



Legislative Council Staff
 Nonpartisan Services for Colorado's Legislature

Initiative 58

Fiscal Impact Statement

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LCS TITLE: ACCESS TO NATURAL MEDICINE

Fiscal Impact Summary		FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26
Revenue	Cash Funds	-	-	\$5,235,425	\$5,596,904
	Total	-	-	\$5,235,425	\$5,596,904
Expenditures	General Fund	\$692,133	\$2,166,446	-	-
	Cash Fund	-	-	\$5,235,425	\$5,596,904
	Total	\$692,133	\$2,166,446	\$5,235,425	\$5,596,904

Disclaimer. This initial fiscal impact statement has been prepared for an initiative approved for petition circulation by the Secretary of State. If the initiative is placed on the ballot, Legislative Council Staff may revise this estimate for the ballot information booklet (Blue Book) if new information becomes available.

Summary of Initiative

The initiative establishes the Regulated Natural Medicine Access Program (natural medicine program) in the Department of Regulatory Agencies (DORA) to regulate the manufacture, cultivation, testing, storage, transfer, transport, delivery, sale, and purchase of natural medicine by and between healing centers and other permitted entities and participants. The initiative defines natural medicine as a plant or fungus containing psilocybin or psilocyn, but after June 1, 2026, may also contain dimethyltryptamine, ibogaine, or mescaline (excluding peyote).

DORA regulations. The initiative requires DORA to regulate natural medicine and to pay for the regulation through licensing fees of healing centers (where natural medicine services are provided) and facilitators (who provide the natural medicine). By January 1, 2024, DORA must adopt rules on the requirements to become a facilitator and by September 30, 2024, DORA must adopt rules to implement the natural medicine program and must begin accepting applications for licensure. Rules that must be adopted include:

- establishing requirements governing the safe provision of natural medicine services to participants;
- establishing requirements governing the licensing and practice of healing centers and facilitators;
- establishing procedures, policies, and programs to ensure that access to natural medicine is equitable and inclusive;
- setting application, licensing, and renewal fees for healing center and facilitator licenses;
- conducting a public education campaign about the use of natural medicine;

- studying and delivering recommendations to the legislature on the regulation of dosage for off-site use of natural medicine;
- collecting and publishing data in accordance with good data and privacy practices; and
- establishing other rules as necessary.

Natural Medicine Advisory Board. The initiative also creates the 15 member Natural Medicine Advisory Board to advise DORA on the implementation of the natural medicine program. By September 30, 2023, the board must make recommendations to DORA concerning:

- accurate public health approaches on the use, effect, and risk reduction for natural medicine;
- the content and scope of educational campaigns;
- research related to the efficacy and regulation of natural medicine;
- proper content of education and training programs for facilitators;
- whether access to natural medicine is equitable and inclusive;
- appropriate regulatory considerations for each natural medicine;
- the addition of other natural medicines;
- rules promulgated by DORA; and
- requirements for data collection, reporting, and publication.

The board must review and evaluate existing research, studies, and data on natural medicine to make recommendations to the legislature and other state agencies as to whether natural medicine and associated services should be covered by Health First Colorado or other insurance programs. The board must also review and evaluate sustainability issues related to natural medicine and the impact on indigenous cultures and document existing reciprocity efforts. The board must publish an annual report to DORA and the legislature and reports December 31, 2033.

Local governments. The initiative allows local governments, including municipalities, counties, and consolidated cities and counties, to regulate the time, place, and manner of the operations of licensed healing centers within its boundaries. However, a local government may not ban or completely prohibit the establishment of healing centers, or a health-care facility or licensed individual from providing natural medicine services. A local government cannot prohibit the transportation of natural medicine through its jurisdiction on public roads by a licensee. A local government may adopt laws imposing lesser criminal or civil penalties than provided by the initiative.

Protections. The initiative provides protections from criminal and civil actions for individuals who are licensed to provide natural medicine services.

Decriminalization. The initiative also decriminalizes personal use of natural medicine if the person is twenty one years of age or older and only within the context of counseling, spiritual guidance, beneficial community based use and healing, supported use, or related services. Decriminalization does not include the sale of natural medicine for remuneration.

Penalties. Use of natural medicines by a person under the age of 21 remains prohibited, and the measure establishes penalties for such use (up to 4 hours of free drug education or counseling) and for failure to secure cultivated natural medicine from access by someone under 21 years old (a fine of \$250).

Sealing records. The initiative allows individuals who would not have been guilty of an offense had the initiative been in effect at the time of the offense, to file a petition with the court to seal their criminal record at no cost.

Limitations. Finally, the initiative adds limitations on when and where a person may use or possess natural medicine. This includes prohibiting driving under the influence of natural medicine.

State Revenue

The initiative will impact state revenue in two ways. First, the initiative will increase revenue from licensing fees for healing centers and facilitators. Second, the initiative will decrease revenue from criminal fines and court fees. More detail on the two impacts can be found below.

Licensing fees. The initiative will increase state revenue by \$5.2 million in FY 2024-25 and \$5.6 million FY 2025-26, and \$4.5 million per year in future years from licensing fees paid by healing centers and facilitators. Revenue estimates are based on what is necessary to cover the estimated cost of regulating the natural medicine program, with the first two years of revenue being higher to repay the General Fund. The exact increase in revenue will depend on the fee amount and the number of license applications submitted. Revenue from licensing fees is subject to the state's TABOR limit.

Criminal and court fees. Starting in FY 2022-23, state revenue from criminal fines and court fees will decrease to the extent fewer individuals are prosecuted for using and possessing natural medicine. The exact decrease in revenue cannot be determined but it is assumed that criminal cases involving natural medicine are minimal and therefore, any decrease will be minimal. Revenue from criminal fines and court fees are subject to the state's TABOR limit.

