

May 17, 2024  
No. 20A

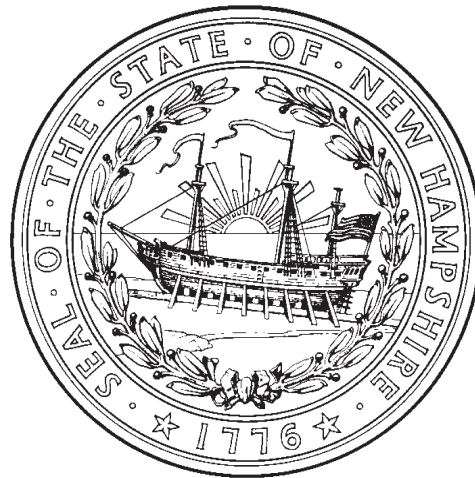
# STATE OF NEW HAMPSHIRE

Website Address: <http://gencourt.state.nh.us>

Senate Meeting Schedule Website Address:  
<http://gencourt.state.nh.us/senate/schedule/dailyschedule.aspx>

All Standing Committee hearings will be livestreamed on the NH Senate's YouTube channel:  
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Links are also available on the Senate Meeting Schedule.



Second Year of the 168<sup>th</sup> Session of the  
New Hampshire General Court

# SENATE CALENDAR ADDENDUM

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**THE SENATE WILL MEET IN SESSION ON  
WEDNESDAY, MAY 22, 2024 AT 11:00 A.M.**

**THE SENATE WILL MEET IN SESSION ON  
THURSDAY, MAY 23, 2024 AT 10:00 A.M.**

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**The Senate Session on Wednesday, May 22, 2024, in the Senate Chamber  
will be live streamed at the following link:**

<https://www.youtube.com/watch?v=9hev9Wi1AxA>

**Please note, this link will not be live until the Senate Session on  
Wednesday, May 22, 2024 at 11:00 a.m.**

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**The Senate Session on Thursday, May 23, 2024, in the Senate Chamber  
will be live streamed at the following link:**

<https://youtube.com/live/0lWO3h5oj7g?feature=share>

**Please note, this link will not be live until the Senate Session on  
Thursday, May 23, 2024 at 10:00 A.M.**

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## **REGULAR CALENDAR REPORTS**

### **FINANCE**

**HB 318-FN-A**, relative to bail commissioners, the standards applicable to and the administration of bail, and making an appropriation.

Ought to Pass with Amendment, Vote 6-1.

Senator Birdsell for the committee.

**HB 463-FN**, relative to the establishment of an election information portal.

Ought to Pass with Amendment, Vote 5-2.

Senator Gray for the committee.

**HB 645-FN**, relative to the establishment of decentralized autonomous organizations as legal entities within the state.

Ought to Pass, Vote 7-0.

Senator Pearl for the committee.

**HB 1076-FN**, relative to wine manufacturer licenses and relative to on-premises licenses for beverage manufacturers.

Ought to Pass, Vote 7-0.

Senator Rosenwald for the committee.

**HB 1105-FN-L**, relative to application of a local tax cap.

Ought to Pass, Vote 6-1.

Senator Birdsell for the committee.

**HB 1179-FN**, relative to state park system fees for retired members of the armed forces.

Ought to Pass, Vote 7-0.

Senator Innis for the committee.

**HB 1202-FN**, relative to the issuance of permits for the alteration of driveways exiting onto public ways.  
Ought to Pass, Vote 7-0.  
Senator Pearl for the committee.

**HB 1282-FN**, relative to the duration of child support.  
Ought to Pass, Vote 7-0.  
Senator Innis for the committee.

**HB 1329-FN**, relative to creating special number plates for fire departments.  
Ought to Pass, Vote 7-0.  
Senator Birdsell for the committee.

**HB 1355-FN**, relative to the New Hampshire National Guard recruitment and reenlistment incentive program.  
Ought to Pass, Vote 7-0.  
Senator D'Allesandro for the committee.

**HB 1380-FN**, relative to brew pub licenses.  
Ought to Pass, Vote 6-1.  
Senator Innis for the committee.

**HB 1394-FN-A**, relative to licensure and regulation of music therapists.  
Interim Study, Vote 7-0.  
Senator Innis for the committee.

**HB 1410-FN**, relative to certain professional licenses.  
Ought to Pass, Vote 6-1.  
Senator Pearl for the committee.

**HB 1451-FN**, relative to mandatory overtime and the calculation of base rate of compensation.  
Inexpedient to Legislate, Vote 5-2.  
Senator Gray for the committee.

**HB 1540-FN**, relative to the definitions of full course meals and full service restaurant for purposes of alcohol licensing.  
Ought to Pass, Vote 7-0.  
Senator Innis for the committee.

**HB 1564-FN**, relative to the child support guidelines.  
Ought to Pass, Vote 7-0.  
Senator Birdsell for the committee.

**HB 1567-FN**, relative to zoning provisions concerning family and group family child care uses.  
Ought to Pass, Vote 7-0.  
Senator Rosenwald for the committee.

**HB 1568-FN**, relative to reimbursement for ambulance services under the state Medicaid plan.  
Ought to Pass, Vote 7-0.  
Senator Birdsell for the committee.

**HB 1569-FN**, relative to eliminating voter identification exceptions.  
Ought to Pass, Vote 4-3.  
Senator Gray for the committee.

**HB 1570-FN-A-L**, requiring the department of education to conduct a facility assessment of public schools and public chartered schools.  
Interim Study, Vote 7-0.  
Senator D'Allesandro for the committee.

**HB 1573-FN**, relative to state oversight of residential treatment programs for children and making an appropriation therefor.  
Ought to Pass, Vote 7-0.  
Senator Innis for the committee.

**HB 1583-FN-A**, relative to the per pupil cost of an opportunity for an adequate education.  
Interim Study, Vote 6-1.  
Senator D'Allesandro for the committee.

