### **Consolidated Fiscal Note**

Local Fiscal Impact

Yes

Х

Х

No

Х

Х

Х

### HF4265 - 1A - Deposit and Allocation; Opioid Settlement Proceed

Chief Author: Commitee:	Liz Olson Human Services Finance and Policy	State Fiscal Impact
Date Completed: Lead Agency:	4/1/2022 5:11:26 PM Minn Management and Budget	Expenditures
Other Agencies: Attorney General	orney General Human Services Dept	Fee/Departmental Earnings
Pharmacy Board		Tax Revenue
		Information Technology

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)			Biennium		Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
Human Services Dept						
General Fund		-	-	142	163	163
State Total						
General Fund		-	-	142	163	163
	Total	-	-	142	163	163
	Bier	nial Total		142		326

Full Time Equivalent Positions (FTE)		Biennium		Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Human Services Dept					
General Fund	-	-	2	2	2
Total	-	-	2	2	2

#### Lead LBO Analyst's Comment

LBO Signature:	Joel Enders	Date:	4/1/2022 5:11:26 PM
Phone:	651-284-6542	Email:	joel.enders@lbo.mn.gov

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

\*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2			Bienni	um	Bienni	nium
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
Human Services Dept	-					
General Fund		-	-	142	163	163
	Total	=	=	142	163	163
	Bier	nnial Total		142		326
1 - Expenditures, Absorbed Costs*, Tr	ansfers Out*					
Human Services Dept						
General Fund	1	-	-	142	163	163
	Total	-	-	142	163	163
	Bier	nnial Total		142		326
2 - Revenues, Transfers In*						
Human Services Dept						
General Fund		-	-	-	-	-
	Total	-	-	-	-	-
	Bier	nnial Total		-		-

#### HF4265 - 1A - Deposit and Allocation; Opioid Settlement Proceed

Chief Author:Liz OlsonCommitee:Human Services Finance and PolicyDate Completed:4/1/2022 5:11:26 PMAgency:Minn Management and Budget

State Fiscal Impact	Yes	No
Expenditures		x
Fee/Departmental Earnings		x
Tax Revenue		x
Information Technology		х
Local Fiscal Impact		x

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)		Biennium		Biennium	
Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Tota	-	-	-	-	-
В	Biennial Total		-		-

Full Time Equivalent Positions (FTE)		Biennium		Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Tota	-	-	-	-	-

## LBO Analyst's Comment

LBO Signature:	Joel Enders	Date:	4/1/2022 5:08:27 PM
Phone:	651-284-6542	Email:	joel.enders@lbo.mn.gov

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

\*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2	tate Cost (Savings) = 1-2		Biennium		Biennium	
Dollars in Thousands	FY2	021	FY2022	FY2023	FY2024	FY2025
	Total	-	-	-	-	-
	Biennial T	otal		-		-
1 - Expenditures, Absorbed Costs*, Tra	nsfers Out*					
	Total	-	-	-	-	-
	Biennial T	otal		-		-
2 - Revenues, Transfers In*						
	Total	-	-	-	-	-
	Biennial T	otal		-		-

### **Bill Description**

This bill changes existing statute defining how opiate epidemic response funds are accounted for in the state treasury. The bill establishes separate accounts in the opiate epidemic response fund, one to collect license and registration fees and one to collect the proceeds of settlement revenue received by the state. Within each of those accounts, funds are dedicated for specific purposes and are appropriated in a priority order.

#### Registration and License Fee Account:

Proceeds in the registration and license fee account are appropriated in the following order:

1. Direct appropriations to the Department of Human Services (DHS), Minnesota Management and Budget (MMB), the Board of Pharmacy, and the Department of Public Safety for their work in administering opiate response related programs.

2. 50% of the remaining amount after #1 is appropriated to DHS for distribution to county social service agencies and tribal social service agency initiative projects.

3. After #1 and #2, remaining amounts are appropriated to DHS to award grants as specified by the Opiate Epidemic Response Advisory Council.

If the proceeds in this account are not enough to fund appropriations, funding from the settlement account shall be used to fully fund required appropriations.

