

Amendment to HB 2-FN-A-LOCAL

1 Amend the bill by replacing sections 69-74 with the following:

2

3 69 New Subdivision; Granite State Paid Family Leave Plan. Amend RSA 21-I by inserting after
4 section 95 the following new subdivision:

5

Granite State Paid Family Leave Plan

6

21-I:96 Granite State Paid Family Leave Plan. There is hereby established the granite state
7 paid family leave plan, which shall be implemented under this subdivision and as provided in RSA
8 282-B and RSA 77-E.

9

21-I:97 Purpose and Policy. The purpose of this subdivision is to leverage the purchasing power
10 and economies of scale available to the state when it is acting as purchaser on behalf of state
11 employees and to align this purchasing initiative with a business tax incentive in order to make
12 available to all other public and private employers in the state, on a voluntary basis, advantageously
13 priced family and medical leave insurance (FMLI) wage replacement benefits. By purchasing FMLI
14 coverage for state employees through the medium of commercial insurance, by linking that contract
15 with a contract to make the same coverage available statewide, by acting as premium aggregator for
16 individuals whose employers do not sponsor such coverage, and by introducing a new business tax
17 incentive, the state will position itself to create a market for advantageously priced FMLI benefits.
18 It is the intent of this subdivision to significantly increase the number of employees in the state who
19 receive FMLI wage replacement benefits. The social benefits of increasing the rate of FMLI coverage
20 include attracting and retaining workers, including younger workers, to the state, enabling parents
21 to bond with biological, adopted, or foster children, helping to meet the needs of an aging population,
22 promoting workplace stability, and enhancing worker retention and productivity. While many larger
23 employers provide paid FMLI benefits through self-insurance, this is not feasible for most mid-sized
24 and smaller businesses. The general court therefore finds that it is in the public interest for the
25 state to strategically use its purchasing power and tax expenditure authority to establish a
26 marketplace in the state for advantageously priced FMLI wage replacement benefits.

27

21-I:98 Definitions. In this subdivision:

28

I. "Child" has the same meaning as "son or daughter" in 29 U.S.C. section 2611(12).

29

II. "Commissioner" means the commissioner of the department of administrative services.

30

III. "Department" means the department of administrative services.

31

IV. "Family and medical leave" means leave from work:

32

(a) Because of the birth of a child of the employee, within the past 12 months;

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1 (b) Because of the placement of a child with the employee for adoption or fostering
2 within the past 12 months;

3 (c) Because of a serious health condition of a family member; or

4 (d) Because of any qualifying exigency arising from foreign deployment with the armed
5 forces, or to care for a service member with a serious injury or illness as permitted under the federal
6 Family and Medical Leave Act, 29 U.S.C. section 2612(a)(1)(E) and 29 C.F.R. section 825.126(a)(1)-
7 (8), as they existed on October 19, 2017, for family members as defined in paragraph VI.

8 V. "Family and Medical Leave Act" means the federal Family and Medical Leave Act of
9 1993, Pub.L. 103-3, 29 U.S.C. section 2601 et seq.

10 VI. "Family member" means a "child" as defined in paragraph I, a biological, adoptive, or
11 foster parent, stepparent, or legal guardian of the child or the child's spouse or domestic partner, a
12 biological, adoptive, or foster grandparent or step grandparent, or a spouse or domestic partner.

13 VII. "FMLI" means family and medical leave insurance providing wage replacement benefits
14 under specified conditions.

15 VIII. "Serious health condition" means any illness of a family member covered by the Family
16 and Medical Leave Act including treatment for addiction as prescribed by a treating clinician,
17 consistent with American Society of Addiction Medicine criteria, as well as treatment for a mental
18 health condition, consistent with American Psychiatric Association criteria.

19 IX. "State rate" means the per employee premium amount that is charged by the successful
20 bidder for the state contract for FMLI coverage for state government employees as provided in this
21 subdivision. The state rate shall be expressed as a percentage of wages.

22 21-I:99 Contracting and Administrative Authority.

23 I. The commissioner may solicit information about, seek proposals for, negotiate, enter into,
24 and administer group insurance contracts with duly authorized accident and life insurance carriers
25 as necessary and appropriate to provide to qualifying state employees, at state expense and at no
26 cost to such employees, an FMLI plan of wage replacement as described in this subdivision. The
27 provision of this coverage shall be considered a matter of legislatively established public policy that
28 is designed to benefit all employers and employees in the state and that is "confined exclusively to
29 the public employer by statute" as provided in RSA 273-A:1, XI and shall not be subject to collective
30 bargaining. Nothing in this subdivision shall be construed to invalidate any portion of a collective
31 bargaining agreement entered into by the state.

32 II. The state shall provide to all permanent state employees wage replacement coverage for
33 qualified leave, which shall be available for the same types of leave as protected under the Family
34 and Medical Leave Act except leave for a health condition of the employee. This shall include leave
35 for:

36 (a) The birth of a child and the care of the newborn child within one year of birth;

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1 (b) The placement with the employee of a child for adoption or foster care and the care of
2 the newly placed child within one year of placement;

3 (c) Caring for the employee's spouse, child, or parent who has a serious health condition;
4 or

5 (d) Any qualifying exigency arising out of the fact that the employee's spouse, child, or
6 parent is a covered military member on covered active duty, or caring for a covered service-member
7 with a serious injury or illness if the eligible employee is the service-member's spouse, child, parent,
8 or next of kin.

9 III. Subject to any changes authorized under RSA 21-I:103, the wage replacement benefits
10 under this FMLI plan shall be structured as follows:

11 (a) Eligible employees shall receive 60 percent of their average weekly wage.

12 (b) The maximum duration of wage replacement shall be 6 weeks per year, with no
13 minimum duration required.

14 (c) Wages used to determine the 60 percent FMLI coverage shall be capped at the
15 amount of the Social Security taxable wage maximum as amended from time to time.

16 IV. Except as provided in RSA 21-I:100, III regarding individual pool coverage, the
17 commissioner shall establish, through his or her discretionary authority in administering the
18 request for information and the request for proposals process, the following additional elements of
19 the benefit structure consistent with the purposes and policy of this subdivision:

20 (a) The base period by which the average weekly wage shall be determined.

21 (b) The tenure requirement, expressed in terms of months of work, before an employee is
22 eligible to be covered provided, however, that no tenure requirement shall apply to an employee who
23 has already met the requirement and then changes jobs.

24 (c) A waiting period or elimination period provided, however, that a waiting or
25 elimination period shall not be a required element of the benefit structure, and the commissioner
26 shall have authority to implement a plan with no such requirement.

27 21-I:100 State Employee Coverage Linked to Coverage Offerings for Other Employers and for
28 Individual Employees. The commissioner shall include in the request for proposals for FMLI
29 benefits for state employees a requirement that the winning bidder shall, as a condition of the state
30 contract, also offer the same FMLI coverage to other public employers, private employers, and
31 individual employees on the following terms:

32 I. Private and public non-state employers shall receive a rate that is derived from the state
33 rate through the application of rating factors that are actuarially justified and specified in the bid
34 response.

35 II. Employers who choose to sponsor coverage for their employees shall contract directly
36 with the winning bidder.

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1 III. Individuals who work for employers who choose not to offer FMLI coverage under this
2 subdivision or who fail to meet minimum participation requirements and who do not offer an FMLI
3 benefit that is at least equivalent to the granite state paid family leave plan shall have the
4 opportunity to contract indirectly with the winning bidder through the purchasing pool for family
5 and medical leave insurance authorized under RSA 282-B and administered by the department of
6 employment security. The pool may be experience rated. Coverage through the pool shall include a
7 7-month waiting period, a one-week elimination period, and a 60-day annual open enrollment period
8 as established by the commissioner in the procurement process. Premiums for individual pool
9 coverage shall not exceed \$5 per subscriber per week.

10 IV. The commissioner shall establish, through his or her discretionary authority in
11 administering the request for information and the request for proposals process, the following
12 additional elements of the benefit structure and plan administration specifically for employees of
13 sponsoring non-state employers consistent with the purposes and policy of this subdivision:

- 14 (a) The minimum participation requirement.
- 15 (b) The parameters for open enrollment periods.
- 16 (c) Procedures for contributory plans, partially contributory plans, and non-contributory
17 plans.
- 18 (d) Procedures for payroll deduction and premium remittance.

19 21-I:101 Conditions of Non-State Employer Participation. Participation in the plan by non-state
20 employers shall be voluntary. In addition, non-state employers may choose to provide FMLI at no
21 cost to their employees or on a contributory or partially contributory basis.