**HB 1588-FN**, relative to court jurisdiction over persons receiving special education.  
Ought to Pass with Amendment, Vote 7-0.  
Senator Innis for the committee.

**HB 1589-FN**, establishing a veterans treatment court.  
Ought to Pass with Amendment, Vote 7-0.  
Senator Pearl for the committee.

**HB 1593-FN**, making an appropriation to the department of health and human services to support recreational activities for individuals with developmental disabilities.

Ought to Pass with Amendment, Vote 7-0.

Senator Bradley for the committee.

**HB 1598-FN-A**, relative to the department of health and human services management of social security payments and veterans benefits for children in foster care.

Ought to Pass, Vote 7-0.

Senator Rosenwald for the committee.

**HB 1623-FN**, relative to involuntary retirement or decommissioning of electricity generators.

Ought to Pass, Vote 7-0.

Senator Pearl for the committee.

**HB 1633-FN-A**, relative to the legalization and regulation of cannabis and making appropriations therefor.

Ought to Pass with Amendment, Vote 4-3.

Senator Innis for the committee.

**HB 1649-FN**, relative to prohibiting certain products with intentionally added PFAS.

Ought to Pass, Vote 7-0.

Senator Rosenwald for the committee.

**HB 1666-FN**, relative to income reporting requirements for lobbyists.

Ought to Pass, Vote 7-0.

Senator Pearl for the committee.

## AMENDMENTS

Senate Finance

May 21, 2024

2024-2096s

09/05

### Amendment to HB 318-FN-A

Amend RSA 597:2, III(a)(2) as inserted by section 1 of the bill by replacing it with the following:

(2) If a person is charged with any **other** criminal offense, [~~an offense listed in RSA 173-B:1, I, or a violation of a protective order under RSA 458:16, III, or after arraignment, is charged with a violation of a protective order issued under RSA 173-B,~~] the court may order preventive detention without bail, or, in the alternative, may [~~order~~] **recommend** restrictive conditions including but not limited to electronic monitoring and supervision, only if the court determines by clear and convincing evidence that release will endanger the safety of that person or the public. In determining whether release will endanger the safety of that person or the public, the court may consider all relevant factors presented pursuant to paragraph IV.

Amend RSA 490-K:1 as inserted by section 7 of the bill by replacing it with the following:

490-K:1 Judicial Training Coordinator.

A judicial training coordinator position shall be created on or before July 1, 2025, to work under the direction of the chief justice of the supreme court. The judicial training coordinator shall develop high quality judicial branch training and continuing education programs and work to provide judges, bail commissioners, administrators, and court staff with a reasonable opportunity to fulfill any mandatory orientation and initial required training as well as continuing educational requirements set by the chief justice of the supreme court.

Amend the bill by replacing section 11 with the following:

11 Effective Date.

I. Sections 10 and 11 of this act shall take effect July 1, 2024.

II. Section 7 of this act shall take effect July 1, 2025.

III. The remainder of this act shall take effect January 1, 2025.

Senate Finance  
 May 21, 2024  
 2024-2112s  
 08/06

Amendment to HB 463-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to the establishment of an election information portal and makes an appropriation therefor.

Amend the bill by replacing all after section 3 with the following:

4 Appropriation; Secretary of State. There is hereby appropriated to the secretary of state the sum of \$50,000 for the fiscal year ending June 30, 2025 for the purpose of determining the qualifications of voters. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

5 Appropriation; Department of State; Statewide Voter Registration System (SVRS). The sum of \$450,000 for the biennium ending June 30, 2025, is hereby appropriated to the department of state for the purpose of incorporating additional capabilities into the SVRS such as an election information portal, and maintaining the system. Such funds shall be nonlapsing. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

6 Effective Date. This act shall take effect upon its passage.

Senate Finance  
 May 21, 2024  
 2024-2124s  
 02/05

Amendment to HB 1588-FN

Amend the bill by replacing section 5 with the following:

5 Appropriation; Department of Health and Human Services. Notwithstanding the provisions of RSA 198:39, I, the sum of \$3,000,000 is hereby appropriated from the education trust fund to the department of health and human services for the biennium ending June 30, 2025, for the purposes of this act. The governor is authorized to draw a warrant for said sum out of any money in the education trust fund not otherwise appropriated.

Senate Finance  
 May 21, 2024  
 2024-2118s  
 11/08

Amendment to HB 1589-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Implementation of Veterans Court. RSA 490-I:1 is repealed and reenacted to read as follows:

490-I:1 Implementation of Veterans Court.

I. At least one veterans court shall be established in one circuit court and superior court in each county or district. In the court's discretion, in counties or districts where participation may be low, or where other administrative considerations may exist, a veterans court may be a track of an existing mental health court, may be combined across different counties or districts, may utilize a virtual docket, or may employ such other flexible measures as the court may determine appropriate in order to effectuate the objectives of this statute. The veterans court shall adjudicate, depending on jurisdiction, misdemeanor and felony cases and monitor treatment of veterans and active duty military members with mental illnesses, substance abuse issues, housing instability or homelessness, job instability or unemployment, or a combination of the aforementioned, in an effort to help veterans avoid behavior that would otherwise result in criminal conduct. The chief justice of the superior court and the administrative judge of the circuit court may issue administrative orders regarding veterans courts over which they have administrative authority.

II.(a) In this chapter, “veterans court” means a judicial intervention court based on the 10 key components listed in subparagraph (b).

(b) The 10 key veterans court components are:

(1) Integration of alcohol, drug treatment, and mental health services within the current justice system case processing.

(2) Use of a non-adversarial approach in which prosecution and defense counsel promote public safety while protecting participants’ due process rights.

(3) Early identification of eligible participants and prompt placement in the veterans court.

(4) Access to a continuum of alcohol, drug, mental health, and other related treatment and rehabilitation services.

(5) Use of frequent alcohol and other drug testing to monitor abstinence.

