

HB 237-FN-A - AS INTRODUCED

2021 SESSION

21-0009

04/05

HOUSE BILL

237-FN-A

AN ACT relative to the legalization and regulation of cannabis and making appropriations therefor.

SPONSORS: Rep. Conley, Straf. 13; Rep. McWilliams, Merr. 27; Rep. Chase, Straf. 18; Rep. Labranche, Hills. 22; Rep. Wilhelm, Hills. 42; Rep. Moran, Hills. 34; Rep. Cushing, Rock. 21; Sen. Reagan, Dist 17

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill establishes procedures for the legalization, regulation, and taxation of cannabis; the licensing and regulation of cannabis establishments; and makes appropriations therefor.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to the legalization and regulation of cannabis and making appropriations therefor.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Purpose and Findings. The general court hereby finds that:

2 I. In the interest of allowing law enforcement to focus on violent and property crimes,
3 generating revenue for education, prevention, treatment, and recovery related to the use of both
4 legal and illegal drugs and for other public purposes, and advancing individual freedom, the people
5 of the state of New Hampshire find and declare that the use of cannabis by a person 21 years of age
6 or older should be legal and subject to reasonable regulation and taxation.

7 II. In the interest of the health and public safety of our citizenry, the people of the state of
8 New Hampshire further find and declare that cannabis should be regulated in a manner similar to
9 alcohol so that:

10 (a) Individuals will have to show proof of age before purchasing cannabis.

11 (b) Selling, distributing, or transferring cannabis to minors and other individuals under
12 the age of 21 shall remain illegal.

13 (c) Driving under the influence of cannabis shall remain illegal.

14 (d) Legitimate, taxpaying business people, and not criminal actors, will conduct sales of
15 cannabis.

16 (e) Cannabis sold in this state will be tested, labeled, and subject to additional
17 regulations to ensure that consumers are informed and protected.

18 (f) Some of the tax revenue generated from legal cannabis sales will be used to support
19 programs for education, prevention, treatment, and recovery related to the use of both legal and
20 illegal drugs.

21 2 New Subparagraph; Application of Receipts; Cannabis Control Fund. Amend RSA 6:12, I(b)
22 by inserting after subparagraph (364) the following new subparagraph:

23 (365) Moneys deposited in the cannabis control fund established in RSA 318-F:23.

24 3 Alcoholic Beverages; Statement From Purchaser as to Age. Amend RSA 179:8, I(d) to read as
25 follows:

26 (d) A valid passport ~~[from]~~ **issued by the United States or by** a country with whom the
27 United States maintains diplomatic relations.

28 4 Controlled Drug Act; Drug Forfeiture Fund. Amend RSA 318-B:17-c, I to read as follows:

29 I. There is hereby established within the office of the state treasurer a special revolving fund
30 to be designated as the drug forfeiture fund. This fund shall be administered by the attorney

1 general and may be used to pay the costs of local, county and state drug related investigations, **costs**
2 **of collection of baseline data related to marijuana regulation**, as well as drug control law
3 enforcement programs within New Hampshire. The fund may also be used to pay extraordinary
4 costs of local, county and state drug prosecutions and trial expenses.

5 5 Model Drug Dealer Liability Act; Definition of Illegal Drug. Amend RSA 318-C:4, I to read as
6 follows:

7 I. "Illegal drug" means any drug which is a schedule I-IV drug under RSA 318-B, **the**
8 **possession, use, manufacture, sale, or transportation of which is not otherwise authorized**
9 **by law**.

10 6 New Chapter; Regulation of Cannabis. Amend RSA by inserting after chapter 318-E the
11 following new chapter:

12 CHAPTER 318-F

13 REGULATION OF CANNABIS

14 318-F:1 Definitions. In this chapter:

15 I. "Alternative treatment center" means an entity as defined in RSA 126-X:1, I.

16 II. "Consumer" means a person 21 years of age or older who purchases cannabis or cannabis
17 products for personal use by a person 21 years of age or older, but not for resale.

18 III. "Commission" means the cannabis control commission established in RSA 318-F:7.

19 IV. "Department" means the department of health and human services.

20 V. "Disqualifying offense" means a violation of a state or federal controlled substances law
21 that was classified as a felony in the jurisdiction in which the person was convicted, but not
22 including:

23 (a) An offense for which the sentence, including any term of probation, incarceration, or
24 supervised release was completed 5 or more years earlier; or

25 (b) An offense prior to the effective date of this chapter that consisted of cultivation or
26 possession of an amount of cannabis not exceeding the possession limit.

27 VI. "Immature cannabis plant" means a cannabis plant that has not flowered and that does
28 not have buds that may be observed by visual examination.

29 VII. "Cannabis" means all parts of the plant of the genus cannabis whether growing or not,
30 the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture,
31 salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including cannabis
32 concentrate. "Cannabis" shall not include hemp, fiber produced from the stalks, oil, or cake made
33 from the seeds of the plant, sterilized seed of the plant that is incapable of germination, or the
34 weight of any other ingredient combined with cannabis to prepare topical or oral administrations,
35 food, drink, or other product.

36 VIII. "Cannabis accessories" or "cannabis paraphernalia" means any equipment, products, or
37 materials of any kind that are used, intended for use, or designed for use in planting, propagating,

1 cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing,
2 processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing
3 cannabis, or for ingesting, inhaling, or otherwise introducing cannabis into the human body.

4 IX. "Cannabis cultivation facility" or "cultivation facility" means an entity registered to
5 cultivate, prepare, and package cannabis, and sell cannabis to retail cannabis stores, to cannabis
6 product manufacturing facilities, and to other cannabis cultivation facilities, but not to consumers.
7 A cannabis cultivation facility shall not produce cannabis concentrates, tinctures, extracts, or other
8 cannabis products.

9 X. "Cannabis establishment" means a cannabis cultivation facility, a cannabis testing
10 facility, a cannabis product manufacturing facility, a retail cannabis store, a cannabis transporter, or
11 any other type of cannabis business authorized and registered by the commission.

12 XI. "Cannabis product manufacturing facility" or "product manufacturing facility" means an
13 entity registered to purchase cannabis, to manufacture, prepare, and package cannabis products,
14 and sell cannabis and cannabis products to other cannabis product manufacturing facilities and to
15 retail cannabis stores, but not to consumers.

16 XII. "Cannabis products" means concentrated cannabis products and cannabis products that
17 are comprised of cannabis and other ingredients and are intended for use or consumption, such as,
18 but not limited to, edible products, ointments, and tinctures.

19 XIII. "Cannabis testing facility" or "testing facility" means an entity registered to test
20 cannabis for potency and contaminants.

21 XIV. "Cannabis transporter" means an entity registered to transport cannabis between
22 cannabis establishments.

23 XV. "Municipality" means a city, town, or an unincorporated place.

24 XVI. "Possession limit" means:

25 (a) One ounce of cannabis in plant form;

26 (b) Five grams of concentrated cannabis, including hashish;

27 (c) Cannabis products containing no more than 500 milligrams of THC;

28 (d) Six cannabis plants, no more than 3 of which may be mature; and provided that no
29 more than 12 plants, and no more than 6 mature plants, may be cultivated at any single dwelling
30 unit regardless of the number of adults over the age of 21; and

31 (e) Any additional cannabis produced by the person's cannabis plants, provided that any
32 amount of cannabis in excess of one ounce of cannabis, 5 grams of concentrated cannabis, and
33 cannabis products containing no more than 500 milligrams of THC shall be possessed in the same
34 secure facility where the plants were cultivated.

35 XVII. "Public place" means any place to which the general public has access.

36 XVIII. "Retail cannabis store" or "retail store" means an entity registered to purchase
37 cannabis from cannabis cultivation facilities, to purchase cannabis and cannabis products from

1 cannabis product manufacturing facilities, and to sell, transfer, and deliver cannabis and cannabis
2 products to consumers.

3 XIX. "Resident" means a natural person who:

4 (a) Is domiciled in New Hampshire; and

5 (b) Has maintained a place of abode in New Hampshire for at least the past 2 years,
6 unless the individual was homeless and residing in New Hampshire for at least 51 percent of the last
7 2 years.

8 XX. "Inflation" means the 12-month percentage change in the consumer price index for all
9 urban consumers, northeast region as published by the Bureau of Labor Statistics, United States
10 Department of Labor.

11 318-F:2 Personal Use of Cannabis.

12 I. Except as otherwise provided in this chapter, the following acts, if undertaken by a person
13 21 years of age or older, shall not be illegal under New Hampshire law or the law of any political
14 subdivision of the state or be a basis for seizure or forfeiture of assets under New Hampshire law:

15 (a) Possessing, consuming, using, displaying, growing, obtaining, purchasing,
16 processing, producing, or transporting an amount of cannabis that does not exceed the possession
17 limit, except that no adult other than one who is acting in his or her capacity as a staffer of a
18 cannabis product manufacturer may perform extractions using solvents other than water, glycerin,
19 propylene glycol, vegetable oil, or food-grade ethanol.

20 (b) Transporting no more than 6 cannabis plants, including no more than 3 mature
21 plants, to his or her primary residence.

22 (c) Transferring an amount of cannabis that does not exceed the possession limit to a
23 person who is 21 years of age or older without remuneration. For purposes of this section, a transfer
24 is for remuneration if cannabis is given away contemporaneously with another transaction between
25 the same parties, if a gift of cannabis is offered or advertised in conjunction with an offer for sale of
26 goods or services, or if the gift of cannabis is contingent upon a separate transaction for goods or
27 services.

28 (d) Transferring or selling cannabis seeds or up to 6 cannabis seedlings to cannabis
29 cultivation facilities.

30 (e) Transferring cannabis, including cannabis products, to a cannabis testing facility.

31 (f) Controlling property where the acts described under this section occur.

32 (g) Assisting another person who is 21 years of age or older in any of the acts described
33 under this section.