22 21-I:102 Procurement Process. The commissioner may issue a request for information or a
23 request for proposals to secure FMLI coverage for all eligible employees of the state of New
24 Hampshire and to make advantageously priced coverage available to all other private and public
25 employers in the state as provided in this subdivision. The department, the department of
26 employment security, and the department of insurance shall jointly evaluate the proposals received
27 in response to the request for proposals. The department shall contract with an insurance carrier or
28 carriers to provide FMLI coverage. The contract with the winning bidder shall be subject to
29 governor and council approval. The selected insurance carrier shall be licensed by the state of New
30 Hampshire and in good standing. The selected insurance carrier shall be subject to all applicable
31 insurance laws and regulations of the state of New Hampshire, and the rates and forms for the
32 FMLI contracts shall be filed for approval with the insurance commissioner.

33 21-I:103 Commissioner Discretion to Adjust Initial FMLI Benefit Structure. In exercising
34 authority under this subdivision to contract for FMLI coverage for state employees and also for the
35 availability of advantageously priced FMLI coverage for employees of all non-state employers, the
36 commissioner shall have discretionary authority in initiating this program to make changes to the
37 benefit structure of the FMLI plan under RSA 21-I:99, III and may retain a consulting actuary or

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1 other benefit advisors in support of this discretionary determination. This discretionary authority
2 shall be exercised in consideration of the stated purposes and policy goals of this subdivision and of
3 the counsels of the FMLI advisory board established in RSA 21-I:104. Any such changes made under
4 this paragraph shall be subject to approval by the governor and council and the legislative fiscal
5 committee prior to implementation and shall be offered by the legislative fiscal committee as an
6 amendment to this subdivision in the next regular session of the general court.

7 21-I:104 Family and Medical Leave Insurance Advisory Board. There is hereby established the
8 family and medical leave insurance advisory board, which shall be administratively attached to the
9 department, and which shall hereinafter be called the FMLI advisory board. The FMLI advisory
10 board shall consist of 9 members to be appointed, with the exception of the legislative members, by
11 the governor. Three of the appointees shall be persons who, because of their vocations, employment,
12 or affiliations, shall represent employers; 3 shall be persons who, because of the vocations,
13 employment, or affiliations, shall represent employees; one shall be a senator appointed by the
14 senate president; one shall be a representative appointed by the speaker of the house of
15 representatives; the remaining appointee, who shall be appointed as chairman, shall be a person
16 whose training and experience qualify her or him to successfully resolve the problems of FMLI
17 procurement, eligibility, benefit design, and program administration. The advisory board shall meet
18 no later than 45 days after each calendar quarter and aid the commissioner in formulating policies
19 and discussing problems related to the implementation and administration of this subdivision and
20 RSA 282-B and in assuring impartiality and freedom from political influence in the solution of such
21 problems. Advisory board meetings shall provide opportunity for public comment.

22 21-I:105 Report and Outreach.

23 I. Working in coordination with the commissioner of administrative services as provided in
24 RSA 282-B:6, I, the department shall produce, on an annual basis, a summary report on the granite
25 state paid family leave plan. This report shall be made public and delivered to the governor, the
26 senate president, and the speaker of the house of representatives. It shall include, but not be limited
27 to, a description of progress in carrying out the processes contemplated under this subdivision,
28 progress in improving the rate of FMLI coverage of employees in the state, and recommendations for
29 more fully achieving the purposes and policy goals of this subdivision.

30 II. Working in coordination with the department of employment security as provided in RSA
31 282-B:6, II, the department shall develop and implement an outreach program to ensure that
32 employers who might benefit from sponsoring FMLI coverage for their employees and individuals
33 who may be eligible to receive FMLI coverage under this subdivision are made aware of this
34 program. Outreach information shall explain in an easy to understand format, eligibility
35 requirements, benefit structures, and the process for accessing coverage, enrolling individuals, and
36 qualifying for the business tax credit provided for in RSA 77-E:3-d.

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1 21-I:106 Rulemaking. The commissioner may adopt rules, pursuant to RSA 541-A, as deemed
2 necessary for the implementation of this chapter.

3 21-I:107 Appropriation and Funding Transfer. The state treasurer shall transfer funds from the
4 general fund to the department of administrative services for payment of the administrative and
5 implementation costs associated with this chapter.

6 21-I:108 Program Start-up. The request for proposals for FMLI coverage as described in this
7 subdivision shall be issued no later than March 31, 2022. The FMLI coverage shall be in place for
8 state government employees and available for purchase by other public and private employers and
9 individuals by January 1, 2023.

10 70 Insurance; Allocation of State Premium Tax. Amend RSA 400-A:32, III to read as follows:

11 III.(a) Except as provided in [~~subparagraph (b)~~] **subparagraphs (b) and (c)**, the taxes
12 imposed in paragraphs I and II of this section shall be promptly forwarded by the commissioner to
13 the state treasurer for deposit to the general fund.

14 (b) Taxes imposed attributable to premiums written for medical and other medical
15 related services for the newly eligible Medicaid population as provided for under RSA 126-AA shall
16 be deposited into the New Hampshire granite advantage health care trust fund established in RSA
17 126-AA:3. The commissioner shall notify the state treasurer of sums for deposit into the New
18 Hampshire granite advantage health care trust fund no later than 30 days after receipt of said taxes.
19 The moneys in the trust fund may be used for the administration of the New Hampshire granite
20 advantage health care program, established in RSA 126-AA.

21 (c) ***Taxes imposed on premiums written by duly authorized insurance***
22 ***companies for family and medical leave insurance written in connection with the***
23 ***administration of RSA 21-I:96 through RSA 21-I:108 or RSA 282-B shall be deposited into***
24 ***the FMLI premium stabilization trust fund established in RSA 282-B:5. The commissioner***
25 ***shall notify the state treasurer of sums for deposit into the FMLI premium stabilization***
26 ***trust fund no later than 30 days after receipt of said taxes.***

27 71 New Chapter; Purchasing Pool for Family and Medical Leave Insurance. Amend RSA by
28 inserting after chapter 282-A the following new chapter:

CHAPTER 282-B

PURCHASING POOL FOR FAMILY AND MEDICAL LEAVE INSURANCE

30 282-B:1 Purpose. The purpose of this chapter is to establish a group purchasing mechanism
31 whereby individuals who work for employers who do not to offer either family and medical leave
32 insurance (FMLI) coverage under the granite state paid family leave plan as authorized under RSA
33 21-I:96 through RSA 21-I:108 or an FMLI benefit that is at least equivalent to such coverage will
34 have the opportunity to purchase granite state paid family leave plan coverage through a mechanism
35 established by the state in conjunction with the state government employee FMLI plan.

36 282-B:2 Definitions. In this chapter:
37

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- 1 I. "Child" has the same meaning as "son or daughter" in 29 U.S.C. section 2611(12).
- 2 II. "Commissioner" means the commissioner of the department of employment security.
- 3 III. "Department" means the department of employment security.
- 4 IV. "Employer" has the same definition as relevant provisions of RSA 282-A:8, except as
5 provided in RSA 282-A:9.
- 6 V. "Employment" means wages paid for services by an employer that is covered by this
7 chapter.
- 8 VI. "Family and medical leave" means leave from work:
- 9 (a) Because of the birth of a child of the employee, within the past 12 months;
- 10 (b) Because of the placement of a child with the employee for adoption or fostering
11 within the past 12 months;
- 12 (c) Because of a serious health condition of a family member; or
- 13 (d) Because of any qualifying exigency arising from foreign deployment with the armed
14 forces, or to care for a service member with a serious injury or illness as permitted under the federal
15 Family and Medical Leave Act, 29 U.S.C. section 2612(a)(1)(E) and 29 C.F.R. section 825.126(a)(1)
16 through (8), as they existed on October 19, 2017, for family members as defined in paragraph VIII.
- 17 (e) A serious health condition of the employee that isn't related to employment and their
18 employer does not offer Short Term Disability insurance.
- 19 VII. "Family and Medical Leave Act" means the federal Family and Medical Leave Act of
20 1993, Pub.L. 103-3, 29 U.S.C. section 2601 et seq.
- 21 VIII. "Family member" means a child, a biological, adoptive, or foster parent, stepparent, or
22 legal guardian of the child or the child's spouse or domestic partner, a biological, adoptive, or foster
23 grandparent or step grandparent, or a spouse or domestic partner.
- 24 IX. "FMLI" means family and medical leave insurance providing wage replacement benefits
25 under specified conditions.
- 26 X. "Individual Pool" means the pooled purchasing mechanism established in this chapter for
27 the purpose of providing individual employees of employers who do not sponsor qualifying FMLI
28 coverage the option to purchase such coverage on an individual basis.
- 29 XI. "Serious health condition" means any illness covered by the federal family and medical
30 leave act including treatment for addiction as prescribed by a treating clinician, consistent with
31 American Society of Addiction Medicine criteria, as well as treatment for a mental health condition,
32 consistent with American Psychiatric Association criteria.
- 33 282-B:3 Employer and Employee Rights and Responsibilities.
- 34 I. Individuals who are employed by private employers who do not to offer either FMLI
35 coverage under the granite state paid family leave plan under RSA 21-I:96 - RSA 21-I:108 or an
36 FMLI benefit that is at least equivalent to such coverage will have the opportunity to purchase
37 granite state paid family leave plan coverage through the individual pool.