(6) A coordinated strategy to govern veterans courts’ responses to participants’ compliance.

(7) Ongoing judicial interaction with each participant.

(8) Monitoring and evaluation to measure the achievement of program goals and gauge effectiveness.

(9) Continuing interdisciplinary education to promote effective veterans court planning, implementation, and operations.

(10) Partnerships among veterans courts, the Veterans Administration, public agencies, and community-based organizations to generate local support and enhance veterans courts’ effectiveness.

III. When a veteran successfully completes their veterans court-required treatment and any other case requirements, an offender’s case may be disposed of by the judge in the manner prescribed by the agreement and by the applicable policies and procedures adopted by the veterans court. This may include, but is not limited to, withholding criminal charges, dismissal of charges, probation, deferred sentencing, suspended sentencing, split sentencing, or a reduced period of incarceration.

IV. A successful veterans court participant may, at least one year after completion of all programs and conditions imposed by the court, petition for annulment of the charges, arrest, conviction, and sentence that relate to such person’s entry into the veterans court. Nothing in this section shall otherwise supplant or supersede the annulment procedures of RSA 651:5.

V. There is established the veterans court coordinator position under the supervision of the treatment courts coordinator within the administrative office of the courts. The coordinator shall, as appropriate, consult with the chief justice of the superior court or their designee, the administrative judge of the circuit court or their designee, an attorney representative of the state’s county attorneys, an attorney representative of the New Hampshire public defender, an attorney representative of the attorney general’s office, and the veteran’s justice outreach coordinator or the equivalent who is or was already involved with a New Hampshire veteran’s behavioral health track program, to determine how best to design, implement and administer all aspects of veterans courts, taking into account the specific treatment needs of veterans, sharable resources and reproducible designs of existing treatment courts, and the desired outcomes of a treatment court of this nature.

VI. The veterans court may convene a local committee made up of community members who can provide support for the veterans court.

VII. Where a veterans court participant charged with a felony offense must seek treatment through a circuit court drug or behavioral court in the same county, that veteran shall be allowed to participate in that drug or behavioral court even though jurisdiction shall continue to reside with the superior court. Where the veterans court judge is not the same judge overseeing a veteran’s drug or mental health court treatment, the judges and treatment teams of both courts shall coordinate with one another to determine the veteran’s best course of treatment and monitoring.

VIII. This section does not create a right of a veteran or service member to participate in veterans court.

490-I:2 Definitions. In this subdivision:

I. “Guidelines” means, if available, research-based, specific, practitioner-focused veterans court guidance published by the U.S. Department of Veterans Affairs, Substance Abuse and Mental Health Services Administration, National Association of Drug Court Professionals, and other relevant state and federal agencies and organizations.



II. “Coordinator” means the veterans court coordinator or designee within the administrative office of the courts.

III. “Veteran” means:

(a) A current or former member of the active or reserve components of the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Space Force, or United States Coast Guard;

(b) A current or former member of the New Hampshire National Guard;

(c) A current or former contractor for the United States Department of Defense who served in a theater of armed conflict; or

(d) A current or former military member of a foreign allied country who was attached to or under command of United States forces or coalition forces therewith in a combat operations engagement.

IV. “Veterans court” means a veterans treatment court where any veteran, as defined in paragraph III of this section, may be enrolled, should they meet the criteria for admission.

V. Military sexual trauma (MST) means sexual assault or sexual harassment experienced during military service.

#### 490-I:3 Eligibility.

A veteran may be eligible for veterans court if he or she has experienced military sexual trauma or has a service-related mental condition, service-related traumatic brain injury, service-related substance use disorder, or service-related psychological disorder.

#### 490-I:4 Reimbursement Program Created.

I. There is established a statewide veterans court program which shall provide state matching funds as appropriated to support veterans courts in state superior court and circuit court districts as established herein.

II. The veterans court coordinator or designee shall be responsible for developing a process by which counties may receive an annual state reimbursement on a per case basis for operational costs of a veterans court. Subject to approval of the chief justice of the supreme court or designee, the coordinator shall:

(a) Determine approval requirements for reimbursements. Prior to providing reimbursements, the approval checklists shall be posted on the judicial branch website. The checklists shall be updated on the website as revisions are made.

(b) Establish and periodically update guidelines for operating veteran courts.

(c) Develop draft policies and procedures including a participant handbook, program outline, and implementation plan.

(d) Measure recidivism rates and other outcome measures.

(e) Evaluate compliance with relevant standards.

(f) Assist in creating veteran courts in counties seeking to implement or continue them.

(g) Assist counties in obtaining ongoing training.

#### 490-I:5 Eligibility for Reimbursements.

I. For the purpose of providing reimbursements and subject to available state appropriations, counties and districts shall be eligible for an annual reimbursement of up to \$5,000 per case. Counties shall be reimbursed on a first-come, first-served basis. Reimbursements shall be prorated based on the amount of appropriation available. Any state veterans court program funds that are not expended by the end of the fiscal year shall lapse to the general fund.

II. To be eligible for reimbursement, a county operating a veterans court shall receive a recommendation for approval from the coordinator’s office. Reimbursement for all cases shall be paid annually at the end of each fiscal year by the administrative office of the courts following receipt of recommendations by the coordinator and final approval of the chief justice of the supreme court or designee.

III. A county shall make a good faith effort to apply for federal funding to provide as match funds to supplement, but not supplant, state funds, as and where required as a condition of those funds. A county need only apply once.

IV. A county seeking to implement a veterans court may obtain a state reimbursement of up to \$5,000 per case for the costs associated with veterans court establishment, administration, and operation after satisfying the conditions in paragraph III.

V. To obtain reimbursement from the state, a county shall:

(a) Submit a budget for the total cost of the program to the coordinator for review;

(b) Obtain draft policies and procedures from the coordinator, including a participant handbook or program outline and implementation plan, which the county may amend and return to the coordinator for consideration and approval;

(c) Obtain and complete veterans court or veteran offender program training as approved by the coordinator; and

(d) Establish that the veterans court is cost effective.

