlined above. Failure to tax at a high enough rate would leave the State and local governments to subsidize the cannabis industry and pay for the mitigation of its adverse effects. It is a level of taxation far lower than that of other states – ¼ to ½ the tax level. For example, Washington has a 37% tax rate and 77% of consumers now report successfully purchasing from the legal market.¹⁴ It will not adequately fund the regulatory and enforcement structure, much less raise significant revenues for substance abuse prevention or treatment, youth protection, and education. It does not follow best practices for taxing based on THC content (for example, as adopted in IL, NY, and CT), and would not create the long-term need for price to constrain consumption and consumption of the most harmful products that we know already work from tobacco and alcohol sales. While excessive taxes may slow the transition from the illegal industry, a critically important way to facilitate the creation of a successful legal industry is to right-size production, and not allow an overproduction glut that drives down prices, forces small businesses to fail, and desperately seeks outlets. Overproduction has been a major challenge in many legalized states.

¹⁴ International Cannabis Policy Survey. 2021 Report.

3. Assure sufficient support for a robust state and local regulatory and enforcement system, including the ability of local jurisdictions to tax and charge an annual license application fee that recoups the cost of regulating the industry (similar to Minnesota’s commercial tobacco license requirement; see local control section above.)
4. Define spending of the revenue generated. There should be a clear and long-term commitment to using all cannabis revenues for funding of substance abuse prevention and treatment, support of youth and public education on cannabis, support for a cannabis control system, epidemiologic surveillance, and reparations to communities harmed by the enforcement of punitive drug laws.
5. Provide additional revenues to community reinvestment in non-cannabis businesses, and to strengthen communities most harmed by the enforcement of punitive drug laws.
6. State-supported loans and grants for cannabis businesses should be limited to social equity applicants, public monopolies, or contracted nonprofits.

VI. Protect smoke-free air by not allowing on-site consumption or public indoor and outdoor events and clarify that medical cannabis consumption should reflect use limitations in current law.

A. How does this impact public health?

1. There is no safe level of exposure to secondhand and thirdhand smoke and aerosol from electronic smoking devices. This includes indoor exposure as well as outdoor exposure in the form of drifting smoke or aerosol that could negatively impact health.^{15,16,17,18,19,20}
2. The Minnesota Clean Indoor Air Act (MCIAA) has some of the strongest clean indoor air protections in the country. The MCIAA also ensures that local jurisdictions can enact more stringent clean air regulations with the anti-preemption language, which specifically allows local jurisdictions to regulate (see Minn. Stat. §§ 144.411-144.417).
3. H.F.100 compromises the MCIAA in certain sections. Under the MCIAA, “smoking” is defined as “inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, *marijuana*, or other plant, whether natural or synthetic, that is intended for inhalation. Smoking includes carrying or using an activated electronic

¹⁵ Murphy MB, Huang AS, Schick SF. PM2.5 Concentrations in a Cannabis Store with On-Site Consumption. *Environ Health Perspect*. 2021 Jun;129(6):67701. doi: 10.1289/EHP8689. Epub 2021 Jun 16. PMID: 34132612; PMCID: PMC8207964.

¹⁶ Wang X, Derakhshandeh R, Liu J, Narayan S, Nabavizadeh P, Le S, Danforth OM, Pinnamaneni K, Rodriguez HJ, Luu E, Sievers RE, Schick SF, Glantz SA, Springer ML. One Minute of Marijuana Secondhand Smoke Exposure Substantially Impairs Vascular Endothelial Function. *J Am Heart Assoc*. 2016 Jul 27;5(8):e003858. doi: 10.1161/JAHA.116.003858. PMID: 27464788; PMCID: PMC5015303.

¹⁷ Wiegand DM, Methner MM, Grimes GR, Couch JR, Wang L, Zhang L, Blount BC. Occupational Exposure to Secondhand Cannabis Smoke Among Law Enforcement Officers Providing Security at Outdoor Concert Events. *Ann Work Expo Health*. 2020 Aug 6;64(7):705-714. doi: 10.1093/annweh/wxaa025. PMID: 32219297; PMCID: PMC8593821.