1 II. Employers with fewer than 20 employees who wish to purchase FMLI coverage through
2 the granite state paid family leave plan shall have the opportunity to purchase such coverage by
3 making premium remittances into an FMLI premium fund administered by the department as
4 provided in this chapter and established in coordination with the commissioner of administrative
5 services acting pursuant to RSA 21-I:96.

6 282-B:4 FMLI Premium Fund Established. There is established the FMLI premium fund for
7 deposits of insurance premium payments paid pursuant to RSA 282-B:3 and for remittance of such
8 premiums to the FMLI carrier or carriers participating in the granite state paid family leave plan.
9 The department shall develop standard enrollment procedures in coordination with participating
10 carriers and shall transmit enrollment and eligibility information to such carriers on a timely basis.
11 The department shall establish procedures and mechanisms for the billing and collection of
12 premiums from employers. The department shall specify in contracts with participating carriers
13 how all premiums shall be transmitted and the frequency of that transmission and how penalties
14 and grace periods on late payments of premiums shall be calculated. The department may contract
15 with qualified, independent vendors for the services necessary to carry out some or all of the duties
16 under this paragraph.

17 282-B:5 FMLI Premium Stabilization Trust Fund Established.

18 I. There is established the FMLI premium stabilization trust fund which shall be held and
19 accounted for separately from all other funds. Interest, dividends, and other earnings of the fund
20 shall be added to the fund. Deposits into the fund shall be limited exclusively to:

21 (a) Premium taxes imposed on premiums written by duly authorized insurance
22 companies for family and medical leave insurance written in connection with the administration of
23 RSA 21-I:96 through RSA 21-I:108 or RSA 282-B as provided in RSA 400-A:32, III(c); and

24 (b) Gifts, grants, and donations. The moneys in the fund shall not be subject to any
25 state taxes and shall not be subject to any federal taxes to the extent allowed by applicable federal
26 law.

27 II. The moneys in the fund shall constitute a premium stabilization reserve and shall be
28 used exclusively for the purpose of assuring that the premiums charged to participants in the
29 individual pool remain stable from year to year and do not exceed 5 dollars per subscriber per week.
30 The fund shall be administered by the commissioner, who shall be authorized to make such periodic
31 payments to participating FMLI carriers as are necessary to meet the purposes of this paragraph.
32 The department is authorized to contract with qualified, independent vendors for the services
33 necessary to carry out some or all of the duties under this paragraph.

34 282-B:6 Report and Outreach.

35 I. Working in coordination with the commissioner of administrative services as provided in
36 RSA 21-I:105, I the department shall produce, on an annual basis, a summary report on the granite
37 state paid family leave plan. The report shall be made public and delivered to the governor, the

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1 senate president, and the speaker of the house of representatives. It shall include but not be limited
2 to, a description of progress in implementing the provisions of this chapter, payments into and out of
3 the fund, the number of employees in the state participating in the purchasing mechanism, and
4 recommendations for improvement of the program and for further increasing the rate at which New
5 Hampshire employees have FMLI coverage.

6 II. Working in coordination with the department of administrative services as provided in
7 RSA 21-I:105, II, the department shall develop and implement an outreach program to ensure that
8 individuals who may be eligible to receive FMLI benefits under this chapter or under RSA 21-I:96
9 through RSA 21-I:108 are made aware of these benefits. Outreach information shall explain in an
10 easy to understand format, eligibility requirements, benefit structures, and the process for accessing
11 coverage and enrolling.

12 282-B:7 Rulemaking. The commissioner may adopt rules, pursuant to RSA 541-A, as deemed
13 necessary for the implementation of this chapter.

14 282-B:8 Appropriation and Funding Transfer. The state treasurer shall transfer funds from the
15 general fund to the department of employment security for payment of the administrative and
16 implementation costs associated with this chapter.

17 282-B:9 Implementation. The individual pool shall be operational and available for use by
18 individuals on a timetable that is sufficient to ensure that FMLI coverage shall be available for
19 purchase by January 1, 2023.

20 72 New Section; Family Medical Leave Insurance; Discrimination in the Workplace. Amend
21 RSA 275 by inserting after section 37-c the following new section:

22 275:37-d Family and Medical Leave Insurance. If an employer has 20 or more employees and
23 sponsors family and medical leave insurance pursuant to RSA 21-I:96, then any employee of that
24 employer who takes family or medical leave and accesses wage replacement benefits under such
25 family and medical leave insurance coverage shall be restored to the position she or he held prior to
26 such leave or to an equivalent position by her or his employer consistent with the job restoration
27 provisions of the federal Family and Medical Leave Act of 1993, Public Law 103-3, 29 U.S.C. section
28 2601 et seq. Such employers shall continue to provide health insurance to employees during the
29 leave. However, employees shall remain responsible for any employee-shared costs associated with
30 the health insurance benefits. Such employers shall not discriminate or retaliate against any
31 employee for accessing family or medical leave wage replacement benefits. Employers of employees
32 participating in the granite state paid family leave plan may require that paid leave taken under
33 this program be taken concurrently or otherwise coordinated with leave allowed under the terms of a
34 collective bargaining agreement or other established employer policy or the Family and Medical
35 Leave Act, as applicable.

36 73 New Subparagraphs; Application of Receipts. Amend RSA 6:12, I(b) by inserting after
37 subparagraph (364) the following new subparagraphs:

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1 (365) Moneys deposited in the FMLI premium fund established in RSA 282-B:4.

2 (366) Moneys deposited in the FMLI premium stabilization trust fund established in
3 RSA 282-B:5.

4 74 New Section; Business Enterprise Tax; Granite State Paid Family Leave Plan Tax Credit.
5 Amend RSA 77-E by inserting after section 3-d the following new section:

6 77-E:3-e Granite State Paid Family Leave Plan Tax Credit. There shall be a tax credit allowed
7 against the tax due under this chapter in an amount equal to 50 percent of the premium paid by a
8 sponsoring employer for family and medical leave insurance coverage offered to employees pursuant
9 to RSA 21-I:100 for the taxable period in which the premium is paid.

UNAPPROVED

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1 Amend the bill by deleting section 143.

2

3 Amend RSA 12-P:2, I as inserted by section 191 of the bill by replacing it with the following:

4

5 I. There shall be a department of energy under the executive direction of a commissioner of
6 energy and consisting of the divisions of administration, policy and programs, enforcement, and
7 regulatory support.

8

9 Amend RSA 12-P:3, II as inserted by section 191 of the bill by replacing it with the following:

10

11 II. The department of energy is authorized to work with the department of business and
12 economic affairs and the department of administrative services to coordinate the implementation of
13 the establishment of the department, and to transfer appropriations and create the proper
14 expenditure lines, if needed, for the establishment of their respective operations, including but not
15 limited to the relocation of personnel, work stations, books, papers, personnel record files, and
16 equipment, with the approval of the governor and council and of the director of personnel.

17

18 Amend RSA 12-P:11 and 12 as inserted by section 191 of the bill by replacing them with the
19 following:

20

21 12-P:11 Specific Answers. The department or the commission may require any public utility or
22 entity subject to its jurisdiction to make specific answers to questions upon which the department or
23 commission may need information.

24

25 12-P:12 Transfer of Functions, Powers, Duties. All of the functions, powers, duties, records,
26 personnel, and property of the public utilities commission incorporated in the statutes establishing
27 the department of energy and which replace the authority of the commission with the authority of
the department of energy, are hereby transferred, as of July 1, 2021, to the department of energy.