#### Settlement Account

Proceeds in the settlement account are appropriated in the following order:

1. Amounts needed to fully fund obligations of the registration and license fee account.

2. An amount equal to the calendar year allocation under the license and registration fee account allocation for tribal social service agency initiatives is appropriated to DHS for tribal social service agency initiative projects to provide child protection services to children and families affected by addiction.

3. After #1 and #2, remaining amounts are appropriated to DHS to award grants as specified by the Opiate Epidemic Response Advisory Council.

Sunset provision: Additionally, the bill extends the expiration of various opiate license and registration fees from July 1, 2024, to July 1, 2031. It also clarifies that the \$250,000,000 threshold for when fees start to expire include amounts received outside the state treasury by municipalities.

Transfer of funds provision: Additionally, the bill transfers existing balances in the separate account under MS 16A.151,

subd. 2, para. (f), to the new settlement account. Funds transferred under this provision are appropriated to DHS to award grants as specified by the Opiate Epidemic Response Advisory Council.

#### **Assumptions**

MMB will work with named agencies to set up the revenue and expenditure accounts named in the bill in each fiscal year. The administrative effort can be accomodated within existing resources.

License and registration fees are not collected and known until August of each year. Final appropriated amounts to DHS for counties, tribal social service agencies, and the Opiate Epidemic Response Advisory Council's purposes will be available in final form after the fiscal year close date, typically in August of each year.

The timing of settlement proceeds receipts is not yet known. Funds will be made available to recipients as they are collected in the state treasury, subject to appropriations in the bill and the grant processes at state agencies.

### Expenditure and/or Revenue Formula

No settlement revenue is estimated in this fiscal note to date because the settlement agreement with the settling defendants referred to in the bill is not yet finalized in Minnesota state court.

#### Long-Term Fiscal Considerations

#### Local Fiscal Impact

#### **References/Sources**

Agency Contact: Agency Fiscal Note Coordinator Signature: Paul Moore Phone: 651-201-8004

Date: 4/1/2022 3:53:38 PM Email: paul.b.moore@state.mn.us

### HF4265 - 1A - Deposit and Allocation; Opioid Settlement Proceed

Chief Author:Liz OlsonCommitee:Human Services Finance and PolicyDate Completed:4/1/2022 5:11:26 PMAgency:Attorney General

State Fiscal Impact	Yes	No
Expenditures		x
Fee/Departmental Earnings		x
Tax Revenue		x
Information Technology		х
Local Fiscal Impact		х

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)		Biennium		Biennium	
Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-
Ві	Biennial Total		-		-

Full Time Equivalent Positions (FTE)		Biennium		n Bienn	
	FY2021	FY2022	FY2023	FY2024	FY2025
Tota	-	-	-	-	-

# LBO Analyst's Comment

LBO Signature:	Christian Larson	Date:	3/30/2022 10:05:13 PM
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This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

\*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium		Biennium		
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
	Total	-	-	-	-	-
	Bier	nnial Total		-		-
1 - Expenditures, Absorbed Costs*, Tra	Insfers Out*					
	Total	-	-	-	-	-
	Bier	nnial Total		-		-
2 - Revenues, Transfers In*						
	Total	-	-	-	-	-
	Bier	nnial Total		-		-

### **Bill Description**

House File 4265 (the "Bill") makes numerous changes to the opiate epidemic response framework originally created by HF 400 in 2019:

The Bill releases pending or future opioid-related claims of local governments that are covered by the scope of the release in statewide opioid settlement agreements with certain companies.

The Bill establishes two accounts within the opiate epidemic response fund established in section 256.043: (1) a registration and license fee account; and (2) a settlement account.

The Bill eliminates the current account for opioid settlement monies, requires those monies to be deposited directly into the new settlement account within the opiate epidemic response fund, and removes a mechanism for pouring over settlement monies into the opiate epidemic response fund based on the registration fee exemption for manufacturers of medication-assisted therapies for substance use disorders.

The Bill creates a \$300,000 permanent annual appropriation for MMB's Results First program.

The Bill specifies that the new settlement account monies will be (1) used to cover specific unfunded opioid-related appropriations; (2) distributed to Tribal social service agency initative projects in the same proportion and with the same requirements as occurs with the registration and license fee account monies; and then (3) distributed to DHS for Opiate Epidemic Response Advisory Council ("OERAC") grantmaking.