¹⁸ Driezen P, Kaufman P, Chaiton M, Goodman S, Hammond D. Prevalence and factors associated with self-reported exposure to secondhand cannabis smoke in the United States and Canada in 2019. *Prev Med*. 2022 Apr;157:107006. doi: 10.1016/j.ypmed.2022.107006. Epub 2022 Feb 28. PMID: 35240141.

¹⁹ Moir D, Rickert WS, Levasseur G, Larose Y, Maertens R, White P, Desjardins S. A comparison of mainstream and sidestream marijuana and tobacco cigarette smoke produced under two machine smoking conditions. *Chem Res Toxicol*. 2008 Feb;21(2):494-502. doi: 10.1021/tx700275p. Epub 2007 Dec 7. PMID: 18062674.

²⁰ Sangmo L, Braune T, Liu B, Wang L, Zhang L, Sosnoff CS, Blount BC, Wilson KM. Secondhand marijuana exposure in a convenience sample of young children in New York City. *Pediatr Res*. 2021 Mar;89(4):905-910. doi: 10.1038/s41390-020-0958-7. Epub 2020 May 13. PMID: 32403116; PMCID: PMC7882144.

delivery device, as defined in section 609.685” Minn. Stat. § 144.413, Subd. 4 (emphasis added).

4. Current medical cannabis laws in Minnesota prevent secondhand exposure to smoke and aerosol in all places covered by the MCIAA, as well as additional protections to prevent exposure by children.

B. What’s in the bill?

1. Article 1 extends smoke-free air restrictions to include smoking or vaping “cannabis flower or cannabinoid products” among locations referenced in Minnesota’s Clean Indoor Air Act ([Chapter 144.414](#): “Smoking shall not be permitted in and no person shall smoke in a public place, at a public meeting, in a place of employment, or in public transportation, except as provided in this section or section 144.4167.”) (Art. 1, Sec. 9, Subd. 1(b)(3)). While the personal use provision clearly indicates an intent to restrict smoking and vaping wherever prohibited under the MCIAA, there are sections in the legislation that are not clear and may be inconsistent with that goal.
2. Smoking and vaping is not explicitly prohibited for on-site consumption (Art. 1, Sec. 9., Subd. 1(a)(7)(iii)) and at licensed, public cannabis events (Art. 1, Secs. 35-36). Additionally, there is not recognition that local clean air laws must be followed.
3. Samples: The legislation prohibits “free samples” which is a good way to reduce consumption and accessibility for underage people who cannot afford the products (Art. 1 Sec. 34 Subd. 5 (9)). This could be expanded to also prohibit nominal cost samples and any discount/coupon promotions.
4. Medical Cannabis Use: The proposed legislation lacks clarity about the use of medical cannabis (smoking/vaping) where currently prohibited by the MCIAA and [medical cannabis law](#). The legislation prohibits use of cannabis flower or cannabinoid products in violation of the MCIAA (Art. 1, Sec. 9, Subd. 1(b)(3)), however, other language in the legislation is ambiguous about medical cannabis use (Art. 1, Sec. 9, Subd. 1(c)). Additionally, other medical cannabis restrictions in current law should be upheld in the new law. Language could be adopted to clarify this point and to ensure that local limitations are also followed.

C. To protect public health the state could consider:

1. Eliminate the licensing of temporary events or, at a minimum, eliminate on-site consumption of combustible or “vaporized” products at these events, which will renormalize smoking and expose people to secondhand smoke.
2. Eliminate provisions establishing on-site consumption licenses.
3. Events: Both sections 35 and 36 of Article 1 regarding events licensing could be amended to ensure full compliance with the MCIAA and to ensure compliance with local clean air laws.
4. On-site consumption should not be allowed, if it is in violation of the MCIAA and should ensure that local laws are followed.
5. Sampling: All free and nominal price samples should be prohibited.
6. The current medical cannabis use limitations in law should not be changed and it should be made clear that medical cannabis use is not allowed if it is in violation of the MCIAA.