28

29 Amend the bill by inserting after section 191 the following new section:

30

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1 192 Department of Energy; Interim Commissioner. Until appointment of a commissioner under
2 RSA 12-P:4, the governor may initially designate an interim commissioner to serve for up to 60 days
3 from the effective date of this section.

4
5 Amend the bill by replacing section 195 with the following:

6
7 195 Department of Energy; Unclassified Positions Established. The following positions are
8 hereby established in the department of energy, shall be qualified by reason of education and
9 experience, and shall be appointed by the commissioner and perform assigned duties according to
10 applicable law:

<u>Labor Grade</u>	<u>Title</u>	<u>Job Code</u>	<u>Position #</u>
11 GG	Director of Regulatory Support	9U9962	GV008
12 GG	Director of Enforcement	9U9963	GV009
13 GG	Director of Policy & Programs	9U9964	GV010
14 GG	Director of Administration	9U9966	GV012
15 HH	Deputy Commissioner of Energy	9U9967	GV013
16 GG	Utility Analyst IV	9U9969	GV014
17 GG	Utility Analyst IV	9U9970	GV015
18 GG	Utility Analyst IV	9U9971	GV016
19 GG	Utility Analyst IV	9U9972	GV017
20 GG	Utility Analyst IV	9U9973	GV018
21 GG	Utility Analyst IV	9U9974	GV019
22 II	Commissioner of Energy	9U9968	GV020

23
24
25 Amend the bill by replacing section 214 with the following:

26
27 214 Public Utilities Commission; Complaints. Amend RSA 363:39 to read as follows:
28 363:39 Complaints [~~to the Commission~~]. When complaints to the [~~public utilities commission~~]
29 **department of energy** are initiated by residential customers, the [~~commission~~] **department** shall
30 provide to the consumer advocate access to the complaint, by paper or electronically, with the
31 customer name blocked out, at the same time as the [~~commission~~] **department** forwards the
32 complaint to the utility in compliance with [~~commission~~] **department** rules.

33
34 Amend the bill by replacing section 227 with the following:

35
36 227 Site Evaluation Committee; Administrative Attachment. Amend RSA 162-H:3, IV to read
37 as follows:

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1 IV. The committee shall be administratively attached to the ~~[public utilities commission]~~
2 **department of energy** pursuant to RSA 21-G:10.

3
4 Amend RSA 362-F:4, IV(b)(1)(A) as inserted by section 236 by replacing it with the following:

5
6 (A) The Canaan, Gorham, Hooksett, and Jackman hydroelectric facilities ~~[owned~~
7 ~~by Public Service Company of New Hampshire]~~, which had been previously certified by the **public**
8 **utilities** commission on September 23, 2008; and

9
10 Amend the bill by replacing section 242 with the following:

11
12 242 Expenses of Public Utilities Commission Against Certain Utilities; Assessment. Amend
13 RSA 363-A:2, III-IV to read as follows:

14 III. Each entity described in subparagraph I(e) shall be assessed the sum of \$10,000 on an
15 annual basis and shall pay such assessed sum to the ~~[commission]~~ **department of energy**. Each
16 electric load aggregator, and each aggregator of natural gas customers shall be assessed the sum of
17 \$2,000 on an annual basis and shall pay such assessed sum to the ~~[commission]~~ **department of**
18 **energy**. Each telecommunications carrier voluntarily registered with the commission shall be
19 assessed the sum of \$1,000 on an annual basis and shall pay such sum to the ~~[commission]~~
20 **department of energy**.

21 IV. The expenses of the ~~[commission]~~ **department of energy and the public utilities**
22 **commission**, less the total of the assessed sums paid ~~[to the commission]~~ pursuant to paragraph III,
23 shall be allocated to each utility and other assessed entity in direct proportion as the revenue
24 calculation for such utility or other assessed entity relates to the total of all such revenue
25 calculations as a whole, except as otherwise provided in paragraph V. Each such expense allocation
26 shall be assessed against each public utility and other assessed entity in an amount equal to its
27 proportionate share as determined under this section, except that the expense allocation attributed
28 to each entity described in subparagraph I(e) shall be imputed to and included in the expense
29 allocation to each electric or natural gas distribution utility or rural electric cooperative for which a
30 certificate of deregulation is on file with the commission, in correspondence to the revenue portion
31 reported pursuant to paragraph II as having been received from the distribution customers of such
32 distribution utility or the members of such rural electric cooperative for which a certificate of
33 deregulation is on file with the commission.

34
35 Amend the bill by deleting section 245.

36
37 Amend RSA 365:5 as inserted by section 248 of the bill by replacing it with the following:

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1
2 365:5 Independent Inquiry. The commission, on its own motion or upon petition of a public
3 utility, **and the department of energy** may investigate or make inquiry in a manner to be
4 determined by it as to any rate charged or proposed or as to any act or thing having been done, or
5 having been omitted or proposed by any public utility; and ~~[the commission or]~~ shall make such
6 inquiry in regard to any rate charged or proposed or to any act or thing having been done or having
7 been omitted or proposed by any such utility in violation of any provision of law or order of the
8 commission **or the department**.

9
10 Amend RSA 365:37, II as inserted by section 252 of the bill by replacing it with the following:

11
12 II. Whenever the commission institutes a proceeding, or when more than one utility subject
13 to the jurisdiction of the commission shall be involved in a proceeding in which the commission **or**
14 **the department of energy** requires the assistance of experts, accountants or other assistants,
15 regardless of whether they petitioned the commission in the first instance, the commission **and the**
16 **department of energy** may assess the costs of experts, accountants or other assistants hired by the
17 commission **or the department of energy** against the utilities and any other parties to the
18 proceeding. The commission **and the department of energy** shall not, however, assess any such
19 costs against the office of the consumer advocate or against any voluntary corporation, not-for-profit
20 organization, or any municipality unless the municipality is involved in a proceeding before the
21 commission pursuant to RSA 38. In the case of a utility, the assessment of those costs shall be based
22 on the annual revenues of the participating utilities in the same manner as issued in assessing the
23 annual operating expenses of the commission **and the department of energy**, or as appropriate
24 and equitable on a case by case basis. In the case of a party who is not a utility, the assessment of
25 those costs shall be as appropriate and equitable on a case by case basis. Such expenses shall not
26 include any part of the salaries or expenses of the commissioners or of employees of the commission
27 **or of employees of the department of energy** or, unless the proceeding is being conducted
28 pursuant to RSA 38, the fees of experts testifying as to values in condemnation proceedings.

29
30 Amend RSA 366:4 as inserted by section 254 of the bill by replacing it with the following:

31
32 366:4 Failure to File. Any contract or arrangement not filed with the ~~[commission]~~ **department**
33 **of energy** pursuant to RSA 366:3 shall be unenforceable in any court in this state and payments
34 thereunder may be disallowed by the ~~[commission]~~ **department** unless the later filing thereof is
35 approved in writing by the ~~[commission]~~ **department**. **The commission shall disallow payment**
36 **if recommended by the department**.

37

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1
2 Amend RSA 370:5 as inserted by section 257 of the bill by replacing it with the following:

3
4 370:5 Inspection of Meters. The ~~[commission]~~ **department of energy** may provide for the
5 inspection of the manner in which every public utility has carried into effect the reasonable rules,
6 regulations, specifications and standards fixed by ~~[orders of the commission]~~ **rules adopted by the**
7 **department** relative thereto, and may examine and test any meters and appliances for
8 measurements under such reasonable rules and regulations as it may prescribe.

9
10 Amend RSA 374:55, VII as inserted by section 277 of the bill by replacing it with the following:

11
12 VII. The ~~[commission]~~ **department** or any ~~[commission]~~ **department** employee, involved in
13 an underground facility damage prevention program approved by the ~~[commission]~~ **department** and
14 designated by the ~~[commission]~~ **department**, may enforce violations of this subdivision. Any
15 excavator or operator that violates this subdivision shall be subject to the penalties in paragraph
16 VIII. In addition, the ~~[commission]~~ **department** may assess the excavator for expenditures made to
17 collect the civil penalty. Any excavator or operator which suffers damage resulting from violation of
18 this subdivision may petition the ~~[commission]~~ **department** to initiate an enforcement action.