State Expenditures

The initiative increases state expenditures in DORA to develop and implement the natural medicine program. Costs associated with implementing the natural medicine program will be paid from the General Fund, which will be repaid starting in FY 2024-25, with license fees. Starting in FY 2022-23, the initiative may decrease state expenditures in the criminal justice system. Expenditures are shown in shown in Table 2 and described below.

Table 2
Expenditures Under Initiative #58

	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26
Department of Regulatory Agencies				
Personal Services	\$161,103	\$276,177	\$1,988,664	\$2,461,298
Operating Expenses	\$2,700	\$4,050	\$48,060	\$55,350
Capital Outlay Costs	\$18,600	-	\$248,000	-
Legal Services	\$322,225	\$644,352	\$644,352	\$644,352
Contractor	\$156,000	\$312,000	-	-
IT System	-	\$875,000	\$375,000	\$375,000
Repayment to General Fund	-	-	\$1,429,290	\$1,429,290
Employee Insurance	\$31,505	\$54,867	\$502,059	\$631,614
Total Cost	\$692,133	\$2,166,446	\$5,235,425	\$5,596,904
Total FTE	3.5 FTE	6.6 FTE	35.9 FTE	44.6 FTE

Department of Regulatory Agencies. Starting in FY 2022-23, expenditures in DORA will increase to develop rules for the natural medicine program, support the Natural Medicine Advisory Board, and to begin implementing the natural medicine program.

- **Establishment of rules.** Based on implementation costs in Oregon, from FY 2022-23 through FY 2024-25, DORA will require 2.0 FTE to study the science behind natural medicine and promulgate rules for regulating natural medicine. Costs in FY 2022-23 are prorated for a January 1, 2023, start date and costs in FY 2024-25 are prorated for a September 30, 2024, end date.
- **Natural Medicine Advisory Board.** From FY 2022-23 through FY 2023-24, DORA will require 1.0 FTE to support the Natural Medicine Advisory Board and to hire a contractor to help facilitate the work of the board. Facilitator costs are estimated at \$150 per hour at 1,040 hours per year. FTE costs are prorated for a January 1, 2023, start date and a December 31, 2023 end date.
- **Regulating natural medicines.** Because expenditures for the natural medicine program will depend on the regulations adopted by DORA and the number of healing centers and facilitators applying for licensure, there is not sufficient information to estimate an exact increase in state expenditures. However, for informational purposes, based on the estimated cost to regulate psilocybin in Oregon and the current cost for Colorado to regulate marijuana, it is estimated that DORA will require 40.0 FTE, starting in FY 2024-25 to regulate natural medicine. This includes staff for background and licensing functions (such as administrative assistants, compliance investigators, and financial examiners) and enforcement functions (such as criminal investigators, compliance investigators and scientist positions) and other administrative support, policy, research, and management staff. Costs for the regulation of natural medicine will be paid by license fees. Expenditures in FY 2024-25 are prorated for a September 1, 2024 start date.

- **IT Modifications.** It is assumed that DORA will require computer programming to develop a system to track natural medicine licensees and services. Based on estimated costs to develop a marijuana tracking system, expenditures will increase by \$875,000 in FY 2023-24 to develop the system, and continuing licensing costs of \$375,000 in future years. Actual expenditures will be determined by the tracking requirements established by DORA and the procurement process.
- **Legal services.** The DORA will require 6,537 hours of legal services and 3.6 FTE to provide guidance in rulemaking and to provide general counsel. Legal services are provided by the Department of Law at a rate of \$98.57 per hour. Costs in FY 2022-23 are prorated for a half year impact.
- **Repayment to General Fund.** Finally, expenditures in DORA will increase to repay the General Fund for expenditures in FY 2022-23 and FY 2023-24. This is estimated at \$1.4 million in FY 2024-25 and FY 2025-26.

Criminal justice impacts. Starting in FY 2022-23, the initiative may impact expenditures by state agencies involved in the criminal justice system in the following ways. First, expenditures in the Judicial Department may increase from more individuals filing to have their criminal records sealed. Second, fewer individuals may be prosecuted and sentenced for possession of natural medicine, reducing expenditures in the Judicial Department, agencies that represent indigent persons, and the Department of Corrections. Overall, any impacts to state expenditures in this area is expected to be minimal.

Local Government

Starting in FY 2022-23, expenditures in local governments will increase if they choose to issue additional regulations on the operation of healing centers in their jurisdictions. In addition, county jail costs may be minimally reduced if fewer persons are held in jails for offenses relating to controlled substances that become legal and regulated under the initiative. Finally, expenditures for district attorney offices may decrease if fewer individuals are tried for possession of natural medicine. However, workload may also increase if district attorneys object to any sealing of criminal records.

Effective Date

If approved by voters at the 2022 general election, this initiative takes effect upon proclamation of the Governor, no later than 30 days after the official canvass of the vote is completed.

State and Local Government Contacts

Corrections
Information Technology
Public Health and Environment

District Attorneys
Judicial
Regulatory Agencies

Other Sources Considered

Legislative Council Staff did not receive information or estimates to consider from any other interested persons or organizations.

Revisions from Fiscal Summary

The fiscal summary estimated continuing costs of about \$4.0 million to regulate natural medicines. Based on new information about the assumed staffing levels and operations of the advisory board, the fiscal impact statement estimates that out-year costs will be around \$4.5 million. Otherwise, this fiscal impact statement aligns with, and provides additional detail on, the estimates in the fiscal summary.