34 II. No law enforcement officer employed by an agency that receives state or local
35 government funds shall expend any state or local resources, including the officer's time, to effect any
36 arrest or seizure of cannabis, or conduct any investigation, on the sole basis of activity the officer
37 believes to constitute a violation of federal law if the officer has reason to believe that such activity is

1 in compliance with this chapter, nor shall any such officer expend any state or local resources,
2 including the officer's time, to provide any information or logistical support related to such activity to
3 any federal law enforcement authority or prosecuting entity.

4 318-F:3 Restrictions on Personal Cultivation; Penalty.

5 I. Except as allowed under RSA 126-X, no person who is 21 years of age or older shall
6 cultivate cannabis plants except as provided in this section.

7 II. Cannabis plants shall not be cultivated in a location where the plants are subject to view
8 from public property or from another person's private property without the use of binoculars,
9 aircraft, or other optical aids.

10 III. A person who cultivates cannabis shall take reasonable precautions to ensure the plants
11 are secure from access by a person under 21 years of age. Cultivating cannabis in an enclosed,
12 locked space to which unauthorized persons do not have access, or other similar security
13 precautions, shall be prima facie evidence of reasonable precautions.

14 IV. Cannabis cultivation shall only occur on property the cultivator legally owns, leases, or
15 controls, or with the consent of the person who legally owns, leases, or controls the property.

16 V. Any person who violates this section shall be guilty of a violation and may be fined not
17 more than \$500 for a first offense and not more than \$1,000 for a second or subsequent offense.

18 318-F:4 Smoking or Vaporizing of Cannabis in Public Prohibited; Penalty. No person shall
19 smoke or vaporize cannabis in a public place. Any person who violates this section shall be guilty of
20 a violation and may be fined not more than \$100.

21 318-F:5 Smoking or Vaporizing of Cannabis in a Moving Vehicle Prohibited; Penalty.

22 I. No person shall consume cannabis while driving or attempting to drive a motor vehicle on
23 a way, or while operating or attempting to operate an off-highway recreational vehicle, snowmobile,
24 boat, vessel, aircraft, or other motorized device used for transportation.

25 II. No person shall smoke or vaporize cannabis while the person is a passenger in a motor
26 vehicle that is being driven on any way.

27 III. Any person who violates this section shall be guilty of a violation and may be fined not
28 more than \$500, or have his or her driver's license suspended for up to 6 months, or both, for the
29 first violation.

30 IV. Any person who violates this section shall be guilty of a violation and may be fined not
31 more than \$1,000 or have his or her driver's license suspended for up to one year, or both, for a
32 second or subsequent violation.

33 V. In this section, "way" shall have the same meaning as in RSA 265-A:44.

34 318-F:6 Cannabis Accessories Authorized.

35 I. Except as provided by this section, it shall not be illegal under New Hampshire law or be a
36 basis for seizure or forfeiture of assets under New Hampshire law for a person 21 years of age or

1 older to manufacture, possess, or purchase cannabis accessories, or to distribute or sell cannabis
2 accessories to a person who is 21 years of age or older.

3 II. Except as provided by this section, a person who is 21 years of age or older, or a business
4 entity, may manufacture, possess, obtain, and purchase cannabis paraphernalia, and may distribute,
5 deliver, or sell cannabis paraphernalia to a person who is 21 years of age or older.

6 III. No person or entity shall manufacture, distribute, or sell cannabis accessories that
7 violate reasonable regulations enacted by the cannabis control commission. Any person or entity
8 that violates this paragraph shall be guilty of a violation for a first offense and subject to a fine of up
9 to \$1,000 and forfeiture of the cannabis accessories. A person shall be guilty of a class A
10 misdemeanor for a second or subsequent offense and shall forfeit the cannabis accessories.

11 318-F:7 Cannabis Control Commission.

12 I. There is hereby established a cannabis control commission, which shall have regulatory
13 and licensing authority over cannabis establishments. The commission shall consist of the
14 chairperson of the commission, 2 commissioners, and staff.

15 II. No later than 30 days after the effective date of this chapter, the governor shall nominate
16 the chairperson of the commission and the commissioners, who shall be confirmed with the advice
17 and consent of the executive council following a public hearing before the executive council.
18 Vacancies shall be filled in like manner for the unexpired term.

19 (a) The chairperson of the commission shall serve a term of 6 years.

20 (b) Commissioners shall each serve a term of 4 years.

21 (c) The chairperson of the commission and commissioners shall be appointed based on
22 their ability and commitment to fully implement the provisions of this chapter as demonstrated by
23 expertise in a vertically integrated enterprise operating in a regulated environment along with
24 preferred competencies in public health or the production and distribution of cannabis or cannabis
25 products. No person shall be appointed chairperson of the commission or a commissioner if the
26 person is opposed to making cannabis legal and regulated for adults 21 and older at the time of the
27 passage of this chapter.

28 (d) The chairperson shall be a full-time unclassified employee and shall engage in no
29 other gainful employment during his or her term.

30 (e) The annual salary of the commission chairperson shall be as specified in RSA 94:1-a
31 and shall be established by the joint committee on employee classification pursuant to the procedure
32 set forth in RSA 14:14-c and RSA 94:1-d. The chairperson shall receive his or her reasonable
33 expenses while traveling in the performance of his or her duties, provided that the chairperson shall
34 not be allowed as expenses travel between his or her place of residence and the commission
35 chairperson's office in Concord, nor shall the commission chairperson be allowed board or lodging
36 while in Concord.

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1 (f) Except as provided in this section, each commissioner shall be paid \$200 a day, or
2 \$100 per half-day, plus mileage at the state employee rate while engaged in his or her official duties.
3 These rates shall be adjusted annually to account for inflation or deflation based on the consumer
4 price index.

5 III.(a) The chairperson of the commission shall be appointed and commissioned as such and
6 shall be the administrative head of the commission.

7 (b) The commission shall meet at least once per month for the 12 months after the
8 effective date of this section and at least once every 3 months thereafter.

9 (c) The chairperson of the commission shall lead the administration of the commission
10 and oversee the licensing and regulation of cannabis, with guidance from the commissioners.

11 (d) The commission may hire and terminate such staff necessary to carry out the
12 purpose of the commission and to fix their compensation, subject to the rules of the director of
13 personnel. The commission may authorize expenditures that are reasonably necessary for the
14 administration of this chapter and may secure any necessary technical or professional assistance.

15 IV.(a) The commission may, subject to rules adopted by the director of personnel, employ
16 and dismiss cannabis control investigators. Cannabis control investigators shall, under the direction
17 of the commission, investigate any or all matters arising under this chapter.

18 (b) Any cannabis control investigator employed by the commission shall, within 6
19 months of employment, satisfactorily complete a police training program as provided by RSA 106-
20 L:6, unless he or she has already completed such a program.

21 (c) The chairperson of the commission, commissioner, staff, or cannabis control
22 investigator may enter any cannabis establishment, at any time, and may examine any registration
23 issued or purported to have been issued under the terms of this chapter.

24 V. The chairperson of the commission and commissioners shall not have any interest,
25 directly or indirectly, in any business under the jurisdiction of the commission or any other cannabis
26 business.

27 VI. The governor and council may remove a chairperson of the commission or a
28 commissioner for neglect of duty, misconduct, or malfeasance in office, after providing the individual
29 with a written statement of the charges and an opportunity to be heard.

30 VII. No member of the commission shall render any professional service for any cannabis
31 establishment in this state, or any affiliate thereof, or act as attorney or render professional service
32 against any such cannabis establishment or affiliate; nor shall he or she be a member of a firm which
33 renders any such service; nor shall he or she directly or indirectly be a party to any contract with
34 any such cannabis establishment. This prohibition shall remain in force for 12 months following
35 membership on the commission.

36 VIII. In addition to any other type of behavior or activity of a chairperson of the commission
37 or commissioner that is proscribed by law, a chairperson of the commission or commissioner shall

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1 conduct himself or herself in accordance with a code of ethics that shall include, but not be limited
2 to, the following elements:

3 (a) Avoidance of impropriety and the appearance of impropriety in all of his or her
4 activities;

5 (b) Performance of his or her duties impartially and diligently;

6 (c) Avoidance of all ex parte communications concerning a case pending before the
7 commission;

8 (d) Abstention from public comment about a matter pending before the commission and
9 require similar abstention on the part of commission personnel;

10 (e) Require staff and personnel, subject to commission direction, to observe the
11 standards of fidelity and diligence that apply to the chairperson of the commission and
12 commissioners;

13 (f) Initiate appropriate disciplinary measures against commission personnel for
14 unprofessional conduct;

15 (g) Disqualify himself or herself from proceedings in which his or her impartiality might
16 be reasonably questioned;

17 (h) Inform himself or herself about personal and fiduciary interests and make a
18 reasonable effort to inform himself or herself about the personal financial interests of his or her
19 spouse and minor children;

20 (i) Regulate his or her extracurricular activities to minimize the risk of conflict with his
21 or her official duties;

22 (j) Refrain from solicitation of funds for any political purpose, nor shall they be listed as
23 an officer, director, or trustee of such organizations; and

24 (k) Refrain from financial or business dealings that would tend to reflect adversely on
25 his or her impartiality.

26 IX. The chairperson of the commission or a commissioner may speak, write, or lecture
27 concerning the regulatory process in New Hampshire but shall be reimbursed only for actual
28 expenses incurred therein.

29 X. No chairperson of the commission or commissioner shall accept any employment with any
30 cannabis establishment regulated by the commission until one year after he or she shall become
31 separated from the commission.

32 XI. The commission shall be provided with suitable offices in the city of Concord and shall
33 adopt a proper seal.

34 XII. The commission shall be provided with an office in which its records, documents, and
35 books shall be kept, and with a suitable room in which it may hold hearings.

36 XIII. The commission may confer and cooperate with any other state or local agency in any
37 matter relating to its duties.

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1 318-F:8 Cannabis Advisory Board.

2 I. There shall be a cannabis advisory board to study and make recommendations consistent
3 with the purpose and findings of this chapter on the regulation of cannabis and cannabis products in
4 New Hampshire.