19
20 Amend RSA 374-F:3, III as inserted by section 282 of the bill by replacing it with the following:

21
22 III. Regulation and Unbundling of Services and Rates. When customer choice is introduced,
23 services and rates should be unbundled to provide customers clear price information on the cost
24 components of generation, transmission, distribution, and any other ancillary charges. Generation
25 services should be subject to market competition and minimal economic regulation and at least
26 functionally separated from transmission and distribution services which should remain regulated
27 for the foreseeable future. However, distribution service companies should not be absolutely
28 precluded from owning small scale distributed generation resources as part of a strategy for
29 minimizing transmission and distribution costs. Performance based or incentive regulation should
30 be considered for transmission and distribution services. Upward revaluation of transmission and
31 distribution assets is not a preferred mechanism as part of restructuring. Retail electricity suppliers
32 who do not own transmission and distribution facilities, should, at a minimum, be registered with
33 the ~~[commission]~~ **department**.

34
35 Amend RSA 374-F:3, V(c) as inserted by section 282 of the bill by replacing it with the following:

36

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1 (c) Default service should be designed to provide a safety net and to assure universal
2 access and system integrity. Default service should be procured through the competitive market and
3 may be administered by independent third parties. Any prudently incurred costs arising from
4 compliance with the renewable portfolio standards of RSA 362-F for default service or purchased
5 power agreements shall be recovered through the default service charge. The allocation of the costs
6 of administering default service should be borne by the customers of default service in a manner
7 approved by the commission. If the commission determines it to be in the public interest, the
8 commission may implement measures to discourage misuse, or long-term use, of default service.
9 Revenues, if any, generated from such measures should be used to defray stranded costs.

10
11 Amend RSA 374-F:3, VI as inserted by section 282 of the bill by replacing it with the following:

12
13 VI. Benefits for All Consumers. Restructuring of the electric utility industry should be
14 implemented in a manner that benefits all consumers equitably and does not benefit one customer
15 class to the detriment of another. Costs should not be shifted unfairly among customers. A
16 nonbypassable and competitively neutral system benefits charge applied to the use of the
17 distribution system may be used to fund public benefits related to the provision of electricity. Such
18 benefits, as approved by regulators, may include, but not necessarily be limited to, programs for low-
19 income customers, energy efficiency programs, funding for the electric utility industry's share of
20 commission *and department* expenses pursuant to RSA 363-A, support for research and
21 development, and investments in commercialization strategies for new and beneficial technologies.
22 Legislative approval of the New Hampshire general court shall be required to increase the system
23 benefits charge. [~~This requirement of prior approval of the New Hampshire general court shall not~~
24 ~~apply to the energy efficiency portion of the system benefits charge if the increase is authorized by~~
25 ~~an order of the commission to implement the 3-year planning periods of the Energy Efficiency~~
26 ~~Resource Standard framework established by commission Order No. 25,932 dated August 2, 2016,~~
27 ~~ending in 2020 and 2023, or, if for purposes other than implementing the Energy Efficiency Resource~~
28 ~~Standard, is authorized by the fiscal committee of the general court; provided, however, that]~~ No less
29 than 20 percent of the portion of the funds collected for energy efficiency shall be expended on low-
30 income energy efficiency programs. Energy efficiency programs should include the development of
31 relationships with third-party lending institutions to provide opportunities for low-cost financing of
32 energy efficiency measures to leverage available funds to the maximum extent, and shall also
33 include funding for workforce development to minimize waiting periods for low-income energy audits
34 and weatherization.

35
36 Amend the bill by replacing section 284 with the following:

37

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1 284 Competitive Electricity Supplier Requirements; Participation in Regional Activities. Amend
2 RSA 374-F:7 and 374-F:8 to read as follows:

3 374-F:7 Competitive Electricity Supplier Requirements.

4 I. Competitive energy suppliers are not public utilities pursuant to RSA 362:2, though a
5 competitive energy supplier may seek public utility status from the [~~commission~~] **department** if it
6 so chooses. Notwithstanding a competitive energy supplier's non-utility status, the [~~commission~~]
7 **department** is authorized to establish requirements, excluding price regulation, for competitive
8 electricity suppliers, including registration, registration fees, customer information, disclosure,
9 standards of conduct, and consumer protection and assistance requirements. Unless electing to do
10 so, an electricity supplier that offers or sells at retail to consumers within this state products and
11 services that can lawfully be made available to such consumers by more than one supplier shall not,
12 because of such offers or sales, be deemed to be a public utility as defined by RSA 362:2. These
13 requirements shall be applied in a manner consistent with the restructuring principles of this
14 chapter to promote competition among electricity suppliers.

15 II. Aggregators of electricity load that do not take ownership of power or other services and
16 do not represent any supplier interest are not public utilities pursuant to RSA 362:2, but shall notify
17 the [~~commission~~] **department** of their intent to do business. Municipalities that aggregate electric
18 power or energy services for their citizens pursuant to RSA 53-E are not public utilities pursuant to
19 RSA 362:2 and are not subject to the provisions of paragraph III and RSA 374-F:4-b.

20 III. The **department may investigate and petition the** commission [~~may~~] **to** assess fines
21 against, revoke the registration of, order the rescission of contracts with residential customers of,
22 order restitution to the residential customers of, and prohibit from doing business in the state any
23 competitive electricity supplier, including any aggregator or broker, which is found to have:

24 (a) Engaged in any unfair or deceptive acts or practices in the marketing, sale, or
25 solicitation of electricity supply or related services;

26 (b) Violated the requirements of this section or any other provision of this title
27 applicable to competitive electricity suppliers; or

28 (c) Violated any rule adopted by the [~~commission~~] **department** pursuant to paragraph V
29 and RSA 374-F:4-b.

30 IV. As a condition of operation, for a 2-year interim period from the date that competition is
31 implemented in one or more areas of the state, competitive energy suppliers and load aggregators
32 shall submit to the jurisdiction of the commission for mediation and resolution of disputes between
33 customers and competitive energy suppliers or aggregators. Municipalities that aggregate electric
34 power or energy service for their citizens pursuant to RSA 53-E are not subject to this paragraph.

35 V. The [~~commission~~] **department** shall adopt rules, under RSA 541-A, to implement this
36 section. Where the [~~commission~~] **department** has adopted rules in conformity with this section,

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1 complaints to and proceedings before the commission shall not be subject to RSA 541-A:29 or RSA
2 541-A:29-a.

3 374-F:8 Participation in Regional Activities. The [~~commission~~] **department** shall advocate for
4 New Hampshire interests before the Federal Energy Regulatory Commission and other regional and
5 federal bodies. The commission shall participate in the activities of the New England Conference of
6 Public Utility Commissioners, **and** the National Association of Regulatory Utility Commissioners,
7 and the **department shall participate in the activities of the** New England States Committee on
8 Electricity, or other similar organizations, and work with the New England Independent System
9 Operator and NEPOOL to advance the interests of New Hampshire with respect to wholesale
10 electric issues, including policy goals relating to fuel diversity, renewable energy, and energy
11 efficiency, and to assure nondiscriminatory open access to a safe, adequate, and reliable
12 transmission system at just and reasonable prices. The [~~commission~~] **department** shall advocate
13 against proposed regional or federal rules or policies that are inconsistent with the policies, rules, or
14 laws of New Hampshire. In its participation in regional activities, the commission **and the**
15 **department** shall consider how other states' policies will impact New Hampshire rates and work to
16 prevent or minimize any rate impact the commission **or department** determines to be unjust or
17 unreasonable.

18

19 Amend RSA 378:51, II as inserted by section 291 of the bill by replacing it with the following:

20

21 II. The commission shall open an adjudicative proceeding within 90 days of the effective
22 date of this subdivision, to which all electric and natural gas utilities shall be mandatory parties, to
23 determine:

24 (a) Governance, development, implementation, change management, and versioning of
25 the statewide, multi-use, online energy data platform.

26 (b) Standards for data accuracy, retention, availability, privacy, and security, including
27 the integrity and uniformity of the logical data model.

28 (c) Financial security standards or other mechanisms to assure compliance with privacy
29 standards by third parties.

30

31 Amend the bill by replacing section 292 with the following:

32

33 292 Regional Greenhouse Gas Initiative; Energy Efficiency Fund and Use of Auction Proceeds.

34 Amend RSA 125-O:23 to read as follows:

35 125-O:23 Energy Efficiency Fund and Use of Auction Proceeds.