(e) Based on the information provided in subparagraphs (a)-(d), the office shall recommend court programming for final approval of the chief justice of the supreme court.

VI. The judicial branch administrative office of the courts is authorized to expend from appropriated sums the amounts necessary to fund reimbursements approved by the chief justice of the supreme court or designee.

490-I:6 Report. Beginning with a report due on or before January 1, 2026, the office shall prepare an annual report on the activities, expenditures, operation and outcome measures for the veterans court program. The report shall include the information provided by each county and shall be presented by state superior court district and on a statewide basis. The report shall be forwarded to the speaker of the house of representatives, the president of the senate, and the office of the legislative budget assistant to be posted on the website of the office of the legislative budget assistant. If the required report is not provided by January 30 in any year, the veterans court program shall be suspended until such report is provided.

490-I:7 Veterans Court Special Account. There is hereby established in the state treasury the veterans court special account. The funds may be comprised of public funds, gifts, grants, donations, or any other source of funds, and shall be used for any relevant veterans court administrative purpose deemed appropriate by the chief justice of the supreme court or designee. The account shall be nonlapsing and shall be continually appropriated to the administrative office of the courts.

from the veterans court special account, those funds shall be spent prior to state general funds.

2 Application of Receipts; Veterans Court Special Account Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (394) the following new subparagraph:

(395) Moneys deposited in the veterans court special account fund as established in RSA 490-I:7.

3 Effective Date. This act shall take effect July 1, 2025.

Senate Finance  
May 21, 2024  
2024-2117s  
05/08

#### Amendment to HB 1593-FN

Amend the title of the bill by replacing it with the following:

AN ACT making an appropriation to the department of health and human services to support recreational activities for individuals with developmental disabilities and relative to the uncompensated care and Medicaid fund.

Amend the bill by replacing all after section 1 with the following:

2 Uncompensated Care and Medicaid Fund; Definition of Hospital. RSA 167:63, IV is repealed and reenacted to read as follows:



IV. "Hospitals" mean general acute care hospitals licensed under RSA 151 that provide inpatient and outpatient hospital services, but shall not include government facilities or special hospitals for rehabilitation.

3 Hospital Medicaid Payments and Medicaid Payment Fund. RSA 167:64 is repealed and reenacted to read as follows:

167:64 Hospital Medicaid Payments and Medicaid Payment Fund; Disproportionate Share Hospital Fund.

I. There is hereby established in the state treasury a Medicaid payment fund, which shall consist of the moneys collected pursuant to RSA 84-A. Moneys paid into the fund shall be exempt from any state budget reductions, and the commissioner of the department of health and human services is authorized to expend these funds, together with matching federal funds, as authorized by this section. Investment earnings of the fund shall be credited to the fund. The moneys in the fund shall be nonlapsing and continually appropriated to the department of health and human services for the purpose of making hospital payments and provider payments and to support Medicaid services and Medicaid programs administered by the department of health and human services in accordance with this section.

II. Beginning in state fiscal year 2025 and continuing every state fiscal year thereafter, the commissioner of the department of health and human services shall provide Medicaid payments, subject to the payment conditions set forth in paragraph V, to the hospitals in an amount equal to 93 percent of the money collected pursuant to RSA 84-A in the prior state fiscal year. Payments to the hospitals shall be made in accordance with this section.

III. The commissioner of the department of health and human services shall determine which payment method or methods are used to make the Medicaid payments subject to this section through Medicaid reimbursement for inpatient or outpatient hospital services, Medicaid supplemental payments, managed care directed payments, disproportionate share hospital payment adjustments, or any other Medicaid payment method allowed by the Centers for Medicare and Medicaid Services (CMS). In determining which Medicaid method or methods to utilize and at what percentage for each method, the commissioner shall seek to prevent to the greatest extent possible year over year hospital reimbursement reductions in the aggregate while at the same time achieving the highest available federal match. The commissioner shall work in collaboration with the hospitals in developing those determinations.

IV. All payments made pursuant to this section shall be subject to approval by CMS, and the department shall secure all necessary waivers or approvals to state plan amendments from CMS.

V. Any payments made under this section through directed payments shall comply with 42 CFR 438.6 or any other applicable federal regulation or guidance. The commissioner shall consult with and consider feedback from the hospitals prior to submission of a payment plan to CMS for approval. If CMS does not approve the hospital directed payment plan, the commissioner shall seek to provide payments through increased hospital rates, disproportionate share hospital payments, supplemental Medicaid payments, or any other allowable Medicaid payment method that provides for federal fund matching. For purposes of determining the portion of the payments to the hospitals that are attributable to CMS approved directed payments, the amount shall be the total amount available for the hospitals to earn under any directed payment, including, but not limited to, any amount of a directed payment that is at risk, value-based, or subject to performance conditions. In no event shall the state be liable for any payments the hospitals fail to earn under any CMS approved directed payments.

VI. In the event the commissioner of the department of health and human services determines there has been a change in federal law, regulations, or CMS guidance that materially impacts payments to the hospitals in accordance with this section or a material change in the amount of money collected pursuant to RSA 84-A, the hospitals and commissioner of the department of health and human services shall collaborate on adjustments, and subject to the commissioner's determination, to the payment method or methods that are used to make the hospital payments subject to this section. In determining which Medicaid method or methods to utilize and at what percentage for each method, the commissioner shall seek to prevent to the greatest extent possible year over year hospital reimbursement reductions in the aggregate, while at the same time achieving the highest available federal match.

VII.(a) Disproportionate share hospital payments shall only be made to a hospital that is:

(1) A "deemed disproportionate share hospital" as defined by criteria set forth under 42 U.S.C. section 1396r-4 and is not otherwise receiving a disproportionate share hospital payment; or

(2) Meets the minimum criteria for disproportionate share eligibility under relevant federal statutory changes at 42 U.S.C. 1396r-4(d).