The Bill clarifies that monies received by either the state or local governments count toward the \$250,000,000 sunset threshold for the Board of Pharmacy registration and licensure fees. It also changes the earliest date at which the fees can be reduced to July 1, 2031.

#### **Assumptions**

The Attorney General's Office ("AGO") does not anticipate increased expenditures or revenue directly related to enactment of the Bill.

While the bill gives the AGO the authority to appear or intervene, the AGO does not expect to exercise that authority. Rather, providing that authority is an enforcement mechanism that is not expected to be exercised.

#### Expenditure and/or Revenue Formula

## Long-Term Fiscal Considerations

### Local Fiscal Impact

## **References/Sources**

Agency Contact:

Agency Fiscal Note Coordinator Signature: Laura Taken-Holtze Phone: 651-238-7884

Date: 3/29/2022 9:39:03 PM Email: laura.taken-holtze@ag.state.mn.us

#### HF4265 - 1A - Deposit and Allocation; Opioid Settlement Proceed

Chief Author:Liz OlsonCommitee:Human Services Finance and PolicyDate Completed:4/1/2022 5:11:26 PMAgency:Human Services Dept

State Fiscal Impact	Yes	No
Expenditures	x	
Fee/Departmental Earnings		x
Tax Revenue		x
Information Technology		х
Local Fiscal Impact	х	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)			Biennium		Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	_	-	-	142	163	163
	Total	-	-	142	163	163
	Bier	nial Total		142		326

Full Time Equivalent Positions (FTE)			Biennium		Biennium	
		FY2021	FY2022	FY2023	FY2024	FY2025
General Fund		-	-	2	2	2
	Total	-	-	2	2	2

### LBO Analyst's Comment

LBO Signature:	Steve McDaniel	Date:	3/31/2022 9:27:55 AM
Phone:	651-284-6437	Email:	steve.mcdaniel@lbo.mn.gov

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

\*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2			Biennium		Biennium		
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025	
General Fund		-	-	142	163	163	
	Total	-	-	142	163	163	
	Bier	nnial Total	14			326	
1 - Expenditures, Absorbed Costs*, Tra	ansfers Out*						
General Fund		-	-	142	163	163	
	Total	-	-	142	163	163	
	Bier	nnial Total		142		326	
2 - Revenues, Transfers In*							
General Fund		-	-	-	-	-	
	Total	-	-	-	-	-	
	Bier	nnial Total		-		-	

#### **Bill Description**

This bill changes existing statute defining how opiate epidemic response funds are accounted for in the state treasury. The bill establishes separate accounts in the opiate epidemic response fund, one to collect license and registration fees and one to collect the proceeds of settlement revenue received by the state. Within each of those accounts, funds are dedicated for specific purposes and are appropriated in a priority order.

**License & Registration Fee Account:** Proceeds in the registration and license fee account are appropriated in the following order:

- Direct appropriations to DHS, MMB, the Board of Pharmacy, and DPS for their work in administering opiate response related programs;
- 50% of the remaining amount after the amount needed for administration is appropriated to DHS for distribution to county social service agencies and tribal social service agency initiative projects
- Amounts remaining are appropriated to the Opiate Epidemic Response Advisory Council (OERAC) to award grants.

If the proceeds in this account are not enough to fund appropriations, funding from the settlement account shall be used to fully fund required appropriations.

Settlement Account: Proceeds in the settlement account are appropriated in the following order:

- Amounts needed to fully fund obligations of the license and registration fee account.
- An amount equal to the calendar year allocation under the license and registration fee account allocation for tribal social service agency initiatives is appropriated for tribal social service agency initiative projects to provide child protection services to children and families affected by addiction.
- After the two items, the remaining amounts are appropriated to DHS for OERAC grants.

**Sunset** This bill extends the expiration of various opiate license and registration fees from July 1, 2024, to July 1, 2031. It also clarifies that the \$250,000,000 threshold for when fees start to expire include amounts received outside the state treasury, by municipalities.

**Transfer of funds** The bill transfers existing balances in the separate account to the new settlement account for distribution.

In section six of the bill, technical changes are made to appropriations. \$249,000 is appropriated to the Commissioner of Human Services for the provision of administering services to the Opiate Epidemic Response Advisory Council and the administration of the grants awarded made to the Commissioner of Human Services to award grants as specified Opiate Epidemic Response Advisory Council. This amount is unchanged from current law.