36 I. There is hereby established an energy efficiency fund. This nonlapsing, special fund shall
37 be continually appropriated to the [~~commission~~] **department of energy** to be expended in

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1 accordance with this section. The state treasurer shall invest the moneys deposited therein, as
2 provided by law. Income received on investments made by the state treasurer shall also be credited
3 to the fund. All programs supported by these funds shall be subject to audit by the [~~commission~~]
4 **department of energy** as deemed necessary. A portion of the fund moneys shall be used to pay for
5 [~~commission~~] **department of energy** and department **of environmental services** costs to
6 administer this subdivision, including contributions for the state's share of the costs of the RGGI
7 regional organization. No fund moneys shall be used by the [~~commission~~] **department of energy** or
8 the department **of environmental services** to contract with outside consultants. The **department**
9 **of energy** [~~commission~~] shall transfer from the fund to the department **of environmental services**
10 such costs as may be budgeted and expended, or otherwise approved by the fiscal committee of the
11 general court and the governor and council, for the department's cost of administering this
12 subdivision.

13 II. All amounts in excess of the threshold price of \$1 for any allowance sale shall be rebated
14 to all retail electric ratepayers in the state on a per-kilowatt-hour basis, in a timely manner to be
15 determined by the commission.

16 III. All remaining proceeds received by the state from the sale of allowances, excluding the
17 amount used for [~~commission~~] **department of energy** and department **of environmental services**
18 administration under paragraph I, shall be allocated by the commission as follows:

19 (a) At least 15 percent to the low-income core energy efficiency program.

20 (b) Beginning January 1, 2014, up to \$2,000,000 annually to utility core programs for
21 municipal and local government energy efficiency projects, including projects by local governments
22 that have their own municipal utilities. Funding elements shall include, but not be limited to,
23 funding for direct technical and project management assistance to identify and encourage
24 comprehensive projects and incentives structured to assist municipal and local governments funding
25 energy efficiency projects. In calendar years 2014, 2015, and 2016, any unused funds allocated to
26 municipal and local government projects under this paragraph remaining at the end of the year shall
27 roll over and be added to the new calendar year program funds and continue to be made available
28 exclusively for municipal and local government projects. Beginning in calendar year 2017, and all
29 subsequent years, funds allocated to municipal and local government projects under this paragraph
30 shall be offered first to municipal and local governments as described in this paragraph for no less
31 than 4 full calendar months. If, at the end of this time, municipal and local governments have not
32 submitted requests for eligible projects that will expend the funds allocated to municipal and local
33 government projects under this paragraph within that program year, the funds shall be offered on a
34 first-come, first-serve basis to business and municipal customers who fund the system benefits
35 charge.

36 (c) The remainder to all-fuels, comprehensive energy efficiency programs administered
37 by qualified parties which may include electric distribution companies as selected through a

1 competitive bid process. The funding shall be distributed among residential, commercial, and
2 industrial customers based upon each customer class's electricity usage to the greatest extent
3 practicable as determined by the commission. Bids shall be evaluated based on, but not limited to,
4 the following criteria:

- 5 (1) A benefit/cost ratio analysis including all fuels.
- 6 (2) Demonstrated ability to provide a comprehensive, fuel neutral program.
- 7 (3) Demonstrated infrastructure to effectively deliver such program.
- 8 (4) Experience of the bidder in administering energy efficiency programs.
- 9 (5) Ability to reach out to customers.
- 10 (6) The validity of the energy saving assumptions described in the bid.

11 IV. The ~~[electric]~~ division of ***policy and programs*** of the ~~[commission]~~ ***department of***
12 ***energy*** shall conduct a competitive bid process for the selection of programs to be funded under
13 subparagraph III(c), with such funding to begin January 1, 2015. The ~~[commission]~~ ***department of***
14 ***energy*** may petition the governor and council to extend existing contracts until such time as the
15 competitive bids are approved by the governor and council, but in no event later than July 1, 2015.
16 The competitive bid process shall be repeated every 3 years thereafter. Before extending any
17 existing program, public comment on the proposed extension shall be accepted.

18 V. Each entity receiving funding under subparagraph III(c) shall file an annual report on
19 the performance of the entity's program. The ~~[commission]~~ ***department of energy*** shall establish
20 the format, content, and the methodologies used to provide the content of the reports. The
21 ~~[commission]~~ ***department of energy*** shall make use of, as applicable and appropriate, the
22 monitoring and verification requirements used in the natural gas and electric utility core programs.
23 The annual reports shall be delivered to the governor, the president of the senate, the speaker of the
24 house of representatives, the chairmen of the senate and house standing committees with
25 jurisdiction over energy matters, ***the commissioner of the department of energy*** and the
26 ~~[chairman]~~ ***chairperson*** of the public utilities commission. The reports shall include, but not be
27 limited to, the following:

- 28 (a) Program expenditures, including direct customer installation costs.
- 29 (b) Resulting actual and projected energy savings by fuel type and associated CO2
30 emissions reductions.
- 31 (c) Any measurement and verification data that corroborate projected savings.
- 32 (d) The number of customers served by the programs.
- 33 (e) Other data as required by the commission in order to determine program
34 effectiveness.

35 293 Effective Date. Unless otherwise specified, the remaining sections of this act shall take
36 effect on July 1, 2021.

Amendment to HB 2-FN-A-LOCAL

1 Amend the bill by replacing sections 102-105 with the following:

2

3 102 Business Profits Tax; Credit Carry-forward Limited; Payments Due With Returns and
4 Estimates. Amend RSA 77-A:7, I(b) to read as follows:

5 (b) If the return required by RSA 77-A:6, I shows an additional amount to be due, such
6 additional amount is due and payable on the prescribed payment date. If such return shows an
7 overpayment of the tax due, the commissioner shall refund or credit the overpayment to the
8 taxpayer in accordance with RSA 21-J:28-a, **except that:**

9 (1) **For taxable periods ending on or after December 31, 2022 a credit shall**
10 **only be allowed in an amount up to 500 percent of the total tax liability for the taxable**
11 **period and the remainder of the overpayment shall be refunded;**

12 (2) **For taxable periods ending on or after December 31, 2025 a credit shall**
13 **only be allowed in an amount up to 250 percent of the total tax liability for the taxable**
14 **period and the remainder of the overpayment shall be refunded; and**

15 (3) **For taxable periods ending on or after December 31, 2027 a credit shall**
16 **only be allowed in an amount up to 100 percent of the total tax liability for the taxable**
17 **period and the remainder of the overpayment shall be refunded.**

18 103 Business Enterprise Tax; Credit Carry-forward Limited; Payments Due With Returns.
19 Amend RSA 77-E:6, II to read as follows:

20 II. If the return required by RSA 77-E:5, I shows an amount to be due, such amount is due
21 and payable on the prescribed payment date. If such return shows an overpayment of the tax due,
22 the commissioner shall refund ~~[such]~~ **or credit the** overpayment to the business enterprise ~~[or shall~~
23 ~~allow the enterprise a credit against a subsequent payment or payment due, to the extent of the~~
24 ~~overpayment, at the enterprise's option]~~ **in accordance with RSA 21-J:28-a, except that:**

25 (a) **For taxable periods ending on or after December 31, 2022 a credit shall only**
26 **be allowed in an amount up to 500 percent of the total tax liability for the taxable period**
27 **and the remainder of the overpayment shall be refunded;**

28 (b) **For taxable periods ending on or after December 31, 2025 a credit shall only**
29 **be allowed in an amount up to 250 percent of the total tax liability for the taxable period**
30 **and the remainder of the overpayment shall be refunded; and**

1 (c) *For taxable periods ending on or after December 31, 2027 a credit shall only*
2 *be allowed in an amount up to 100 percent of the total tax liability for the taxable period*
3 *and the remainder of the overpayment shall be refunded.*

4 104 New Section; Commission to Study Limiting the Business Tax Credit Carry Over. Amend
5 RSA 77-A by inserting after section 7-a the following new section:

6 77-A:7-b Commission to Study Limiting the Business Tax Credit Carry Over.

7 I. There is a established a commission to study limiting the business tax credit carry over.
8 The members of the commission shall be as follows:

9 (a) Four members of the house of representatives, appointed by the speaker of the house
10 of representatives with at least 2 members from the ways and means committee and one member
11 from the finance committee.

12 (b) One member of the senate, appointed by the president of the senate.

13 (c) The treasurer for the state of New Hampshire, or designee.

14 (d) The comptroller for the state of New Hampshire, or designee.

15 (e) The commissioner for the department of revenue administration, or designee.

16 (f) One member representing the accounting or auditing industry, appointed by the
17 governor.

18 II. Legislative members of the commission shall receive mileage at the legislative rate when
19 attending to the duties of the commission.

20 III. The commission's study shall include, but not be limited to, examining the credit carry
21 over for the business profits tax and business enterprise tax, the liability associated with the credit
22 carry over, and the impact of limiting the credit carry over may have on cash flow and liquidity, and
23 make recommendations on future limitations of the credit carry over.