5 II. The board shall consist of 11 members appointed by the governor and shall consist of: one
6 expert in cannabis cultivation, one expert in cannabis retailing, one expert in cannabis product
7 manufacturing, one expert in cannabis testing, one board member or officer of an alternative
8 treatment center, one registered medical cannabis patient, one individual who represents cannabis
9 consumers, one expert in public health, one expert in law enforcement, one expert in social welfare
10 or criminal justice, and one attorney with experience providing legal services to cannabis businesses,
11 cannabis consumers or medical cannabis patients.

12 III. Members of the board shall serve terms of 2 years. Members of the board shall serve
13 without compensation but shall be reimbursed for their expenses actually and necessarily incurred
14 in the discharge of their official duties, including mileage at the state employee rate for attendance
15 to meetings and other official functions.

16 IV. The board shall meet at the discretion of the commission, but shall meet no less
17 frequently than once every 2 months for the first 9 months after the effective date of this section.

18 V. A majority of the members of the board present and voting shall constitute a quorum.

19 VI. The cannabis advisory board shall:

20 (a) Advise the commission on regulations to ensure the thorough and efficient
21 implementation of this chapter.

22 (b) Advise the commission on what additional types of cannabis establishments, if any,
23 the commission, should register.

24 (c) Consider all matters submitted to it by the commission.

25 (d) Hold a hearing to solicit public input no less frequently than once every 6 months,
26 including input on the availability of reasonably priced therapeutic cannabis at alternative
27 treatment centers that are now co-located or otherwise affiliated with retail cannabis stores.

28 (e) Advise the commission spending and recommending any modifications to ensure the
29 thorough and efficient implementation of this chapter.

30 (f) Make recommendations for changes to the law and regulations for once federal law
31 allows interstate cannabis sales.

32 318-F:9 Regulation of Cannabis.

33 I. Not later than March 1, 2022, the commission shall adopt rules, pursuant to RSA 541-A,
34 for the registration, regulation, and taxation of cannabis cultivation facilities. Not later than June 1,
35 2022, the commission shall adopt rules, pursuant to RSA 541-A, for the registration, regulation, and
36 taxation of all other cannabis establishments and on the manufacture and sale of cannabis
37 accessories. The rules shall include the following:

1 (a) Procedures for the issuance, denial, renewal, suspension, and revocation of a
2 registration for cannabis establishments, including procedures to hear complaints and impose
3 penalties if cannabis establishments that are affiliated with or co-located with alternative treatment
4 centers fail to provide an adequate supply and variety of therapeutic cannabis and cannabis products
5 for qualifying patients.

6 (b) A schedule of reasonable application, registration, and annual renewals, provided:

7 (1) That the non-refundable portion of application fees shall not exceed \$1,000,
8 adjusted annually for inflation with this upper limit adjusted annually for inflation;

9 (2) The application, registration, and annual renewal fees for the smallest tier of
10 cultivation facilities may not exceed \$250; and

11 (3) All other registration and annual renewal fees shall not exceed \$10,000.

12 (c) Qualifications for registration that are directly and demonstrably related to the
13 operation of a cannabis establishment and which may not disqualify applicants solely for cannabis
14 offenses prior to the effective date of this chapter.

15 (d) Regulations to create at least 3 tiers of cultivation facilities, based on the size of the
16 facility or the number of plants cultivated; security regulations and licensing fees shall vary based on
17 the size of the cultivation facility.

18 (e) Record keeping requirements for cannabis establishments, including requirements
19 for implementation and compliance with the tracking system required by RSA 318-F:9, IV.

20 (f) Requirements for the transportation of cannabis between cannabis establishments,
21 including documentation that shall accompany any cannabis being transported by cannabis
22 cultivation facilities.

23 (g) Procedures for the delivery of cannabis to consumers, including documentation that
24 shall accompany any cannabis being transported to consumers.

25 (h) A schedule of civil fines as are authorized in this chapter for violations of chapter
26 requirements, provided that, not later than September 1, 2022, the commission shall report to the
27 chairpersons of the house and senate ways and means committees its proposal for a fine schedule
28 and for legislation needed to implement the schedule.

29 (i) Procedures for hearings on civil fines and suspensions and revocations of a cannabis
30 establishment registration.

31 (j) Reasonable security requirements for each type of cannabis establishment, which
32 may be varied based on the size of the cannabis establishment.

33 (k) Health and safety rules, including regarding the packaging and preparing of
34 cannabis and restricting the use of pesticides that may be dangerous to cannabis consumers.

35 (l) Restrictions on the advertising, signage, marketing, and display of cannabis,
36 including but not limited to a prohibition on mass-market campaigns that have a high likelihood of
37 reaching minors, restrictions to prevent cannabis from being marketed to minors, a prohibition on

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1 promotional products, and a prohibition on giveaways of cannabis, cannabis products, or cannabis
2 accessories. The department may require that any advertising for cannabis or cannabis products
3 include a standard, recognizable symbol.

4 (m) Restrictions on where a cannabis cultivation facility may be located, consistent with
5 the provisions of this chapter.

6 (n) Restrictions on the hours of sale when a retail cannabis store may sell cannabis and
7 cannabis products, provided the regulations shall not allow retailers to begin sales before 6:00 a.m.
8 or to sell cannabis or cannabis products after 11:45 p.m.

9 (o) Labeling requirements for cannabis products, including:

10 (1) Mandating the disclosure of the THC content of each product;

11 (2) Requirements for packaging to ensure it is not designed to appeal to minors; and

12 (3) Establishing the amount of THC that may be included in each serving of a
13 cannabis product.

14 (p) Health and safety rules and standards for the manufacture of cannabis products,
15 including:

16 (1) Restrictions or prohibitions on additives to products that are toxic, designed to
17 make the product more appealing to children, or misleading to consumers;

18 (2) Safety standards regulating the manufacture of cannabis extracts and
19 concentrates; and

20 (3) A prohibition on the inclusion of nicotine and other additives to products that are
21 designed to make the product more addictive.

22 (q) Standards for the operation of testing laboratories, including requirements for
23 equipment and qualifications for personnel.

24 (r) Requirements for the testing of cannabis, including:

25 (1) Requirements to ensure at a minimum that products sold for human
26 consumption do not contain contaminants that are injurious to health and to ensure correct labeling;

27 (2) That testing shall include, but not be limited to, analysis for residual solvents,
28 poisons, or toxins; harmful chemicals; dangerous molds or mildew; filth; dangerous pesticides and
29 harmful microbials, such as E. coli or salmonella;

30 (3) Providing that in the event that test results indicate the presence of quantities of
31 any substance determined to be injurious to health, such products shall be immediately quarantined
32 and immediate notification to the commission shall be made. The adulterated product shall be
33 documented and properly destroyed;

34 (4) That testing shall also verify THC potency representations for correct labeling;

35 (5) That the commission shall determine an acceptable variance for potency
36 representations and procedures to address potency misrepresentations; and

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1 (6) That the commission shall determine the protocols and frequency of cannabis
2 testing by a cannabis testing facility.

3 (s) Requirements for any cannabis establishments that have shared management or
4 ownership with alternative treatment centers, including to:

5 (1) Provide for separate storage of any cannabis that will be transferred to qualifying
6 patients or designated caregivers pursuant to RSA 126-X, and a separation of cannabis sales to
7 qualifying patients and consumers, such as by requiring separate counters;

8 (2) Ensure fair competition between vertically integrated cannabis establishments
9 and other cannabis establishments, including by requiring any vertically integrated retail cannabis
10 stores to stock and reasonably price a variety of products from cannabis establishments it is not
11 affiliated with; and

12 (3) Provide penalties for any cannabis establishments affiliated with alternative
13 treatment centers that increase prices for qualifying patients beyond the rate of inflation as a result
14 of their cannabis establishment registrations.

15 (t) Reasonable health and safety restrictions on cannabis accessories that may be
16 manufactured or sold in New Hampshire, including a prohibition on any vaporization device that
17 includes toxic or addictive additives. The commission may prohibit types of vaporizers that are
18 particularly likely to be utilized by minors without detection, but may not completely ban or
19 unreasonably restrict the manufacture or sale of vaporization devices.

20 II.(a) In order to ensure that individual privacy is protected, the commission shall not
21 require a consumer to provide a retail cannabis store with personal information other than
22 government-issued identification to determine the consumer's age, and a retail cannabis store shall
23 not be required to acquire and record personal information about consumers.

24 (b) In order to ensure that individual privacy is protected, no cannabis establishment
25 may record or store a consumer's name, address, purchases, or contact information unless the
26 consumer consents in writing. No cannabis establishment may make granting permission for the
27 collection or storage of the above information a condition of a consumer purchasing cannabis from
28 the establishment.

29 III. Not later than May 1, 2022, the commission, in consultation with the department, shall
30 develop an informational handout, which retail stores shall make available to all consumers, and
31 which shall include information on:

32 (a) Methods for administering cannabis and how long cannabis may impair a person
33 after it is ingested in each manner; and

34 (b) How to recognize problematic usage of cannabis and how to obtain appropriate
35 services or treatment for problematic usage.

36 IV. The commission shall require all cannabis establishments to utilize a system, including
37 use of a universal product code, for tracking the transfer of cannabis and cannabis products between

1 licensed cannabis establishments and the sale of cannabis and cannabis products to consumers. The
2 system shall ensure an accurate accounting of the production, processing, and sale of cannabis and
3 cannabis products and shall enable separate tracking of cannabis flowers, immature cannabis
4 plants, and other parts of cannabis sold from cannabis cultivation facilities. The commission may
5 develop and maintain a system that satisfies the requirements of this section, or it may select a
6 vendor to develop and maintain a system.

7 V. No later than September 1, 2021, and every year thereafter, the commission shall
8 reevaluate the tax rate and method of taxation established in RSA 77-H, and the fines and penalties
9 established in RSA 318-F, and shall report in writing on its findings and recommendations to the
10 chairpersons of the house and senate ways and means committees.

11 318-F:10 Registration Procedures for Cannabis Establishments.