VII. Promote a nonprofit or public monopoly model to reduce the profit motive and predation of an increasingly powerful cannabis industry.

A. Why is a nonprofit or public monopoly model important to public health?

1. Using profit driven approaches will lead to increasing consumption of cannabis and the associated increased burden of poor educational outcomes, increased burden of serious mental illness notably psychosis and schizophrenia and worse outcomes for those with these diseases, increases in low-birth-weight rates, and children with poor neurodevelopmental outcomes as a result of *in utero* exposure. These are costly and devastating effects that will also greatly offset the value of tax revenue to the State and employment opportunities and will exacerbate health inequities. In California, for example, daily or near daily use of cannabis by adults has tripled and use during pregnancy nearly doubled in just a few years. Pediatric poisonings have increased nationally by 1375%.²¹ Incidence of psychosis and related medical care from cannabis is rising globally. Minnesota, with its rich history of leadership in health, could lead the nation in showing how providing legal access and ending failed approaches can be done wisely and prudently.
2. A model which appears to provide legal access, reduce the burden of criminal justice enforcement under illegality and its inequitable impacts, and strongly controlled marketplace to minimize the harms of commercialization of an addictive product, is the use of the public monopoly approach for the retail component of legalization. This approach offers the full benefit of decriminalization, creates employment opportunity and tax revenue, ability to advance economic equity, but does not create the same drive to increase sales, allows public control to avoid the shift to more potent and harmful products or products attractive to youth, and reduces aggressive marketing that leads to youth initiation. It can be accomplished through a public organization of the establishment of a nonprofit system under contract to state or local government.
3. The evidence from Canadian provinces, such as Quebec, which created a public cannabis monopoly, and from alcohol control, and from states which have legalized with for-profit models strongly supports looking at alternative approaches to allowing legal access that can better reduce associated harms. For example, in Canada, harmful daily or near daily patterns of use increased by 55% between 2021 and 2021, but in Quebec, which used a public cannabis store monopoly approach, it increased only from 8 to 10%, with similar differences in annual and past 30-day use growth; use of high potency vapes and concentrates was much lower than other provinces; and purchasing from legal sources at 80% was slightly above the national average. Exposure to advertising in 2021 was 27% vs 41% nationally. Yet Quebec cannabis users seem happy - they were less likely to think that legal marijuana was more expensive, less convenient to buy or of lower quality than other Canadians (<http://cannabisproject.ca/wp-content/uploads/2022/10/2021-ICPS-National-Canada-Report-Sept-27.pdf>).

B. What's in the bill?

1. The legislation establishes a completely commercialized, profit-driven industry with very few checks on the industry's influence.

²¹ [Young-Wolff KC, Tucker L, Alexeeff S, et al. Trends in Self-reported and Biochemically Tested Marijuana Use Among Pregnant Females in California From 2009-2016. JAMA. 2017;318\(24\):2490-2491. doi:10.1001/jama.2017.17225.](https://doi.org/10.1001/jama.2017.17225)

2. HF100 took a partial step toward a public-run system by allowing local governments to create a publicly owned retailer (Art. 1 Sec. 25 establishing new Sec.342.26, Subdivision 4). It does not clearly assure the ability of local government to do so exclusively, or alternatively, to contract exclusively with a non-profit to provide the public service. The legislation does not go far enough because it still allows the broad commercialization and marketing of cannabis.

C. To protect public health the state could consider:

1. Adopting a statewide nonprofit or public monopoly model either through a public provider or a nonprofit organization operating under contract to the state.
2. If a statewide monopoly model is not adopted, the provision for local government in proposed Sec. 342.26 Subd. 4, could be strengthened to make clear that local government can exercise a public monopoly over retail sales or other components of the system in their jurisdiction, and that they also can contract out that function to a nonprofit organization.

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