24 IV. The commission may solicit input from any person or entity the commission deems
25 relevant to its study.

26 V. The members of the commission shall elect a chairperson from among the members. The
27 first meeting of the commission shall be called by the first-named house member. The first meeting
28 of the commission shall be held as soon as practical but not later than 30 days of the effective date of
29 this section. Five members of the commission shall constitute a quorum.

30 VI. The commission shall submit a report including its findings and any recommendations
31 for proposed legislation on or before November 1, 2021 to the speaker of the house of representatives,
32 the president of the senate, the house clerk, the senate clerk, the governor, and the state library.

33 105 Repeal. RSA 77-A:77-b, relative to the commission to study limiting the business tax credit
34 carry over., is repealed.

35 106 Effective Date.

36 I. Sections 102-104 of this act shall take effect upon its passage.

37 II. Section 105 of this act shall take effect November 1, 2021.

Amendment to HB 2-FN-A-LOCAL

1 1 New Sections; Animal Records Database. Amend RSA 437 by inserting after section 8 the
2 following new sections:

3 437:8-a Animal Records Database Established.

4 I. The department of agriculture, markets, and food shall design, establish, and contract
5 with a third party for the implementation and operation of an electronic system to facilitate the
6 handling of animal records.

7 II. The department shall maintain a reporting system capable of receiving electronically
8 transmitted records from veterinarians. The commissioner shall adopt rules under RSA 541-A to
9 govern methods of obtaining, compiling, and maintaining such information he or she deems
10 necessary to manage such database including procedures for providing authorized access. The
11 commissioner shall also ensure that the database is secure from unauthorized access or use.

12 III. The commissioner may issue a waiver to a veterinarian who is unable to submit
13 information by electronic means. Such waiver may permit the veterinarian to submit information by
14 paper form or other means, provided all information required by RSA 437:8 is submitted in this
15 alternative format and within the established time limit.

16 IV. The commissioner may grant a reasonable extension to a veterinarian who is unable, for
17 good cause, to submit all the information required by RSA 437:8 within the established time limits.
18 Any veterinarian who in good faith reports to the program as required by RSA 437:8 shall be
19 immune from any civil or criminal liability as the result of such good faith reporting.

20 V. There is established a nonlapsing fund to be known as the animal records database fund
21 in the department of agriculture, markets, and food which shall be kept distinct and separate from
22 all other funds. All moneys in the animal records database fund shall be nonlapsing and continually
23 appropriated to the commissioner, and except as otherwise provided in law, shall be used for the
24 purpose of administering and maintaining the animal records database established in this section.
25 The database fund shall draw moneys only from grants and appropriations.

26 VI. Notwithstanding paragraph V, the fund shall be initiated by transfers from the
27 agricultural product and scale testing fund established under RSA 435:20, IV, as provided in RSA
28 435:20,V, and the integrated pest management fund established under RSA 430:50, as provided in
29 RSA 430:50, IV.

30 437:8-b Confidentiality.

31 I. Information contained in the animal records database under RSA 437:8-a, information
32 obtained from it, and information contained in the records of requests for information from the

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1 database, shall be confidential, and shall not be a public record or otherwise subject to disclosure
2 under RSA 91-A, and shall not be subject to discovery, subpoena, or other means of legal compulsion
3 for release. Such information shall not be shared with an agency or institution, except as provided
4 in this subdivision.

5 II. Information submitted to the animal records database is exempt from public disclosure.
6 Disclosure to local, state, and federal officials is not public disclosure. This exemption shall not
7 affect the disclosure of information used in official local, state, or federal animal health
8 investigations or pet vendor license investigations under this chapter. Database records,
9 information, or lists may be made available pursuant to a court order on a case-by-case basis. Any
10 information, record, or list received pursuant to this paragraph shall not be transferred or otherwise
11 made available to any other person or listed entity not authorized under this paragraph.

12 III. The department shall establish and maintain procedures to ensure the privacy and
13 confidentiality of animal and animal owner information.

14 IV. The department may use and release information and reports from the program for
15 program analysis and evaluation, statistical analysis, public research, public policy, and educational
16 purposes, provided that the data are aggregated or otherwise de-identified.

17 V. No animal records database records, information, or lists shall be sold, rented,
18 transferred, or otherwise made available in whole or in part, in any form or format, directly or
19 indirectly, to another person.

20 VI. Certificates of transfer shall be removed from the animal records database after 4 years.

21 VII. Any person who knowingly accesses, alters, destroys, publishes, or discloses animal
22 records database information except as authorized in this section or attempts to obtain such
23 information by fraud, deceit, misrepresentation, or subterfuge shall be guilty of a class B felony.

24 VIII. Nothing in this section shall limit the right of a person damaged by a violation to
25 pursue any other appropriate cause of action.

26 2 Certificates of Transfer for Dogs and Cats. RSA 437:8 is repealed and reenacted to read as
27 follows:

28 437:8 Certificates of Transfer for Dogs, Cats, and Ferrets.

29 I. For purposes of this chapter, an official certificate of transfer means an electronic record
30 electronically submitted to the animal records database by a licensed veterinarian, containing the
31 name and address of the entity transferring ownership of the dog, cat, or ferret, the age, gender,
32 breed, microchip number, tattoo number, ear tag number, or physical description of the dog, cat, or
33 ferret, and the certification by the veterinarian that the dog, cat, or ferret is free from evidence of
34 communicable diseases or internal or external parasites. A list of all vaccines and medication
35 administered to the dog, cat, or ferret shall be included in the certificate.

36 II. The electronically submitted certificate of transfer shall be considered the official
37 certificate of transfer. A copy of the certificate of transfer of the dog, cat, or ferret offered for

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1 transfer by a licensee shall be kept on the premises where dogs, cats, and ferrets are displayed, and
2 made available for inspection by the department, local officials, or a member of the public upon
3 request up to one year after the animal has left the facility. The public shall be informed of their
4 right to inspect a copy of the certificate of transfer for each dog, cat, or ferret offered for transfer by a
5 sign prominently displayed in the area where dogs, cats, or ferrets are displayed. Upon transfer of a
6 dog, cat, or ferret, a copy of that animal's certificate of transfer shall be given to the transferee in
7 addition to any other documents which are customarily delivered to the transferee.

8 III. For purposes of this chapter, an official certificate of transfer waiver means an electronic
9 record electronically submitted to the animal records database provided in lieu of an official
10 certificate of transfer for a dog, cat, or ferret that has failed the examination for an official certificate
11 of transfer because of a non-contagious illness, feline leukemia, or feline immunodeficiency virus.
12 The waiver shall contain the name and address of the entity transferring ownership of the dog, cat,
13 or ferret; the age, gender, breed, microchip number, tattoo number, ear tag number, or physical
14 description of the dog, cat, or ferret; the reason for failure of the examination for the official
15 certificate of transfer; and the signature of the transferee indicating that the transferee has
16 knowledge of the dog's, cat's, or ferret's non-contagious medical condition. A list of all vaccines and
17 medication administered to the dog, cat, or ferret shall be included in the certificate of transfer
18 waiver. The waiver shall be submitted electronically to the animal records database by a New
19 Hampshire licensed veterinarian.

20 IV. No person, firm, corporation, or other entity shall ship or bring into the state of New
21 Hampshire, to offer for transfer in the state of New Hampshire, any cat, dog, or ferret less than 8
22 weeks of age. No person, firm, corporation, or other entity shall offer for transfer any cat, dog, or
23 ferret less than 8 weeks of age.

24 V. Once a dog, cat, or ferret intended for transfer has entered the state, it shall be held at
25 least 48 hours at a facility licensed under RSA 437 or at a facility operated by a licensed veterinarian
26 separated from other animals on the premises before being offered for transfer.

27 VI. Animal shelter facilities, as defined in RSA 437:1, I, are exempt from the requirements
28 of this section relative to transferring dogs, cats, and ferrets except that:

29 (a) All animal shelter facilities shall have on premises a microchip scanner and shall
30 maintain a file of recognized pet retrieval agencies, including but not limited to national tattoo or
31 microchip registries.

32 (b) Where an owner is not known, all animal shelter facilities shall inspect for tattoos,
33 ear tags, or other permanent forms of positive identification and shall scan for a microchip upon
34 admission of an unclaimed or abandoned animal as defined in RSA 437:18, IV and prior to
35 transferring ownership of an unclaimed or abandoned animal.