12 I. Each application for a registration to operate a cannabis establishment shall be submitted
13 to the commission.

14 II. Each application shall include both the fee established by the commission and a \$500 fee
15 for the municipality to review the application, except that the fee shall be \$75 in the case of the
16 smallest tier of cultivation facilities.

17 III. The commission shall:

18 (a) Accept and process applications beginning no later than May 1, 2022 for cannabis
19 cultivation facilities, beginning no later than August 1, 2022 for cannabis product manufacturing
20 facilities, cannabis transporters, and cannabis testing facilities, and beginning no later than
21 September 1, 2022 for retail cannabis stores;

22 (b) Immediately forward a copy of each application and the municipal fee to the
23 municipality in which the applicant desires to operate the cannabis establishment; and

24 (c) Issue a registration to the applicant within 90 days after receipt of an application
25 unless:

26 (1) The commission finds the applicant is not in compliance with the requirements of
27 this chapter or rules adopted under this chapter;

28 (2) The commission is notified by the relevant municipality that the applicant is not
29 in compliance with an ordinance adopted pursuant to this chapter and in effect at the time of
30 application; or

31 (3) More qualified applicants have applied than the number of registrations
32 available in the municipality, and the applicant was not selected.

33 IV. Each registration applies to a single parcel of real property. Any additional address
34 requires a separate application and registration.

35 V. A renewal application may be submitted up to 90 days prior to the expiration of the
36 cannabis establishment's registration. The renewal application shall be granted within 30 days of
37 its submission unless the applicant has not paid the fee, the cannabis establishment's registration is

1 suspended or revoked, or the cannabis establishment has a pattern of violations of this law, the rules
2 issued pursuant to it, or municipal regulations.

3 318-F:11 Enactment of Municipal Ordinances.

4 I. A municipality may enact an ordinance prohibiting or limiting the number and type of
5 cannabis establishments that may be permitted within the municipality and regulating the time,
6 place, and manner of operation of a cannabis establishment, which is permitted within the
7 municipality.

8 II. A municipality may enact an ordinance specifying the entity within the municipality that
9 shall be responsible for reviewing applications submitted for a registration to operate a cannabis
10 establishment within the municipality. The entity designated by the municipality shall be
11 responsible for indicating whether the application is in compliance with municipal ordinances.

12 318-F:12 Financial Interests Prohibited.

13 I. No cannabis testing facility or individual with a controlling interest in a cannabis testing
14 facility shall have a direct or indirect financial interest in a retail cannabis store, a cannabis
15 cultivation facility, or a cannabis product manufacturing facility.

16 II. Prior to January 1, 2023, no person or business entity may have a controlling interest in
17 more than 3 cannabis establishments of any single category.

18 III. Beginning January 1, 2023, no person or business entity may have a controlling interest
19 in more than 20 percent of operational cultivation facilities, product manufacturing facilities, or
20 retail cannabis stores, unless the person or business entity has a controlling interest in no more than
21 3 cannabis establishments of a single category. After January 1, 2023, no person or business entity
22 may have a controlling interest in more than 50 percent of cannabis testing facilities, unless the
23 person or entity has a controlling interest in no more than 3 cannabis testing facilities.

24 IV. In this section, "controlling interest" means a financial or voting interest of 10 percent or
25 greater in a cannabis establishment.

26 318-F:13 Residency Required.

27 I. Except as provided in this section, any person applying for a cannabis establishment
28 registration shall have been a resident, or shall have at least one director, officer, or partner who has
29 been a New Hampshire Resident, for at least 3 years immediately preceding the date of application.

30 II. This section shall not apply to an applicant for a testing facility registration.

31 318-F:14 Background Checks Required.

32 I. A cannabis establishment shall conduct a state and federal background check prior to
33 making a final offer of employment to a prospective manager or operator.

34 II. No cannabis establishment shall employ any person who has been convicted of a
35 disqualifying offense as an officer, manager, director, or general partner. No person convicted of a
36 disqualifying offense shall work as an officer, director, manager, or general partner of a cannabis
37 establishment or serve on the board of a cannabis establishment.

1 318-F:15 Restrictions on Location. No cannabis establishment shall operate, nor shall a
2 prospective cannabis establishment apply for a registration, if:

3 I. The establishment would be located within 1,000 feet of the property line of a pre-existing
4 public or private elementary or secondary school, unless the municipality where the establishment
5 seeks to operate has established a smaller distance limitation; or

6 II. The establishment sells alcohol for consumption.

7 318-F:16 Informational Materials and Warning Labels.

8 I. A retail cannabis store shall include an informational handout designed by the
9 commission in consultation with the department with all cannabis and cannabis products sold to
10 consumers.

11 II. All cannabis and cannabis products sold by a retail cannabis store shall include warning
12 labels that provide the following information: "Warning: This product has intoxicating effects. For
13 use by adults 21 and older. Keep out of reach of children." The department may require a standard,
14 recognizable symbol on all cannabis packaging to signify that THC or other cannabinoids are
15 included in the product.

16 III. All cannabis products sold by retail cannabis stores shall include:

17 (a) A warning label that provides, "Caution: When eaten or swallowed, the intoxicating
18 effects of this product may be delayed by up to 2 hours," unless the department determines that a
19 different time frame should be specified.

20 (b) A disclosure of ingredients and possible allergens.

21 (c) A nutritional fact panel.

22 (d) Opaque, child-resistant packaging, which shall be designed or constructed to be
23 significantly difficult for children under 5 years of age to open and not difficult for normal adults to
24 use properly as defined by 16 C.F.R. section 1700.20.

25 318-F:17 Lawful Operation of Cannabis-Related Facilities. If undertaken by a person 21 years
26 of age or older, the following acts shall not be illegal under New Hampshire law or be a basis for
27 seizure or forfeiture of assets under New Hampshire law:

28 I. Possessing, displaying, or transporting cannabis or cannabis products; obtaining or
29 purchasing cannabis from a cannabis cultivation facility; delivering or transferring cannabis to a
30 cannabis testing facility; obtaining or purchasing cannabis or cannabis products from a cannabis
31 product manufacturing facility; or sale, delivery, or distribution of cannabis or cannabis products to
32 an adult who is 21 years of age or older or to retail cannabis stores, if the person or business entity
33 conducting the activities described in this paragraph has obtained a current, valid registration to
34 operate a retail cannabis store or is acting in his or her capacity as an owner, employee, or agent of a
35 registered retail cannabis store.

36 II. Cultivating, harvesting, processing, packaging, transporting, displaying, or possessing
37 cannabis; obtaining or purchasing cannabis seeds or seedlings or immature cannabis plants from any

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1 adult 21 years of age or older; delivering or transferring cannabis to a cannabis testing facility;
2 selling or transferring cannabis that has not been processed into extracts, concentrates, or other
3 preparations to a cannabis cultivation facility, a cannabis product manufacturing facility, or a retail
4 cannabis store; or obtaining or purchasing cannabis from a cannabis cultivation facility, if the person
5 or business entity conducting the activities described in this paragraph has obtained a current, valid
6 registration to operate a cannabis cultivation facility or is acting in his or her capacity as an owner,
7 employee, or agent of a registered cannabis cultivation facility.

8 III. Packaging, processing, transporting, manufacturing, displaying, or possessing cannabis
9 or cannabis products; delivering or transferring cannabis or cannabis products to a cannabis testing
10 facility; selling cannabis or cannabis products to a retail cannabis store or a cannabis product
11 manufacturing facility; purchasing or obtaining cannabis from a cannabis cultivation facility; or
12 purchasing or obtaining cannabis or cannabis products from a cannabis product manufacturing
13 facility, if the person or business entity conducting the activities described in this paragraph has
14 obtained a current, valid registration to operate a cannabis product manufacturing facility or is
15 acting in his or her capacity as an owner, employee, or agent of a registered cannabis product
16 manufacturing facility.

17 IV. Possessing, obtaining, cultivating, processing, storing, transporting, receiving, or
18 displaying cannabis or cannabis products if the person or business entity has obtained a current,
19 valid registration to operate a cannabis testing facility or is acting in his or her capacity as an owner,
20 employee, or agent of a registered cannabis testing facility.

21 V. Engaging in any activities involving cannabis or cannabis products if the person or
22 business entity conducting the activities has obtained a current, valid registration to operate a
23 cannabis establishment or is acting in his or her capacity as an owner, employee, or agent of a
24 registered cannabis establishment, and the activities are within the scope of activities allowed by the
25 commission for that type of cannabis establishment.

26 VI. Possessing, obtaining, cultivating, processing, storing, transporting, or receiving
27 cannabis obtained from a cannabis establishment or transporting, delivering, or transferring
28 cannabis to a cannabis establishment if the person or business entity has obtained a current, valid
29 registration to operate a cannabis transporter or is acting in his or her capacity as an owner,
30 employee, or agent of a registered cannabis transporter.

31 VII. Obtaining or purchasing cannabis from a cannabis cultivation facility; delivering or
32 transferring cannabis to a cannabis testing facility; or obtaining or purchasing cannabis or cannabis
33 products from a cannabis product manufacturing facility if the person or business entity conducting
34 the activities described in this paragraph possesses a valid registration to operate an alternative
35 treatment center or is acting in his or her capacity as an owner, employee, or agent of a registered
36 alternative treatment center.

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VIII. Leasing or otherwise allowing the use of property owned, occupied, or controlled by any person, corporation, or other entity for any of the activities conducted lawfully in accordance with this chapter.

IX. Selling, offering for sale, transferring, transporting, or delivering cannabis to establishments licensed to process or sell cannabis under the laws of other states if the person or business entity has obtained a current, valid registration to operate a cannabis transporter, cannabis product manufacturing facility, or cannabis cultivation facility or is acting in his or her capacity as an owner, employee, or agent of a cannabis transporter, cannabis product manufacturing facility, or cannabis cultivation facility.

318-F:18 Proof of Purchaser's Identity.

