



# Getting ready for stablecoins

## The GENIUS Act, New Hampshire guidance and tax ramifications

### FINANCE

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In July, Congress passed the Guiding and Establishing National Innovation for U.S. Stablecoins (GENIUS) Act to regulate the issuance of payment stablecoins to foster a new digital means of money transmission.

Payment stablecoins are digital assets that an issuer must redeem for a fixed monetary value. They can be used by individuals and businesses around the world to transfer dollars across borders without the traditional international banking infrastructure.

The GENIUS Act prohibits the issuance of unregulated payment stablecoins. However, the prohibition does not take effect until November 2026. In the interim, bank regulatory agencies, state stablecoin regulators and the U.S. Secretary of the Treasury will be required to issue rules and reports to implement the act.

The Act's main requirements are as follows:

- It requires stablecoins issued to be backed 1:1 by reserves, such as U.S. dollars or Treasury bills.
- It requires stablecoin issuers to establish and disclose stablecoin redemption procedures (for currency), and to issue periodic reports of outstanding stablecoins and reserve composition.
- It requires the issuer reports be "examined" (not audited) by a registered public accounting firm, and that issuers' executives certify the periodic reports.

The GENIUS Act creates both a federal and state regulatory option for stablecoin issuers, which can be subsidiaries of insured depository institutions or non-banks. Any issuers with fewer than \$10 billion in outstanding stablecoins can choose to opt for a state regulatory regime.

The state regulatory regimes are required to certify annually to a "Stablecoin Certification Review Committee," chaired by the U.S. Secretary of the Treasury, that the state's regulatory framework is "substantially similar" to the federal regulatory framework adopted by the GENIUS Act.

The state regulatory option for stablecoin issuance could provide a great opportunity for states such as New Hampshire, which is working to distinguish itself as a first mover in the world of cryptocurrency and stablecoins.

In July 2024, Gov. Chris Sununu signed into law HB 645, which regulates and establishes a separate legal framework for Decentralized Autonomous Organizations (DAOs), arrangements that operate through rules encoded as smart contracts on a blockchain.

DAOs do not have traditional, legal governance structures like those of corporations or limited liability companies. In May 2025, Gov. Kelly Ayotte signed into law HB 302, which permits the state treasurer to invest up to 5% of New Hampshire's money in precious metals and digital currencies.

In July 2025, Ayotte signed HB 310 into law, an act that establishes a commission to study the creation of a regulatory framework for stable tokens and tokenized real-world assets in New Hampshire.

The commission held its first meeting on Sept. 17, 2025, and has a deadline to issue a report by Nov. 1, 2026. Its members include the Honorable Keith Ammon, Chris McAleer and Jim Kofalt, members of the New Hampshire

House of Representatives, the Honorable Tara Reardon and Daryl Abbas, members of the New Hampshire Senate, Deputy Bank Commissioner Michael Moranti from the New Hampshire Banking Department, Attorney Katie Taylor, a designee from the office of the New Hampshire Secretary of State, and Attorney Brandon Garod, a designee from the office of the New Hampshire Attorney General.

According to HB 310, the commission will also include one representative from the blockchain technology industry, appointed by the governor, and one representative from the New Hampshire banking industry, with experience in digital assets, also appointed by the governor.

As New Hampshire moves forward in establishing a regulatory framework for stablecoins, the state should be mindful of the complex tax rules governing cryptocurrencies, which include stablecoins. The GENIUS Act does not classify stablecoins as securities or national currency.

Likewise, stablecoins are not considered U.S. currency for U.S. federal income tax purposes, but instead property. Therefore, any change in market value of a stablecoin, which results in gain or loss upon its disposition, is



taxable. Traders in foreign currency also recognize gain and loss on the change in value of the currency upon disposition.

However, Congress created a de minimis carve-out for personal transactions in foreign currency in 1997 for transactions under \$10,000. There is no similar carve-out for cryptocurrency.

The Infrastructure Investment and Jobs Act, signed into law in November 2021, expanded the federal tax reporting requirements for cryptocurrency transactions.

The definition of a federal reporting broker now includes "any person who (for consideration) is responsible for regularly providing any service effectuating transfers of digital assets on behalf of another person."

Moreover, the Infrastructure Act requires that the gross proceeds and basis of digital asset dispositions must now be reported by such a broker. Further, the Infrastructure Act also requires broker-to-broker reporting for digital asset platforms that transfer digital assets to other digital asset platforms.

Finally, the Infrastructure Act requires businesses to re-

port the receipt of more than \$10,000 in digital assets by amending the cash reporting requirements of the Internal Revenue Code to define cash to include digital assets.

Stablecoins are included in the definition of digital assets for purposes of these federal reporting rules. Therefore, stablecoin issuers that for consideration provide a "service effectuating the coin's transfer" must report a customer's recognized gains and losses in stablecoins to the Internal Revenue Service (IRS).

In addition, they will have to report the transfer of stablecoins to other platforms. Finally, any business must report the receipt of more than \$10,000 in stablecoins to the IRS as well.

Since the passage of the Infrastructure Act, Congress and the IRS have slightly relaxed the cryptocurrency federal tax reporting requirements. In April 2025, Congress passed a law repealing IRS regulations that required decentralized exchanges to also report cryptocurrency gains and losses.

Such exchanges do not hold custody of the cryptocurrencies nor act as agent in the cryptocurrency trades.

In addition, the final IRS regulations governing digital asset reporting do provide a de minimis carve-out for reporting of stablecoin transactions of \$10,000 or less. Further, for stablecoin transactions in excess of \$10,000, the broker/issuer can report the aggregate stablecoin exchanged during the tax year (rather than on a transaction-by-transaction basis).

Stablecoin issuers must not only comply with U.S. federal tax law but also New Hampshire tax law in facilitating digital money transfer. New Hampshire imposes a business profits tax on all business organizations (including partnerships, limited liability companies, sole proprietorships, and other corporate and unincorporated business entities) carrying on business in the state.

The commission should consider how it can effectively apply the New Hampshire business profits tax to any issuer of stablecoins that is licensed under its regulatory regime. A stablecoin issuer licensed by the state of New Hampshire must have nexus with the state to be subject to New Hampshire business profits tax.

New Hampshire applies both physical presence and economic presence tests to determine whether sufficient nexus with the state exists to make a business organization subject to New Hampshire business profits tax.

Among the most difficult determinations in this regard would involve stablecoin issuers that have no contacts with the state other than holding a stablecoin license issued by the state. The commission should consider minimizing any tax uncertainty created by its stablecoin licensing framework.

The new IRS reporting rules and the complex state income tax rules require institutions acting as stablecoin issuers to set up new mechanisms to meet their cryptocurrency tax reporting and payment obligations.

New Hampshire and other states that seek to facilitate seamless use of stablecoins as an alternative to traditional banking would do well to work with their congressional representatives to review and revise the tax laws to integrate the tax reporting rules into this new digital form of money transfer.

The current tax rules benefit large, traditional financial institutions who have existing structures in place to meet their myriad of reporting obligations. To encourage the entrance of digital competitors to such large financial institutions, the tax rules for stablecoins (and cryptocurrency in general) must be refined. **NHBR**