(b) For purposes of this paragraph, a hospital's uncompensated care costs, for purposes of calculating a disproportionate share hospital payment, shall include any charity care cost, and any portion of Medicaid-covered patient care costs unreimbursed by Medicaid payments, that the commissioner determines would meet the criteria under 42 U.S.C. section 1396r-4(g) governing hospital-specific limits on disproportionate share hospital payments under Title XIX of the Social Security Act and the provisions of all federal regulations promulgated thereunder.

VIII. Payment of the federal share of any amount payable under this section to the hospitals is contingent upon New Hampshire receiving those federal funds and any necessary CMS approvals that the department is required to secure pursuant to paragraph IV. In no event shall the state be liable for any payments in excess of such available federal appropriated funds. In the event of a reduction or termination of appropriated federal funds by any federal legislative or executive action that reduces, eliminates, or otherwise modifies the federal appropriation or availability of funding for the federal share, in whole or in part, the commissioner and the hospitals shall collaborate on adjustments, and subject to the commissioner's determination, to the payment method or methods that are used to make the hospitals payments subject to this section. In determining which Medicaid method or methods to utilize and at what percentage for each method, the commissioner shall seek to prevent to the greatest extent possible year over year hospital reimbursement reductions in the aggregate, while at the same time achieving the highest available federal match. The state shall not be required to transfer funds from any other account or source in the event federal funds are reduced or unavailable.

IX. The remaining funds available under this section shall be used to make provider payments and to support Medicaid services and Medicaid programs administered by the department in amounts directed by the budget in each year of the biennium, and from this an amount of at least 7 percent of the money collected pursuant to RSA 84-A in the prior state fiscal year shall be used to support Medicaid services and Medicaid programs administered by the department of health and human services with first priority to funding Medicaid service provider payments to community mental health centers, federally qualified health centers, substance use disorder providers, and other Medicaid service providers as determined by the commissioner of the department of health and human services.

X. One percent of the funds made available for hospital Medicaid payments shall be placed in a separate class line for purposes of the department administering this section.

XI. No hospital shall be entitled to receive any reimbursement under this section unless it meets the definition of a hospital, as defined in RSA 167:63, IV.

XII. For the purpose of making disproportionate share hospital payments only, there is hereby established in the state treasury the disproportionate share hospital fund, which shall be kept separate and distinct from all other funds. All disproportionate share hospital revenue received by the department of health and human services shall be credited to the fund. The moneys in the fund shall be nonlapsing and continually appropriated to the department of health and human services for the purpose of redistributing disproportionate share hospital funds between and among hospitals for compliance with the federally required disproportionate share hospital examinations.

XIII. Prior to implementing any change in the Medicaid payment methodology under paragraph III, VI, or VIII, the commissioner shall submit a document detailing such changes to the fiscal committee of the general court. The document shall be for informational purposes only and fiscal committee approval shall not be required for the department to proceed with implementation.

4 Dedicated Funds; Reference Changed. Amend RSA 6:12, I(b)(338) to read as follows:

(338) Moneys deposited in the [~~uncompensated care and~~] Medicaid *payment* fund **and the disproportionate share hospital fund** established in RSA 167:64.

5 Medicaid Enhancement Tax; Definitions; Reference Change. Amend RSA 84-A:1, VI to read as follows:

VI. “[~~Uncompensated care and~~] Medicaid *payment* fund” [~~means the fund~~] **and “disproportionate share hospital fund” mean the funds** established in RSA 167:64 to reimburse hospitals for costs associated with uncompensated care and shortfalls in publicly funded programs.

6 Medicaid Enhancement Tax; Method of Payment and Deposit of Tax. Amend RSA 84-A:5, I to read as follows:

I. The payments required by RSA 84-A:3 shall be made by electronic transfer of moneys to the state treasurer and deposited to the ~~[uncompensated care and Medicaid fund]~~ **Medicaid payment fund and disproportionate share hospital fund** established by RSA 167:64.

7 Uncompensated Care and Medicaid Fund; Effective June 30, 2028. RSA 167:64 is repealed and reenacted to read as follows:

167:64 Uncompensated Care and Medicaid Fund.

I. There is hereby established in the state treasury an uncompensated care and Medicaid fund which shall consist of the moneys collected pursuant to RSA 84-A. Investment earnings of the fund shall be credited to the fund. Moneys paid into the fund shall be exempt from any state budget reductions, and the commissioner is authorized to expend these funds, together with matching federal funds, as follows:

(a)(1) The commissioner shall provide reimbursement for uncompensated care costs from the uncompensated care and Medicaid fund through either Medicaid rate adjustments, Medicaid supplemental payments, MCO directed payments to hospitals, disproportionate share hospital payment adjustments, or any other allowable Medicaid payment, including a combination thereof, provided however that no hospital shall receive any such reimbursement for uncompensated care costs unless it is a qualified hospital as defined in subparagraph (b)(1). Funds available under this section shall also be used to make provider payments and to support Medicaid services and programs administered by the department in amounts directed by the budget in each year of the biennium.