### **Assumptions**

The bill is effective the following day after enactment.

Minnesota Management and Budget (MMB) provided the following information on the availability of funds:

- License and registration fees are not collected/known until August of each year. Final appropriated amounts to DHS for counties, tribal social service agencies, and the Opiate Epidemic Response Advisory Council's purposes will be available in final form after the fiscal close date, typically in August of each year.
- The timing of settlement proceeds receipts is not yet known. Funds will be made available to recipients as they are collected in the state treasury, subject to appropriations in the bill, and grant processes at agencies.
- No settlement revenue is estimated in this fiscal note to date because the settlement an agreement with the settling defendants referred to in the bill is not yet finalized in MN state court.

Because the settlement revenue is not included as part of MMB's fiscal note, the DHS portion of the fiscal note does not include tracking related to the estimated grant dollars. However, based on settlement documents, the following information was used to determine the level of approximate grant amounts needing to be processed by DHS as a result of this bill:

	FY2023	FY2024	FY2025
Total State Share (25%) of Settlement Payments	\$8,322,266	\$4,410,367	\$6,005,200

These amounts assume the following:

- The state is eligible to receive the maximum amount of bonuses as defined in the settlement;
- The amounts received in July of a fiscal year will be available to be spent in that fiscal year; and
- These amounts do not anticipate the acceleration of payments, however that is possible if the state achieves Bonus A.

It is further assumed in this fiscal note that this bill will not impact the amount of fee revenue received by the state within the budget horizon and that the fee revenue is estimated to be approximately what was received in previous years. This amount is sufficient to cover the direct appropriations in the law, thereby ensuring that the full amount of annual settlement revenue will be directed by the bill as follows:

- An amount equal to the calendar year allocation for tribal social service agency initiatives: This amount will depend on the amount of fees collected and the annual funding allocation, however based on previous fees collected and the previous Tribal share of the funds, it is estimated that this will be about 4.2 percent of \$4.9 million, or around \$206,000.
- The remaining amount will be allocated to grants determined by the Opioid Epidemic Response Advisory Council and administered by DHS.

In summary, after the tribal funds are accounted for, the total amount of grant dollars being administered by DHS as a result of this bill is estimated to be:

	FY2023	FY2024	FY2025	Average
OERAC Grants from Settlement Payments	\$8,116,266	\$4,204,367	\$5,799,200	\$6,039,944
OERAC Grants from Fee Payments (current law/unchanged)	\$4,899,000	\$4,899,000	\$4,899,000	\$4,899,000
Total	\$13,015,266	\$9,103,367	\$10,698,200	\$10,938,944

Administrative Resources: This bill will increase the amount of grants administered by DHS, as indicated above, by an average of \$6 million per year. Therefore, additional administrative resources are required to implement this bill. Two FTEs will be needed for grant administration with tasks that include administering the grant application process, the RFP process, the contracting process, grant monitoring, and financial reconciliation. These FTE's are assumed to be MAPE 14 staff and will have a three-month hiring delay.

Fund: The appropriation noted in Section 6 to the Department of Human Services is \$249,000, an unchanged value from current law, and does not reflect the changes required of the department in this bill. Because the administrative costs in this fiscal note are not direct appropriated in the bill, it is assumed that these funds are general fund costs. They therefore include an administrative federal financial participation match of 32%. If the bill is amended to include these costs as direct appropriations out of the opiate fund, the costs will not be eligible for a federal match.

### Expenditure and/or Revenue Formula

Fiscal Tracking Summary (\$000's)						
Fund	BACT	Description	FY2022	FY2023	FY2024	FY2025
GF	15	CSA FTEs	0	209	239	239
GF	REV1	FFP at 32%	0	(67)	(76)	(76)
		Total Net Fiscal Impact		142	163	163
		Full Time Equivalents	0	2	2	2

### Long-Term Fiscal Considerations

#### Local Fiscal Impact

Tribal social services funding will increase with the settlement funding as noted under section seven of the bill.

Counties will likely receive additional funding as part of the grant process as well.