I. For the purposes of this chapter, any person or entity making the sale of cannabis or cannabis accessories to any purchaser whose age is in question may accept any official documentation listed in RSA 179:8 as proof that the purchaser is 21 years of age or older.

II. The establishment of all of the following facts by a retail cannabis store or an agent or employee of a retail cannabis store making a sale of cannabis or cannabis accessories to a person under the age of 21 shall constitute an affirmative defense to any prosecution for such sale:

(a) That the person presented what an ordinary and prudent person would believe to be valid documentation of a type listed in RSA 179:8.

(b) That the sale was made in good faith relying upon such documentation and appearance in the reasonable belief that the person was 21 years of age or older.

318-F:19 Driving; Minors; and Control of Property.

I. Nothing in this chapter shall be construed to permit driving or operating under the influence of drugs or liquor pursuant to RSA 265-A, nor shall this section prevent the state from enacting and imposing penalties for driving under the influence of or while impaired by cannabis.

II. Nothing in this chapter shall be construed to permit the transfer of cannabis, with or without remuneration, to a person under the age of 21, or to allow a person under the age of 21 to purchase, possess, use, transport, grow, or consume cannabis.

III. Nothing in this chapter shall prohibit a state or county correctional facility from prohibiting the possession, consumption, use, display, transfer, distribution, sale, transportation, or growing of cannabis on or in the correctional facility's property.

IV.(a) Except as provided in this section, this chapter does not require any person, corporation, or any other entity that occupies, owns, or controls a property to allow the consumption, cultivation, display, sale, or transfer of cannabis on or in that property.

(b) In the case of the rental of a residential dwelling, a landlord shall not prohibit the possession of cannabis or the consumption of cannabis by non-smoked means unless:

(1) The tenant is a roomer who is not leasing the entire residential dwelling;

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(2) The residence is incidental to the provision of educational, counseling, religious, or similar service;

(3) The residence is a transitional housing facility; or

(4) Failing to prohibit cannabis possession or consumption would violate federal law or regulations or cause the landlord to lose a monetary or licensing-related benefit under federal law or regulations.

(c) This chapter shall not prevent a landlord from prohibiting cannabis smoking or cannabis cultivation.

(d) An adult who is 21 or older may use cannabis on privately owned real property only with permission of the property owner or, in the case of leased or rented property, with the permission of the tenant in possession of the property, except that a tenant shall not allow a person to smoke cannabis on rented property if smoking on the property violates the lease or the lessor's rental policies that apply to all tenants at the property. However, a tenant may permit an adult who is 21 or older to use cannabis on leased property by ingestion or inhalation through vaporization even if smoking is prohibited by the lease or rental policies. For purposes of this chapter, vaporization shall mean the inhalation of cannabis without the combustion of the cannabis.

318-F:20 Enforcement of Contracts. Contracts related to the operation of a cannabis establishment registered pursuant to this chapter shall be enforceable. No contract entered into by a registered cannabis establishment or its employees or agents as permitted pursuant to a valid registration, or by those who allow property to be used by an establishment, its employees, or its agents as permitted pursuant to a valid registration, shall be unenforceable on the basis that cultivating, obtaining, manufacturing, distributing, dispensing, transporting, selling, possessing, or using cannabis is prohibited by federal law.

318-F:21 Occupational Licensing.

I. A holder of a professional or occupational license may not be subject to professional discipline for providing advice or services related to cannabis establishments or applications to operate cannabis establishments on the basis that cannabis is illegal under federal law.

II. An applicant for a professional or occupational license may not be denied a license based on previous employment related to cannabis establishments operating in accordance with state law.

318-F:22 Data Collection Related to Cannabis Regulation. No later than January 1, 2022, and every 2 years thereafter, the department of safety, information and analysis center, drug monitoring initiative, shall produce and publish a report that includes baseline data and the most current data regarding health and welfare outcomes since cannabis became legal and taxed for adults' use, including but not limited to high school graduation rates; youth and adult rates of alcohol, cannabis, and illegal drug use; rates of maladaptive use of cannabis; rates of alcohol abuse; opiate use and abuse rates; the number and type of youth and adult convictions for cannabis offenses; and the rates of individuals needing but not receiving substance abuse treatment. The report shall also include

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1 information on treatment and prevention services provided, education campaigns undertaken, and
2 funding allocated under RSA 318-F:23.

3 318-F:23 Cannabis Control Fund Established

4 I. There is established in the state treasury a nonlapsing fund to be known as the cannabis
5 control fund. Moneys credited to the fund shall include deposits into the fund by the commission
6 pursuant to this chapter and deposits into the fund by the commissioner of the department of
7 revenue administration pursuant to RSA 77-H.

8 II. For the biennium ending June 30, 2023, and every biennium thereafter, the commission
9 shall include the cost of administration of this chapter in the commission's efficiency expenditure
10 request pursuant to RSA 9:4. Appropriations for such costs shall be a charge against the fund.

11 III. For the biennium ending June 30, 2023, the sum of \$2,000,000 is hereby appropriated to
12 the cannabis control commission for the cost of administration of this chapter. Said sum shall be a
13 charge against the fund.

14 IV. The commission shall credit all fees and civil penalties imposed under this chapter and
15 all other related moneys received from public or private sources to the fund.

16 V. After deducting appropriations charged to the fund for the cost of administration of this
17 chapter and RSA 77-H, priorities for the allocation of the remaining funds, subject to appropriation,
18 are as follows:

19 (a) The sum of \$100,000 annually to the department of safety, information and analysis
20 center, drug monitoring initiative, for data collection and reporting related to the health impacts of
21 cannabis prohibition and cannabis regulation; and

22 (b) Of the remaining funds:

23 (1) Twenty-nine percent for use in evidence-based, voluntary programs for substance
24 abuse-related education, prevention, treatment, and recovery, and for scientifically and medically
25 accurate public education campaigns educating youth and adults about the health and safety risks of
26 alcohol, tobacco, cannabis, and other substances, including education campaigns separately targeting
27 youth and adults that provide medically and scientifically accurate information about the health and
28 safety risks posed by cannabis use, including driving under the influence of cannabis.

29 (2) Thirty-three percent for broad-based aid to municipalities pursuant to an
30 allocation formula identified by the general court in the budget designed to ensure fair distribution
31 of the aid, provided that the commission may recommend special allocations to certain municipalities
32 based on special costs incurred by those municipalities or special benefits contributed by those
33 municipalities due to the occurrence of cannabis related activities within those municipalities.

34 (3) Five percent to public safety agencies, including police, fire, and rescue agencies,
35 for the hiring and training of additional drug recognition experts, for advanced roadside impaired
36 driving enforcement training, and to assist in responding to drug overdose incidents.

37 (4) Thirty-three percent to the general fund.

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1 7 New Chapter; Taxation of Cannabis. Amend RSA by inserting after chapter 77-G the
2 following new chapter:

3 CHAPTER 77-H

4 TAXATION OF CANNABIS

5 77-H:1 Definitions. In this chapter, except as provided below, the definitions set forth in RSA
6 318-F:1 shall apply:

7 I. "Commissioner" means the commissioner of the department of revenue administration.

8 II. "Department" means the department of revenue administration.

9 III. "Fund" means the cannabis control fund established in RSA 318-F:23.

10 77-H:2 Tax Imposed.

11 I. Except as provided in this section, a tax shall be levied upon the sale or transfer of
12 cannabis, directly or via a cannabis transporter, from a cannabis cultivation facility to a retail
13 cannabis store or cannabis product manufacturing facility at the rate of 5 percent of the total sales
14 price received by the cannabis cultivation facility as a consideration for the sale of cannabis or
15 cannabis products.

16 II. Except as provided in this section, a tax shall be levied at the rate of 9 percent of the total
17 price received by the cannabis retail store as a consideration for the sale of cannabis or cannabis
18 products.

19 III. The taxes levied pursuant to paragraphs I and II shall not be levied on any transfers of
20 cannabis to retail cannabis stores that are also alternative treatment centers if the untaxed cannabis
21 is stored separately and is reserved for transfers to qualifying patients or designated caregivers
22 pursuant to RSA 126-X.

23 IV. On the 15th day of each month, every cannabis cultivation facility shall pay the taxes
24 due on the cannabis or cannabis products that the cannabis cultivation facility transferred or sold in
25 the prior calendar month.

26 V. On the 15th day of each month, every retail cannabis store shall pay the taxes due on the
27 cannabis or cannabis products that the retail cannabis store sold in the prior calendar month.

28 VI. The commissioner shall collect all taxes, fees, and fines generated pursuant to this
29 chapter and deposit the funds into the cannabis control fund established in RSA 318-F:23. For the
30 biennium ending June 30, 2023, the sum of \$2,000,000 is hereby appropriated to the department for
31 the cost of administration of this chapter. Said sum shall be a charge against the fund. For the
32 biennium ending June 30, 2023, and every biennium thereafter, the commissioner shall include the
33 cost of administration of this chapter in the department's efficiency expenditure request pursuant to
34 RSA 9:4. Appropriations for such cost shall be a charge against the fund.

35 VII. Every cannabis cultivation facility and every retail cannabis store shall, on or before the
36 fifteenth day of each month, for the previous month, make a return to the commissioner. The
37 commissioner of revenue administration shall adopt rules, pursuant to RSA 541-A, relative to the

form of such return, the data which it must contain for the correct computation and verification of taxes assessed, record keeping, inspection, and audit requirements. All returns shall be signed by the cannabis cultivation facility or by its authorized representative, subject to the pains and penalties of perjury.

VIII. Every cannabis cultivation facility and every retail cannabis store shall:

(a) Keep such records as may be necessary to determine the amount of its tax liability under this chapter.

(b) Preserve such records for the period of 3 years or until any litigation or prosecution hereunder is finally determined.

(c) Make such records available for inspection and audit by the commissioner or authorized agents, upon demand, at reasonable times during regular business hours.

(d) Whoever violates the provisions of this section shall be subject to the penalties imposed under RSA 21-J:39.