(2) Expenditure of revenues deposited to the uncompensated care and Medicaid fund shall be made for the following purposes in the following order of priority in fiscal years 2018 through 2024. However, no hospital shall be paid uncompensated care cost payments of more than 100 percent of the governing hospital-specific limit on disproportional share hospital payments under Title XIX of the Social Security Act and the provisions of all federal regulations promulgated thereunder:

(A) To make uncompensated care cost payments, including the state share and matching federal share, to New Hampshire hospitals with and without critical access designation in the following order of priority, and in the following amounts: fiscal year 2018-a sum equaling 92.2 percent of money collected pursuant to RSA 84-A for the fiscal year; fiscal year 2019-a sum equaling 90.2 percent of money collected pursuant to RSA 84-A for the fiscal year; and fiscal years 2020 through 2024-a sum equaling 86 percent of money collected pursuant to RSA 84-A for the fiscal year. Notwithstanding the foregoing sums for each fiscal year, in no event shall the amounts paid to hospitals as uncompensated care cost hospital payments, including the New Hampshire Hospital, in any particular fiscal year exceed the state share for matching the maximum state disproportionate share hospital allotment established under 42 U.S.C. section 1396r-4(f) for that fiscal year plus the matching federal share. If the maximum state disproportionate share hospital allotment established under 42 U.S.C. section 1396r-4(f) for any fiscal year, less the uncompensated care cost hospital payments to be made to New Hampshire Hospital, plus state matching funds equal to the available federal state disproportionate share hospital allotment for uncompensated care cost hospital payments is less than a sum equaling the percentage of money collected pursuant to RSA 84-A for the fiscal year, any remaining amount, including state and federal share, of the foregoing sums equaling the percentage of money collected pursuant to RSA 84-A for the fiscal year shall be paid to the hospitals as supplemental Medicaid payments, MCO directed payments to hospitals, increased hospital service provider rates, or any other allowable Medicaid payment:

(i) To support 75 percent of the uncompensated care costs of New Hampshire's hospitals with critical access designation consistent with the requirements of 42 U.S.C. section 1396r-4(g) and any relevant federal regulations promulgated thereunder to be shared among such hospitals in proportion to the amount of uncompensated care provided;

(ii) To make payments for uncompensated care costs to New Hampshire's hospitals without critical access hospital designation in proportion to the amount of uncompensated care provided by each hospital from the sum equal to the remainder of the percentage of money collected pursuant to RSA 84-A for the fiscal year specified in subparagraph (a)(2)(A).

(iii) If there is a change to the federal definition of uncompensated care costs that would result in a decrease to the calculation in subparagraph (i), the percentage of allowable uncompensated care costs for New Hampshire's hospitals with critical access designation percentage of allowable uncompensated care

costs shall increase from 75 percent to a percentage that would be equivalent to their receiving 75 percent of uncompensated care costs calculated without regard to payments from Medicare or third party payers as allowable on the date of the enactment of this provision, except that no hospital shall be paid disproportionate share hospital payments of more than 100 percent of the governing hospital-specific limit on disproportional share hospital payments under Title XIX of the Social Security Act. If increasing the percentage of the allowable uncompensated care costs would exceed 100 percent of the governing hospital specific limit, any amount in excess shall be paid to the New Hampshire hospitals with critical access designation as supplemental Medicaid payments, MCO directed payments to hospitals, increased hospital service provider rates, or any other allowable Medicaid payments.

(B) To make a payment for uncompensated care costs to each hospital that meets the criteria set forth for “deemed disproportionate share hospitals” as that term is defined under 42 U.S.C. section 1396r-4 up to \$250,000 in each year of the biennium as set forth in subparagraph (b)(1)(A). For fiscal years 2018 and 2019 only, any payment under this subparagraph shall not reduce the payments made under subparagraphs (a)(2)(A)(i)-(iii).

(C) To increase hospital service provider rates in fiscal year 2020 through fiscal year 2024, by an amount equal to 5 percent of the revenue collected pursuant to RSA 84-A for the fiscal year.

(D) Any remaining funds produced from the Medicaid enhancement tax shall be used to support provider payments and to support Medicaid services and programs administered by the department.

(E) Hospitals entitled to payments under subparagraphs (a)(2)(A)(i)-(iii) or (a)(2)(C) have a vested contractual right to receive these payments in fiscal years 2018 through 2024 as limited by paragraph IV.

(b)(1) The commissioner is hereby authorized and directed to develop and implement a schedule of payments for reimbursement of the uncompensated care costs consistent with the level of funding made available for such payments in each year of any biennium, incurred by those hospitals that are qualified as follows:

(A) The hospital is a “deemed disproportionate share hospital” as defined by criteria set forth under 42 U.S.C. section 1396r-4 and is not otherwise receiving a disproportionate share hospital payment; or

(B) The hospital:

(i) Meets the minimum criteria for disproportionate share eligibility under relevant federal statutory changes at 42 U.S.C. 1396r-4(d);

(ii) Is not a special hospital for rehabilitation; and

(iii) Participates in the provider network of the state Medicaid care management program.

(2) The reimbursement of uncompensated care costs paid in state fiscal year 2015 and thereafter shall be in accordance with the schedule of payments to hospitals consistent with this section and shall be structured in a manner that is consistent with all federal laws and regulations governing (i) Title XIX disproportionate share hospital payment adjustments and other rate payments, (ii) conditions for receiving federal financial participation, and (iii) permissible sources of state financial participation as provided for under 42 C.F.R. part 433 and all other applicable federal regulations. Disproportionate share hospital payments shall be made under this paragraph by May 31 in any fiscal year.

(c) For purposes of this section, uncompensated care costs shall include: any charity care cost, and any portion of Medicaid-covered patient care costs unreimbursed by Medicaid payments, that the commissioner determines would meet the criteria under 42 U.S.C. section 1396r-4(g) governing hospital-specific limits on disproportionate share hospital payments under Title XIX of the Social Security Act and the provisions of all federal regulations promulgated thereunder.

(d) One percent of the funds made available for uncompensated care payments shall be placed in a separate class line reserved for the expenses of the department in administering this subdivision.

II. Moneys in the uncompensated care and Medicaid fund shall be continually appropriated to the department for the purposes of this subdivision.

III. The department shall secure all necessary waivers pursuant to 42 C.F.R. section 433.68 and approvals of state plan amendments from the Centers for Medicare and Medicaid Services (CMS).



IV. Payment of the federal share of uncompensated care cost hospital payments, supplemental Medicaid payments, MCO directed payments to hospitals, increased hospital service provider rates, and any other allowable Medicaid payment under this section is contingent upon New Hampshire receiving those federal funds and any necessary CMS approvals that the department is required to secure pursuant to paragraph III.