#### **References/Sources**

CSA Research

Agency Contact: Elyse Bailey, 651-402-7046

Agency Fiscal Note Coordinator Signature: Elyse Bailey Phone: 651-431-2932 Date: 3/30/2022 1:55:39 PM Email: elyse.bailey@state.mn.us

#### HF4265 - 1A - Deposit and Allocation; Opioid Settlement Proceed

Chief Author:Liz OlsonCommitee:Human Services Finance and PolicyDate Completed:4/1/2022 5:11:26 PMAgency:Pharmacy Board

State Fiscal Impact	Yes	No
Expenditures		x
Fee/Departmental Earnings		x
Tax Revenue		x
Information Technology		х
Local Fiscal Impact		x

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)		Biennium		Biennium	
Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-
Ві	Biennial Total		-		-

Full Time Equivalent Positions (FTE)		Biennium		Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Tot	al -	-	-	-	-

# LBO Analyst's Comment

LBO Signature:	Carlos Guereca	Date:	3/25/2022 2:06:24 PM
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This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

\*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium		Biennium		
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
	Total	-	-	-	-	-
	Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Tra	Insfers Out*					
	Total	-	-	-	-	-
	Bier	Biennial Total		-		-
2 - Revenues, Transfers In*						
	Total	-	-	-	-	-
	Bier	nnial Total		-		-

### **Bill Description**

This bill makes a number of changes related to revenue received from opiate settlements between the State and certain pharmaceutical manufacturers and wholesalers. Most of the provisions are not under the jurisdiction of the Board of Pharmacy, nor do they have an impact on the Board. The provisions that do have a direct impact on the Board are:

- The sunset date for the opiate product registration fee program, and the increased licensing fees that the Board has been collecting from drug manufacturers and wholesalers, would be extended from 2024 to 2031.
- The Board currently completes two calculations of the number of units of opiate products that are attributable to
  manufacturers. One calculation includes opiate products that are used for medication-assisted treatment (MAT) and
  one calculation excludes those products. This can result in some companies falling below the two million unit threshold,
  meaning they don't have to pay the \$250,000 fee. If exclusion of the MAT products reduces the number of companies
  that have to pay the \$250,000 fee, the Board reports the number of excluded companies to MMB which then transfers
  money from a settlement fund into the Opioid Epidemic Response Fund, to make up for the fees not collected from the
  MAT companies.

Changes made by this bill would require the Board to still exclude MAT drugs from the calculations used to determine which companies must pay the \$250,000 fee. However, the Board would no longer have to notify MMB of the number of companies excluded.

#### **Assumptions**

Under current law, the Board is already excluding MAT products from the calculations used to determine which companies have to pay the \$250,000 fee. If this bill passes, the Board will continue making those same exclusions. Consequently, the bill will have no impact on the number of \$250,000 fees collected, compared to the fees collected under current law.

In addition, the Board will not have any changes in the resources needed for the opiate product registration fee program. Also, the appropriation to the Board for the collection of the \$250,000 fee remains unchanged in this bill from the Board's current appropriation.

#### Expenditure and/or Revenue Formula

There is no fiscal impact for the Board of Pharmacy.

### Long-Term Fiscal Considerations

This bill extends the sunset from 2024 to 2031. Consequently, the Board will continue to collect opiate product registration fees and increased licensing fees for an additional eight years. It is not possible to accurately predict the revenues that will be collected that far into the future. The amount of revenue collected will depend on the number of opiate products shipped into Minnesota and the number of drug manufacturer and wholesaler licenses issued by the Board. The number of opiates reported to the Prescription Monitoring Program as dispensed in Minnesota has decreased annually for the past several years. However, at some point the decrease will most likely level off. The number of manufacturers and wholesalers that the Board licenses may fluctuate. However, the Board believes that the dramatic drop in licenses issued, that occurred after the increase in fees, will not happen again. The best assumption is that revenues will remain relatively steady throughout the extended sunset period, but there may be fluctuations.

### Local Fiscal Impact

None known that are related to the provisions that concern the Board.

**References/Sources** 

Agency Contact: Cody Wiberg (651-201-2830) Agency Fiscal Note Coordinator Signature: Cody Wiberg Phone: 651-201-8098

Date: 3/25/2022 2:02:50 PM Email: cody.wiberg@state.mn.us