(e) Any taxpayer records obtained or inspected by the commissioner or his or her agents for the purpose of conducting an audit of the taxpayer's compliance or liability under this chapter shall be kept confidential and not disclosed for any purpose unless required by law.

(f) In any judicial proceeding under this chapter, all taxpayer records and related pleadings shall remain sealed and not disclosed to any non-party to the proceeding for any purpose unless required by law.

8 Controlled Drug Act; Definitions. Amend the introductory paragraph in RSA 318-B:1, X-a (k) to read as follows:

(k) Objects used or intended for use or customarily intended for use in ingesting, inhaling, or otherwise introducing [marijuana,] cocaine[, hashish, or hashish oil] into the human body, such as:

9 Controlled Drug Act; Penalties. Amend the introductory paragraph in RSA 318-B:26, I to read as follows:

I. Any person who manufactures, sells, prescribes, administers, or transports or possesses with intent to sell, dispense, or compound any controlled drug, controlled drug analog or any preparation containing a controlled drug, except as authorized in this chapter **or as otherwise authorized by law**; or manufactures, sells, or transports or possesses with intent to sell, dispense, compound, package or repackage (1) any substance which he **or she** represents to be a controlled drug, or controlled drug analog, or (2) any preparation containing a substance which he **or she** represents to be a controlled drug, or controlled drug analog, shall be sentenced as follows, except as otherwise provided in this section:

10 Controlled Drug Act; Penalties. Amend the introductory paragraph in RSA 318-B:26, II to read as follows:

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II. Any person who knowingly or purposely obtains, purchases, transports, or possesses actually or constructively, or has under his control, any controlled drug or controlled drug analog, or any preparation containing a controlled drug or controlled drug analog, except as authorized in this chapter ***or as otherwise authorized by law***, shall be sentenced as follows, except as otherwise provided in this section:

11 Controlled Drug Act; Penalties. Amend RSA 318-B:26, II(c)-(e) to read as follows:

(c) In the case of more than 3/4 ounce of marijuana or more than 5 grams of hashish, including any adulterants or dilutants[,] ***is possessed by a person who is under 21 years of age, or, in the case of an amount exceeding the possession limit defined in RSA 318-F:1 possessed by a person who is 21 years of age or older***, the person shall be guilty of a misdemeanor. ~~[In the case of marijuana-infused products possessed by persons under the age of 21 or marijuana-infused products as defined in RSA 318-B:2-c, other than a personal-use amount of a regulated marijuana-infused product as defined in RSA 318-B:2-c, I(b), that are possessed by a person 21 years of age or older, the person shall be guilty of a misdemeanor.]~~

(d) In the case of 3/4 ounce or less of marijuana or 5 grams or less of hashish, including any adulterants or dilutants, ***that is possessed by a person who is under 21 years of age***, the person shall be guilty of a violation pursuant to RSA 318-B:2-c. ~~[In the case of a person 21 years of age or older who possesses a personal-use amount of a regulated marijuana-infused product as defined in RSA 318-B:2-c, I(b), the person shall be guilty of a violation pursuant to RSA 318-B:2-c.]~~

(e) In the case of a residual amount of a controlled ~~[substance,]~~ ***drug, other than marijuana***, as defined in RSA 318-B:1, XXIX-a, a person shall be guilty of a misdemeanor if the person is not part of a service syringe program under RSA 318-B:43.

12 Controlled Drug Act; Penalties. Amend RSA 318-B:26, III(a) to read as follows:

(a) ~~[Except as provided in RSA 318-B:2-c,]~~ Controls any premises or vehicle where he or she knows a controlled drug or its analog, ***other than marijuana***, is illegally kept or deposited;

13 Personal Possession of Marijuana. Amend RSA 318-B:2-c to read as follows:

318-B:2-c ~~[Personal]~~ Possession of Marijuana ***by a Person Under 21 Years of Age***.

~~[I.]~~ In this section:

~~[(a)]~~ ***I.*** "Marijuana" includes the leaves, stems, flowers, and seeds of all species of the plant genus cannabis, but shall not include the resin extracted from any part of such plant and every compound, manufacture, salt, derivative, mixture, or preparation from such resin including hashish, and further, shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination.

~~[(b)]~~ "Personal-use amount of a regulated marijuana-infused product" means one or more products that is comprised of marijuana, marijuana extracts, or resins and other ingredients and is

~~intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures, which was obtained from a state where marijuana sales to adults are legal and regulated under state law, and which is in its original, child-resistant, labeled packaging when it is being stored, and which contains a total of no more than 300 milligrams of tetrahydrocannabinol.]~~

II. Except as provided in RSA 126-X, any person ***under 21 years of age*** who knowingly possesses 3/4 of an ounce or less of marijuana, including adulterants or dilutants, shall be guilty of a violation, and subject to the penalties provided in paragraph V.

III. Except as provided in RSA 126-X, any person ***under 21 years of age*** who knowingly possesses 5 grams or less of hashish, including adulterants or dilutants, shall be guilty of a violation, and subject to the penalties provided in paragraph V.

~~IV. [Except as provided in RSA 126 X, any person 21 years of age or older possessing a personal-use amount of a regulated marijuana-infused product shall be guilty of a violation, and subject to the penalties provided in paragraph V. Persons 18 years of age or older and under 21 years of age who knowingly possess marijuana-infused products shall be guilty of a misdemeanor.~~

~~V.]~~(a) Except as provided in this paragraph, any person 18 years of age or older who is convicted of violating paragraph II or III~~[, or any person 21 years of age or older who is convicted of violating paragraph IV]~~ shall be subject to a fine of \$100 for a first or second offense under this paragraph, or a fine of up to \$300 for any subsequent offense within any 3-year period; however, any person convicted based upon a complaint which alleged that the person had 3 or more prior convictions for violations of paragraph II~~;~~ **or** III~~[, or IV]~~, or under reasonably equivalent offenses in an out-of-state jurisdiction since the effective date of this paragraph, within a 3-year period preceding the fourth offense shall be guilty of a class B misdemeanor. The offender shall forfeit the marijuana~~[, regulated marijuana-infused products,]~~ or hashish to the state. A court shall waive the fine for a single conviction within a 3-year period upon proof that person has completed a substance abuse assessment by a licensed drug and alcohol counselor within 60 days of the conviction. A person who intends to seek an assessment in lieu of the fine shall notify the court, which shall schedule the matter for review after 180 days. Should proof of completion of an assessment be filed by or before that time, the court shall vacate the fine without a hearing unless requested by a party.

(b) Any person under 18 years of age who is convicted of violating paragraph II or III shall forfeit the marijuana or hashish and shall be subject to a delinquency petition under RSA 169-B:6.

~~[VI.]~~ V.(a) Except as provided in this section, no person shall be subject to arrest for a violation of paragraph II~~;~~ **or** III~~[, or IV]~~ and shall be released provided the law enforcement officer does not have lawful grounds for arrest for a different offense.

(b) Nothing in this chapter shall be construed to prohibit a law enforcement agency from investigating or charging a person for a violation of RSA 265-A.

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1 (c) Nothing in this chapter shall be construed as forbidding any police officer from taking
2 into custody any minor who is found violating paragraph II[~~5~~] **or** III[~~5~~ **or** IV].

3 (d) Any person ***under 21 years of age who is*** in possession of an identification card,
4 license, or other form of identification issued by the state or any state, country, city, or town, or any
5 college or university, who fails to produce the same upon request of a police officer or who refuses to
6 truthfully provide his or her name, address, and date of birth to a police officer who has informed the
7 person that he or she has been found to be in possession of what appears to the officer to be 3/4 of an
8 ounce or less of marijuana[~~, a personal-use amount of a regulated marijuana-infused product,~~] or 5
9 grams or less of hashish, may be arrested for a violation of paragraph II[~~5~~] **or** III[~~5~~ **or** IV].

10 [~~VII~~] **VI.** All fines imposed pursuant to this section shall be deposited into the alcohol abuse
11 prevention and treatment fund established in RSA 176-A:1 and utilized for evidence-informed
12 substance abuse prevention programs.

13 [~~VIII~~] **VII.**(a) No record that includes personally identifiable information resulting from a
14 violation of this section shall be made accessible to the public, federal agencies, or agencies from
15 other states or countries.

16 (b) Every state, county, or local law enforcement agency that collects and reports data
17 for the Federal Bureau of Investigation Uniform Crime Reporting Program shall collect data on the
18 number of violations of paragraph II[~~5~~] **or** III[~~5~~ **or** IV]. The data collected pursuant to this paragraph
19 shall be available to the public. A law enforcement agency may update the data annually and may
20 make this data available on the agency's public Internet website.

21 14 Alcohol or Drug Impairment; Possession of Drugs. Amend RSA 265-A:43 to read as follows:

22 265-A:43 Possession of Drugs. Any person who drives on any way a vehicle while knowingly
23 having in his or her possession or in any part of the vehicle a controlled drug or controlled drug
24 analog in violation of the provisions of RSA 318-B shall be guilty of a misdemeanor, and his or her
25 license shall be revoked or his or her right to drive denied for a period of 60 days and at the
26 discretion of the court for a period not to exceed 2 years. This section shall not apply to the
27 possession of marijuana or hashish as provided in RSA 318-B:2-c[~~, or a personal-use amount of a~~
28 ~~regulated marijuana-infused product as defined in RSA 318-B:2-e, I(b)~~].

29 15 New Section; Sentences; Annulment of Certain Arrests and Convictions for Cannabis.
30 Amend RSA 651 by inserting after section 5-b the following new section:

31 651:5-c Annulment of Certain Arrests and Convictions for Cannabis.