8 Dedicated Funds; Reference Changed; Effective June 30, 2028. Amend RSA 6:12, I(b)(338) to read as follows:

(338) Moneys deposited in the [~~Medicaid payment fund and the disproportionate share hospital fund~~] ***uncompensated care and Medicaid fund*** established in RSA 167:64.

9 Medicaid Enhancement Tax; Definitions; Reference Change; Effective June 30, 2028. Amend RSA 84-A:1, VI to read as follows:

VI. [~~“Medicaid payment fund” and “disproportionate share hospital fund” mean the funds~~] ***Uncompensated care and Medicaid fund means the fund*** established in RSA 167:64 to reimburse hospitals for costs associated with uncompensated care and shortfalls in publicly funded programs.

10 Medicaid Enhancement Tax; Method of Payment and Deposit of Tax; Effective June 30, 2028. Amend RSA 84-A:5, I to read as follows:

I. The payments required by RSA 84-A:3 shall be made by electronic transfer of moneys to the state treasurer and deposited to the [~~Medicaid payment fund and disproportionate share hospital fund~~] ***uncompensated care and Medicaid fund*** established by RSA 167:64.

11 Effective Date.

I. Sections 2-6 of this act shall take effect July 1, 2024.

II. Sections 7-10 of this act shall take effect June 30, 2028.

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

2024-2117s

#### AMENDED ANALYSIS

This bill:

I. Makes an appropriation to the department of health and human services to fund recreational activities for individuals with developmental disabilities.

II. Temporarily restructures the uncompensated care and Medicaid fund under RSA 167:64 as the Medicaid payment fund and disproportionate share hospital fund, administered by the department of health and human services. The bill sunsets changes to the funding distribution mechanism June 30, 2028.

Senate Finance

May 21, 2024

2024-2138s

09/02

#### Amendment to HB 1633-FN-A

Amend RSA 318-F:1, XXXV(a)(1) as inserted by section 5 of the bill by replacing it with the following:

(1) Two ounces of cannabis flower or cannabis trim or any combination thereof;

Amend RSA 318-F:7 as inserted by section 5 of the bill by inserting after paragraph IV the following new paragraph:

V. The provisions of this section shall not apply with respect to the employment of law enforcement officers. In addition to federal prohibitions on the use of marijuana and the possession of a firearm, law enforcement officers and peace officers shall be prohibited from prior use as identified in New Hampshire police standards and training council rules and any current use while employed as a law enforcement officer or peace officer.

Amend RSA 318-F:12 as inserted by section 5 of the bill by replacing it with the following:

318-F:12 Enforcement Activity Verifying Noncompliance.

It shall be a misdemeanor to sell any cannabis, cannabis product, cannabis accessories, or cannabis paraphernalia to a minor during enforcement activity initiated solely for the purpose of verifying noncompliance with RSA 318-F:5. It shall be a class A misdemeanor to knowingly sell cannabis, cannabis product, or cannabis paraphernalia to a minor at the time of any such enforcement activity. The commission shall retain the right to require the licensee or franchisee in such a circumstance to initiate additional training of its staff or individual employees. This section shall not apply to law enforcement initiatives involving surveillance, investigations, or criminal complaints of RSA 318-F:5.

Amend RSA 318-F:13, II(h) as inserted by section 5 of the bill by replacing it with the following:

(h) Annual mandatory training and continuing education required for licensees, franchisees, and all cannabis retail store employees, which shall include, but not be limited to, training on checking photo identification and for false identification, cannabis use disorder, mental health training, and mandatory reporting criteria. The rules set forth shall be specific as to the amount of annual training that is required and the specific subject matters the licensees, franchisees, and retail store employees are to be trained on each year.

Amend RSA 318-F:13, II(r)(2) as inserted by section 5 of the bill by replacing it with the following:

(2) That testing shall include, but not be limited to, analysis for residual solvents, poisons, or toxins; harmful chemicals; dangerous molds or mildew; filth; dangerous herbicides, pesticides, and fungicides; heavy metals; harmful microbials, such as *E. coli* or salmonella; and such other substances as the commission shall adopt by rule;

Amend RSA 318-F:13, II(s) as inserted by section 5 of the bill by replacing it with the following:

(s) Change in ownership, change in franchise, change in licenses, and changes in location for cannabis establishments.

Amend RSA 318-F:13, III(f)(9) as inserted by section 5 of the bill by replacing it with the following:

(9) Establishing the maximum amount of THC that may be included in each edible cannabis product serving as 10 milligrams and no more than 200 milligrams per package. For all other cannabis products, the cannabis control commission shall determine a maximum cannabis content based upon public health, mental health, and public safety criteria. In determining a maximum cannabis content, the cannabis control commission shall research scientific literature and the policies of other states and countries.

Amend RSA 318-F:13, III as inserted by section 5 of the bill by inserting after subparagraph (g) the following new subparagraph:

(h) Rules to ensure that a minimum of 5 licenses for cannabis cultivation facilities are awarded to independent growers with demonstrated experience in New Hampshire agriculture.

Amend RSA 318-F:14, V(d) as inserted by section 5 of the bill by replacing it with the following:

(d) Opaque, child-resistant packaging, which shall be designed or constructed to be significantly difficult for children under 5 years of age to open and not difficult for adults to use properly as defined by 16 C.F.R. section 1700, et seq. Cannabis and cannabis products may be pre-packaged in opaque, child-resistant packaging or placed in a compliant exit package prior to transfer to a consumer.

Amend RSA 318-F:19 as inserted by section 5 of the bill by replacing it with the following:

318-F:19 Enactment of Municipal Ordinance.