32 I. Any person who was arrested or convicted for knowingly or purposely obtaining,
33 purchasing, transporting, or possessing, actually or constructively, or having under his or her
34 control, $\frac{3}{4}$ of an ounce of cannabis or less where the offense occurred before September 16, 2017 may,
35 notwithstanding the provisions of RSA 651:5, VI or any other law, at any time, petition the court in
36 which the person was convicted or arrested to annul the arrest record, court record, or both. The
37 petition shall state that the amount of cannabis was $\frac{3}{4}$ of an ounce or less. The petitioner shall

furnish a copy of the petition to the office of the prosecutor of the underlying offense. The prosecutor may object within 10 days of receiving a copy of the petition and request a hearing. If the prosecutor does not object within 10 days, the court shall grant the petition for annulment. If the prosecutor timely objects, the court shall hold a hearing. In a hearing on a petition for annulment, the court shall grant the petition if it finds based upon all evidence adduced that it is more likely than not that the amount of cannabis involved in the case was $\frac{3}{4}$ of an ounce or less where the offense occurred before September 16, 2017. In reaching a decision, the court shall not be bound by the rules of evidence and may consider and give appropriate weight to all testimony brought forward by either party, including but not limited to testimony, opinion, and reports. If the petition is granted, and an order of annulment is entered, the provisions of RSA 651:5, X-XI shall apply to the petitioner.

II. Any person who was convicted or arrested for knowingly or purposely obtaining, purchasing, transporting, manufacturing, cultivating, or possessing, actually or constructively, or having under his or her control, an amount of cannabis that does not exceed the possession limit, as defined in RSA 318-F:1, at a time when the individual was 21 years of age or older may, notwithstanding the provisions of any other statute including RSA 651:5, VI, at any time, petition the court in which the person was convicted or arrested to annul the arrest record, court record, or both. The petition shall state that the amount of cannabis was an amount that did not exceed the possession limit. The petitioner shall furnish a copy of the petition to the office of the prosecutor of the underlying offense. The prosecutor may object within 10 days of receiving a copy of the petition and request a hearing. If the prosecutor does not object within 10 days, the court shall grant the petition for annulment. If the prosecutor timely objects, the court shall hold a hearing. In a hearing on a petition for annulment, the court shall grant the petition if it finds based upon all evidence adduced that it is more likely than not that the amount of cannabis did not exceed the possession limit. In reaching a decision, the court shall not be bound by the rules of evidence and may consider and give appropriate weight to all testimony brought forward by either party, including but not limited to testimony, opinion, and reports. If the petition is granted, and an order of annulment is entered, the provisions of RSA 651:5, X-XI shall apply to the petitioner.

III. The department of safety may charge the successful petitioner a fee of \$100 for researching and correcting the criminal history record accordingly, unless the petitioner demonstrates that he or she is indigent, or has been found not guilty, or the case has been dismissed or not prosecuted in accordance with RSA 651:5, II. The court shall provide a copy of the petition to the prosecutor of the underlying offense and permit the prosecutor to be heard regarding the interest of justice in regard to the petition.

16 New Paragraph; Business Profits Tax; Additions and Deductions. Amend RSA 77-A:4 by inserting after paragraph XIX the following new paragraph:

XX. A deduction from gross business profits of an amount equal to all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on a trade or business as a

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cannabis establishment as defined by RSA 318-F:1 or an alternative treatment center as defined by RSA 126-X:1, including reasonable allowance for salaries or other compensation for personal services actually rendered, notwithstanding any federal tax law to the contrary.

17 Appropriations.

I. The sum of \$100,000 for the fiscal year ending June 30, 2023 is hereby appropriated to the department of safety, information and analysis center, drug monitoring initiative, for the purpose of collecting baseline data to be used in the reports required pursuant to RSA 318-F:22. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

II. The sum of \$2,000,000 for the fiscal year ending June 30, 2023 is hereby appropriated to the cannabis control commission established in RSA 318-F:7 for deposit into the cannabis control fund established in RSA 318-F:23 for the administration of RSA 318-F. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

18 Repeal. The following are repealed:

I. RSA 318-B:1, X-a(g), relative to separation gins and sifters used or intended for use with cannabis.

II. RSA 318-F:8, relative to the cannabis advisory board.

III. RSA 318-F:13, relative to residency requirements related to cannabis establishments.

19 Effective Date.

I. RSA 318-F:2 through RSA 318-F:6, as inserted by section 6 of this act, shall take effect 60 days after its passage.

II. RSA 318-F:17, I-VIII, as inserted by section 6 of this act, shall take effect July 1, 2021.

III. Paragraph II of section 18 of this act shall take effect July 1, 2025.

IV. Paragraph III of section 18 of this act shall take effect July 1, 2023.

V. RSA 318-F:17, IX, as inserted by section 6 of this act, shall take effect upon certification by the attorney general of New Hampshire to the director of the office of legislative services and the secretary of state that the conduct allowed by that paragraph has become legal under the United States Code.

VI. The remainder of this act shall take effect upon its passage.

HB 237-FN-A- FISCAL NOTE
AS INTRODUCED

AN ACT relative to the legalization and regulation of cannabis and making appropriations therefor.

FISCAL IMPACT: ☒ State ☒ County ☒ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$4,000,000	\$2,100,000	\$0
Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	<input checked="" type="checkbox"/> General Control Fund	<input checked="" type="checkbox"/> Education	<input checked="" type="checkbox"/> Highway	<input checked="" type="checkbox"/> Other - Cannabis

COUNTY:

Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

LOCAL:

Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

This bill establishes procedures for the legalization, regulation, and taxation of cannabis and related establishments. The bill establishes a Cannabis Control Commission with three members appointed by the Governor and Executive Council. The Commission will have the authority to promulgate rules and hire staff. The bill also establishes a proposed cannabis control fund, into which all fees, fines and taxes generated pursuant to proposed RSA 77-H will be deposited. The bill includes the following appropriations:

- For the biennium ending June 30, 2023, \$2,000,000 from the Cannabis Control Fund to the Cannabis Control Commission for the cost of administration.
- For the biennium ending June 30, 2023, \$2,000,000 from the Cannabis Control Fund to the Department of Revenue Administration for the cost to administer the taxation of cannabis in proposed RSA 77-H.

- For the fiscal year ending June 30, 2023, \$100,000 from the general fund to the Department of Safety for the purpose of collecting baseline data for the required reports.
- For the fiscal year ending June 30, 2023, \$2,000,000 from the general fund to the Cannabis Control Commission for the cost of administration.

After deducting the appropriations from the fund for administration, priorities for the allocation of the remaining funds is \$100,000 to the Department of Safety with the remaining funds distributed as follows:

- 29 percent for use in evidence-based, voluntary programs for substance abuse-related education, prevention, treatment, and recovery;
- 33 percent for broad-based aid to municipalities pursuant to an allocation formula identified by the general court in the budget;
- 5 percent to public safety agencies, including police, fire, and rescue agencies, for the hiring and training of additional drug recognition experts and other costs; and
- 33 percent to the state general fund.

The Department of Revenue Administration (DRA) indicates the fiscal impact of the bill as it relates to taxation of cannabis is indeterminable. The DRA has no way of knowing:

- the amount of cannabis or cannabis products that would be sold or transferred at wholesale by a cannabis cultivation facility to a retail cannabis store or cannabis product manufacturing facility, or at retail by a cannabis retail store, or the total price that would be received by the cannabis cultivation facility or cannabis retail store.
- the price at which cannabis or cannabis products would be sold by a cannabis cultivation facility or by a cannabis retail store.
- the number of people that will continue to use the black market.

However, the DRA calculated a range of possible revenues based on a number of estimates and assumptions, including NH population by age group, the percentage of the population by age group using cannabis in the past year, the number of ounces of cannabis consumed per person per year, as well as estimated low and high wholesale and retail prices. Some of the assumptions are made using Internet data. Additionally, the U.S. Census population figures include persons aged 20 and older and not available for persons aged 21 and older. The DRA uses the U.S. Census population data as this the best available data, however it may also inflate the range. Below are the detailed estimates.

Possible State Revenues – 5% Wholesale Tax

The bill provides a 5% tax shall be levied upon the sales price received by a cannabis cultivation facility for the sale or transfer of cannabis or cannabis products to a cannabis product

manufacturing facility or a retail cannabis store. The DRA has no way to estimate the amount of cannabis or cannabis products or the prices at which they would be sold by a cannabis cultivation facility. For purposes of calculating a range, the DRA assumed a low and high wholesale price based on data from other states. The DRA is unable to deduct from the calculation the amount of medical cannabis that would remain untaxed.

Summary of Assumptions & Adjustments for Calculation of First Year Potential NH Wholesale Cannabis Tax Revenues		
<u>Consumers of Cannabis</u>	Low	High
Estimated Number of NH Residents Ages 20+ Using Cannabis	130,000	130,000
Tourism Factor	1,563	1,563
<i>Total Estimated Consumers of Cannabis</i>	<i>131,563</i>	<i>131,563</i>
<u>Amount and Price of Cannabis</u>		
Ounces Used per Year per Person	5.0	7.9
Estimated Ounces Consumed Annually (Consumers X Ounces Used)	657,815	1,039,348
Converted to Pounds	41,113	64,959
13% Factor to adjust for the difference between the amount consumed versus supplied by cultivators and taxable	46,458	73,404
Average Market Rate per Pound	\$603	\$1,500
Estimated Wholesale Sales	\$28,014,285	\$110,105,897
Tax Rate	5%	5%
<i>Estimated Additional Revenue</i>	<i>\$1,400,714</i>	<i>\$5,505,295</i>

Possible State Revenues – 9% Retail Tax

The bill would also establish a 9% tax on the total price received by a cannabis retail store for the sale of cannabis or cannabis products. The DRA has no way to determine the amount of cannabis or cannabis products or the prices at which they would be sold by a cannabis retail store. For purposes of calculating a range, the DRA assumed a retail price range from \$220 to \$330 per ounce based on data with respect to New Hampshire. The DRA is also unable to deduct from the calculation the amount of medical cannabis that would remain untaxed.