I. Any town or city may allow cannabis retail outlets in their municipality according to the provisions of this subdivision, in the following manner:

(a) In a town, the question shall be placed on the warrant of an annual town meeting under the procedures set out in RSA 39:3, and shall be voted on a ballot. In a city, the legislative body may vote to place the question on the official ballot for any regular municipal election, or, in the alternative, shall place the question on the official ballot for any regular municipal election upon submission to the legislative body of a petition signed by 5 percent of the registered voters.



(b) The selectmen, aldermen, or city council shall hold a public hearing on the question at least 15 days but not more than 30 days before the question is to be voted on. Notice of the hearing shall be posted in at least 2 public places in the municipality and published in a newspaper of general circulation at least 7 days before the hearing.

(c) The wording of the question shall be substantially as follows: “Shall we allow the operation of cannabis establishments within this town or city?”

(d) The recount of any local option vote, the procedures for holding such a recount, the declaration of the results of such a recount, and the procedure for an appeal from such a recount shall be as provided in RSA 660:13 through RSA 660:15.

(e) Notwithstanding any other provision of law to the contrary, the provisions of RSA 664:14 through RSA 664:22 shall apply to any election or meeting at which the voters of a municipality decide the question set forth in this section.

II. If a majority of those voting on the question vote “yes,” cannabis establishments may be operated within the town or city.

III. If the question is not approved, the question may later be voted upon according to the provisions of paragraph I at the annual town meeting or regular municipal election held not less than 3 years after the election or meeting at which the question failed.

IV. A municipality that has voted to allow cannabis retail outlets may consider rescinding its action in the manner described in paragraph I of this section.

V. A municipality may enact an ordinance limiting the number of each type of non-retail cannabis establishment that may be permitted within the municipality.

VI. A municipality may not negotiate or enter into an agreement with a cannabis establishment or a cannabis establishment applicant requiring that the cannabis establishment or applicant provide money, donations, in-kind contributions, services, or anything of value to the locality.

VII. In a municipality that voted to permit cannabis establishments, if the municipality has a zoning ordinance, it shall consider adoption of an innovative land use control pursuant to RSA 674:21, II, specifying where a cannabis establishment will be a permitted use and further provide what, if any, conditions will be placed upon cannabis establishments. If a municipality has passed an innovative land use control relative to cannabis establishments, it shall notify the liquor commission within 90 days of passage. Municipalities without zoning ordinances or which have failed to pass an innovative land use control relative to cannabis establishments will be governed by the provisions of RSA 318-F and administrative rules relating to cannabis establishments enacted pursuant to RSA 541-A. No local ordinance may be less restrictive than the provisions of RSA 318-F or administrative rules enacted pursuant to RSA 541-A.

Amend RSA 318-F:21, III as inserted by section 5 of the bill by replacing it with the following:

III. For the biennium ending June 30, 2025, the sum of \$8,000,000 is hereby appropriated to the liquor commission for the cost of administration of this chapter.

Amend RSA 318-F:21, V(b)-(d) as inserted by section 5 of the bill by replacing it with the following:

(b) Twenty percent shall be allocated to the alcohol abuse prevention and treatment fund established by RSA 176-A. This allocation shall be in addition to any other monies allocated to the fund, and shall be distributed by the governor’s commission on alcohol and drug abuse prevention, treatment, and recovery in the manner established in RSA 12-J and RSA 176-A:1;

(c) Fifteen percent shall be allocated to public safety agencies, including police, fire, and rescue agencies, for the hiring and training of additional drug recognition experts, for advanced roadside impaired driving enforcement training, for reimbursement of local police agencies for salaries of police officers during their attendance at the trainings listed in this subparagraph, and to assist in responding to drug overdose incidents; and

(d) Fifteen percent shall be disbursed to the department of health and human services, division of behavioral health, for the purpose of supporting the children’s system of care.

Amend RSA 318-F:22, I as inserted by section 5 of the bill by replacing it with the following:

I. There shall be a cannabis control commission (“CCC”) to study and approve rules and regulations proposed by the liquor commission on the regulation, public health issues, and business operations of cannabis establishments. The cannabis control commission shall be administratively attached to the liquor commission.

Amend RSA 318-F:22, II(d) as inserted by section 5 of the bill by replacing it with the following:

(d) A prevention specialist, who is currently certified by the prevention certification board of New Hampshire, appointed by the chairman of the governor’s commission on alcohol and other drugs.

Amend RSA 318-F:22, II as inserted by section 5 of the bill by inserting after subparagraph (l) the following new subparagraph:

(m) The commissioner of the department of agriculture, markets, and food, or designee.

Amend the bill by replacing section 30 with the following:

I. The sum of \$100,000 annually to the department of health and human services, for data collection and reporting related to the health impacts of cannabis legalization and regulation under RSA 318-F:10. 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 \$8,000,000 for the fiscal year ending June 30, 2025 is hereby appropriated to the liquor commission for deposit into the cannabis fund established in RSA 318-F:21 for the administration of RSA 318-F. Said appropriation shall be a charge against the liquor fund.

III. For the biennium ending June 30, 2025, the sum of \$500,000 is hereby appropriated to the cannabis fund established in RSA 318-F:21 for the purpose of funding the appropriation in RSA 318-F:21, IV, to the alcohol abuse prevention and treatment fund established by RSA 176-A. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

IV. The sum of \$250,000 for the fiscal year ending June 30, 2025, and the sum of \$250,000 for the fiscal year ending June 30, 2026, are hereby appropriated to the liquor commission for the purpose of hiring a consultant to assist the liquor commission with developing the administrative rules required under this chapter. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

Amend the bill by replacing all after section 31 with the following:

32 Prospective Repeal. RSA 318-F:22, relative to the cannabis control commission, is repealed.

33 Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

34 Effective Date.

I. RSA 318-F:13, RSA 318-F:19, RSA 318-F:20, RSA 318-F:21, and RSA 318-F:22, as inserted by section 5 of this act, shall take effect upon its passage.

II. Section 32 of this act shall take effect July 1, 2029.

III. The remainder of this act shall take effect January 1, 2026.