Summary of Assumptions & Adjustments for Calculation of First Year Potential NH Cannabis Retail Tax Revenues Based on NY Methodology		
<u>Current Consumers of Cannabis</u>	Low	High
Estimated Number of NH Residents Ages 20+ Using Cannabis	130,000	130,000
Tourism Factor	1,563	1,563
<i>Total Estimated Consumers of Cannabis</i>	<i>131,563</i>	<i>131,563</i>

<u>Amount and Price of Cannabis</u>		
Ounces Used per Year per Person	5.0	7.9
Total Estimated Ounces Consumed Annually	657,815	1,039,348
NH Price per an Ounce	\$ 200	\$ 300
<i>Total Illegal Market Sales</i>	<i>\$ 131,563,000</i>	<i>\$ 311,804,310</i>
<u>Estimated Legal Market Price</u>		
Increase Price by 10% per an Ounce	\$ 220	\$ 330
<i>Total Legal Market Sales</i>	<i>\$ 144,719,300</i>	<i>\$ 342,984,741</i>
<u>Estimated Retail Tax Revenue</u>		
Retail Tax @ 9%	\$13,024,737	\$30,868,627

Based on the assumptions and calculations above, the estimated total wholesale and retail revenue to the State will range from \$14.4 million to \$36.4 million in the first year. If people continue to purchase cannabis from the black market instead of retail stores, the DRA range estimate is likely overstated.

The fiscal impact of the bill as it relates to the BPT deduction is indeterminable. The DRA has no way of knowing the amount or effect of the deduction of ordinary and necessary business expenses paid or incurred by a cannabis establishment or an alternative treatment center on BPT revenues. However, as a deduction, it would likely decrease revenues.

Regarding expenditures to administer the excise tax on cannabis, the DRA assumes it would need 5 additional positions at the total salary and benefit costs indicated below. The DRA would also need to an additional \$2,000,000 to implement the new tax into the DRA tax system and to cover other anticipated costs such as the armored car transportation for deposits of tax, updates to secure rooms for holding cash, cash counting machines and other essential items to process the expected increase in cash tax payments.

Additional Full Time Positions	FY 2021	FY 2022	FY 2023	FY 2024
Administrative Secretary ,Labor Grade 14	\$ 0	\$ 65,000	\$ 63,000	\$ 66,000
Administrator III, Labor Grade 31	\$ 0	\$ 106,000	\$ 106,000	\$ 111,000
2 Tax Auditor IV Positions, Labor Grade 29	\$ 0	\$ 200,000	\$ 198,000	\$ 206,000
Attorney I, Labor Grade 30	\$ 0	\$ 103,000	\$ 102,000	\$ 107,000

Totals:	\$ 0	\$ 474,000	\$ 469,000	\$ 490,000
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The Department of Health and Human Services (DHHS) indicates the cost of consulting on the development of an informational handout and preparing a symbol for all cannabis advertising would be minimal, and assumes any printing and distribution costs would be covered by the Cannabis Control fund. The DHHS estimates these costs may range between \$10,000 and \$25,000. The DHHS assumes some of these costs may be covered by the funding provided for public marketing campaigns. The amount of revenue available for DHHS prevention and treatment programs, and public marketing campaigns, is indeterminable. The DHHS assumes the programs and campaigns would be contracted to qualified providers or agencies and it may become necessary hire additional staff to oversee these contracts, as current staff are already working at capacity to monitor the existing portfolio of contracts. The DHHS notes the 2018 Final Report of the Commission to Study the Legalization, Regulation, and Taxation of Marijuana (Chapter 235, Laws of 2017), recommended that future legislation to legalize and commercialize marijuana should require funding of public education on safe use of marijuana as well as addiction and substance misuse treatment. The Commission indicated a range of \$4 to \$5 million per year would be appropriate, and possibly more, depending upon the revenue generated from licensing and taxation. The DHHS indicates the scope of education campaigns or expansion of any treatment capacity would be limited by the available funds and may not be adequate to promote public health and safety.

The Department of Justice indicates it would not be involved in the prosecution offenses related to this bill, which would be handled by municipal prosecutors and the county attorneys. Appeals from any convictions from any such offenses would be handled by the Criminal Justice Bureau and could be done within the current budget. The Attorney General's Drug Task Force investigates street-level crimes that sometimes involve the sale and possession of controlled drugs, including marijuana. If this bill were to pass, the task force's efforts would be redirected away from marijuana cases to those involving other controlled drugs. The Department does not anticipate savings to the task force would result from this bill. The Department indicates the "Cannabis Control Commission" would be a state-level agency, similar to the Liquor Commission or Lottery Commission. As such, the new commission would be a client agency of the Department's Civil Bureau which would handle any litigation involving the new commission. The Department anticipates that the new commission would result in increased requests for legal advice and representation. Since this is a new agency, the Department of Justice cannot estimate the impact the new agency would have upon its staffing or financial needs, but expects those needs would increase.

The Department of Safety indicates it does not have the data available to make an estimate of the fiscal impact. The Department assumes there will be costs associated with laboratory analysis necessary for cannabis infused products seized as evidence. These costs are unknown. There may also be savings as less cannabis would be submitted for analysis due to fewer arrests for cannabis possession. The Department indicates fewer possession of cannabis cases may reduce local law enforcement expenditures, however any such reduction is speculative and cannot be estimated. The number of certified Drug Recognition Experts (DREs) needed throughout the State may need to increase with additional required roadside and/or after arrest evaluations of cannabis-impaired operators. This potential cost is also unknown. The Department suggests any savings from fewer arrests for cannabis possession could be offset by the unrelated charges that consistently accompany cannabis-related arrests such as DUI cases and associated analysis.

The Judicial Branch indicates this bill, which makes it legal to possess personal-use quantities of marijuana, could reasonably be predicted to decrease the number of simple possession cases in the Circuit Courts, thus lessening the volume of cases and lowering revenues from fines. However, the bill also creates a number of new violation-level offenses, which could reasonably be expected to lead to an increase in the volume of cases and increase revenues from fines. In addition, if the bill becomes law, it is likely to increase the ubiquity and availability of marijuana, while at the same time making it illegal to consume marijuana in public. This is likely to increase the number of violation-level offenses and the associated fine revenues. Finally, the bill preserves the illegality of possessing marijuana in larger quantities and preserves the illegality of selling or exchanging marijuana outside of the permitted retail facilities. This would likely have no effect on the number of misdemeanor and felony-level criminal cases brought in the Circuit and Superior Court or on the fine revenue from those proceedings. The Branch assumes the bill would lead to an overall increase in the number of violation-level offenses in the Circuit Court and the fine revenue to the Alcohol Abuse Prevention and Treatment Fund. The Branch expects the increase in workload could be absorbed within its existing resources.

The Judicial Council states the indigent defense system does not get appointed to most stand-alone marijuana possession charges. Any violation level charges resulting from this bill will not impact indigent defense expenditures, as individuals are not entitled to court-appointed counsel for violations. This bill is unlikely to reduce indigent defense expenditures because of the small number of stand-alone marijuana possession charges that implicate the right to counsel. The Council indicates, due to the uncertainty of predicting the number of future cases the impact on indigent defense expenditures is indeterminable, but likely insignificant.

The Department of Corrections indicates the impact is indeterminable as it is not able to predict the number of people who would be impacted by the bill.

The New Hampshire Municipal Association indicates this bill would allow municipalities to restrict the number and type of cannabis establishments within their boundaries, as well as the time, manner, and place of operation of any cannabis facility. Applications to operate cannabis establishments would be submitted to the Cannabis Control Commission and would also be subject to review by the host municipality. The municipality would receive a \$500 fee to review the application, except in the case of small cultivation facilities, for which the municipal fee would be \$75. As distribution of funds to municipalities depends on collections in the Cannabis Control Fund exceeding \$100,000 plus the currently unknown administrative costs, and an as-of-yet-undetermined distribution formula, it is impossible to estimate the amount of any additional municipal revenues. Legalization of cannabis is also likely to affect municipal expenditures, primarily for law enforcement. There may be a reduction in expenditures related to drug enforcement because sale, possession, and use of cannabis by adults will no longer be illegal. At the same time, if legalization results in an increase in usage, there may be an increase in expenditures related to impaired driving enforcement, overdose response, and preventing sale to minors. These effects are speculative and not capable of estimate. Therefore, the Association cannot estimate the effect on municipal expenditures.

The New Hampshire Association of Counties indicates it is not able to determine the number of individuals that this bill would impact, and therefore cannot determine the fiscal impact on county revenues and expenditures.

The Department of Administrative Services assumes this bill would impact three of its divisions:

- The Division of Plant and Property staff will likely support the Cannabis Control Commission in securing a lease for office space.
- The Division of Accounting Services would work with the Department of Revenue Administration (DRA) for the annual financial audit of the anticipated revenues to the State. The bulk of the auditing and reporting responsibility would be to the DRA. The Division of Accounting Services would then incorporate this information into the State's Comprehensive Annual Financial Report.
- The Division of Personnel would support the new Commission and the Governor to establish the Chair position and assist with recruitment and hiring of other commission staff as determined by the Commission. This support would likely continue until the Commission determines, in consultation with DAS, how it will manage its ongoing human resources activities. The Commission may establish its own human resources staff person. If the Department of Administrative Services provides ongoing human

resources and payroll support, the Department and the Commission would need to determine an appropriate reimbursement to the Division of Personnel based on the number of Commission staff and the support required. For the FY 2022-23 biennium, the Department estimates the annual cost for such support will be \$725 per staff person.

- The Department assumes the other work to implement and support this bill could be absorbed within the appropriations anticipated to be available in FY 2022 through FY 2024.

Regarding the costs to establish the Cannabis Control Commission, the Department of Administrative Services assumes the Commission would be a stand-alone executive branch agency with regulatory and licensing authority. Because of the complexity of establishing a new agency, given its licensing, regulatory and enforcement responsibilities to a yet to be established business clientele of cannabis cultivation, distribution and retail entities, the Department is not able to reliably estimate the additional operational costs or State revenue.

It is assumed the fiscal impact of this bill would occur after July 1, 2021.

AGENCIES CONTACTED:

Departments of Administrative Services, Corrections, Health and Human Services, Justice, Revenue Administration, and Safety, the Judicial Branch, Judicial Council, New Hampshire Municipal Association, and New Hampshire Association of Counties