36 VII. No dog, cat, or ferret shall be offered for transfer by a licensee or by any individual
37 without first being protected against infectious diseases using vaccines approved by the state

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1 veterinarian. No dog, cat, or ferret shall be offered for transfer by a licensee or by any individual
2 unless accompanied by a copy of the official certificate of transfer or official certificate of transfer
3 waiver issued by a licensed veterinarian within the prior 14 days. No transfer shall occur unless the
4 transferred animal is accompanied by a copy of the official certificate of transfer or official certificate
5 of transfer waiver. The official certificate of transfer or official certificate of transfer waiver shall
6 reside in the animal records database. Copies shall be provided to the veterinarian, transferor, and
7 the transferee, who shall retain copies for their records. The transferor shall retain a copy for his or
8 her records. If an official certificate of transfer or official certificate of transfer waiver is produced, it
9 shall be prima facie evidence of transfer.

10 3 New Subparagraph; Animal Records Database Fund. Amend RSA 6:12, I(b) by inserting after
11 subparagraph (364) the following new subparagraph:

12 (365) Moneys deposited in the animal records database fund established in RSA
13 437:8-a, V.

14 4 New Paragraph; Agricultural Product and Scale Testing Fund; Transfer Authority. Amend
15 RSA 435:20 by inserting after paragraph IV the following new paragraph:

16 V. The commissioner shall transfer funds from the agricultural product and scale testing
17 fund established under RSA 435:20, IV to the animal records database fund established in RSA
18 437:8-a to develop and make operational the animal records database. The commissioner shall
19 certify to the secretary of state and the director of the office of legislative services the date on which
20 the animal records database is operational. For 2 years after such certification, if needed for
21 database operation and maintenance, the commissioner may continue to transfer additional funds
22 from the agricultural product and scale testing fund to the animal records database fund for this
23 purpose.

24 5 New Paragraph; Integrated Pest Management Fund; Transfer Authority. Amend RSA 430:50
25 by inserting after paragraph III the following new paragraph:

26 IV. The commissioner shall transfer funds from the integrated pest management fund
27 established in this section to the animal records database fund established in RSA 437:8-a to develop
28 and make operational the animal records database. The commissioner shall certify to the secretary
29 of state and the director of the office of legislative services the date on which the animal records
30 database is operational. For 2 years after such certification, if needed for database operation and
31 maintenance, the commissioner may continue to transfer additional funds from the integrated pest
32 management fund to the animal records database fund for this purpose.

33 6 Repeals. The following are repealed:

34 I. RSA 430:50, IV, relative to the authority of the commissioner of the department of
35 agriculture, markets, and food to transfer funds from the integrated pest management fund.

36 II. RSA 435:20, V, relative to the authority of the commissioner of the department of
37 agriculture, markets, and food to transfer funds from the agricultural product and scale testing fund.

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1 7 Applicability; Effective Dates.

2 I. Section 2 of this act shall take effect 90 days after the commissioner of the department of
3 agriculture, markets, and food certifies to the secretary of state and the director of the office of
4 legislative services that the animal records database established in RSA 437:8-a is operational.

5 II. Section 6 of this act shall take effect 2 years from the date on which the commissioner of
6 the department of agriculture, markets, and food certifies to the secretary of state and the director of
7 the office of legislative services, that the animal records database established in RSA 437:8-a is
8 operational.

9 8 Appropriation. The sum of \$250,000 for the fiscal year ending June 30, 2023 is hereby
10 appropriated to the department of agriculture, markets, and food for the maintenance of the animal
11 records database. These appropriations are in addition to any other funds appropriated to the
12 department of agriculture, markets, and food. The governor is authorized to draw a warrant for said
13 sums out of any money in the treasury not otherwise appropriated.

14 9 Position Established. The classified position of IT Manager III is established in the
15 department of information technology to develop and administer the animal records database
16 established in RSA 437:8-a.

17 10 Effective Date.

18 I. Section 2 of this act shall take effect as provided in paragraph I of section 7 of this act.

19 II. Section 6 of this act shall take effect as provided in paragraph II of section 7 of this act.

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2021-0919h

AMENDED ANALYSIS

Add:

1. Creates a database for animal records; renames animal health certificates as certificates of transfer; authorizes the commissioner of the department of agriculture, markets, and food to transfer money to and from certain funds in order to establish the animal record database and to repay monies transferred from other funds; and establishes a position in the department of information technology for the building and management of the animal records database.

UNAPPROVED

Amendment to HB 2-FN-A-LOCAL

1 1 Application of Emergency Orders.

2 I. The state hereby recognizes that the issuance of multiple executive orders may have
3 created undue hardship or confusion and contributed to the stressful environment for business
4 operations, particularly small business entities. The penalties associated with violations of these
5 orders, while issued in the interest of public health, should not unduly penalize law-abiding
6 businesses.

7 II. Notwithstanding any provision of law to the contrary, state, county, and local
8 jurisdictions shall not enforce, and shall reverse, any violation of the governor's emergency orders
9 regarding the COVID-19 pandemic.

10 III. Any business fines issued under executive or emergency orders issued in response to
11 COVID-19 or in accordance with RSA 4:47 shall be refunded. The governor is hereby authorized to
12 draw a warrant for up to \$10,000 for this purpose out of any money in the treasury not otherwise
13 appropriated.

14 IV. The attorney general shall request that the court dismiss any pending enforcement
15 action related to violation of an emergency order issued by the governor in response to the COVID-19
16 pandemic.

17 V. Any record of violation or written warning for such violations shall be expunged if
18 requested in writing, and such records shall not be admissible in any subsequent or future court
19 proceeding. Notwithstanding the provisions of RSA 651:5, IX, there shall be no charge to the
20 petitioner for expungement of these records.

2021-0914h

AMENDED ANALYSIS

Requires violations of the governor's emergency orders regarding the Covid-19 pandemic to be reversed.

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1 inherently racist or are inherently inclined to oppress others, or that members of a sex are
2 inherently sexist or inclined to oppress others.

3 V. "The state of New Hampshire" means all agencies and political subdivisions of the state
4 of New Hampshire, including counties, cities, towns, school districts, and the state university
5 system.

6 VI. "Student" means any and all students of any school district, school, college, or university
7 which receives grants, funds, or assets from the state of New Hampshire.

8 10-C:2 Unlawful Propagation of Divisive Concepts.

9 I. Requirements for the state of New Hampshire:

10 (a) The state of New Hampshire shall not teach, instruct, or train any employee,
11 contractor, staff member, student, or any other individual or group, to adopt or believe any of the
12 divisive concepts defined in RSA 10-C:1, II.

13 (b) No employee, contractor, staff member, or student of the state of New Hampshire
14 shall face any penalty or discrimination on account of his or her refusal to support, believe, endorse,
15 embrace, confess, act upon, or otherwise assent to the divisive concepts defined in RSA 10-C:1, II.

16 II. Requirements for government contractors:

17 (a) All state contracts entered into on or after the effective date of this chapter shall
18 include the following provision:

19 "During the performance of this contract, the contractor agrees as follows:

20 The contractor shall not use any workplace training that inculcates in its employees any form of race
21 or sex stereotyping or any form of race or sex scapegoating, including the concepts that: (a) one race
22 or sex is inherently superior to another race or sex; (b) an individual, by virtue of his or her race or
23 sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously; (c) an individual
24 should be discriminated against or receive adverse treatment solely or partly because of his or her
25 race or sex; (d) members of one race or sex cannot and should not attempt to treat others without
26 respect to race or sex; (e) an individual's moral character is necessarily determined by his or her race
27 or sex; (f) an individual, by virtue of his or her race or sex, bears responsibility for actions committed
28 in the past by other members of the same race or sex; (g) any individual should feel discomfort, guilt,
29 anguish, or any other form of psychological distress on account of his or her race or sex; or (h)
30 meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular
31 race to oppress another race. The term "race or sex stereotyping" means ascribing character traits,
32 values, moral and ethical codes, privileges, status, or beliefs to a race or sex, or to an individual
33 because of his or her race or sex, and the term "race or sex scapegoating" means assigning fault,
34 blame, or bias to a race or sex, or to members of a race or sex because of their race or sex."

35 (b) The contractor shall send to each labor union or representative of workers with
36 which the contractor has a collective bargaining agreement or other contract or understanding, a
37 notice, to be provided by the agency contracting officer, advising the labor union or workers'

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1 representative of the contractor's commitments under this section, and shall post copies of the notice
2 in conspicuous places available to employees and applicants for employment.

3 (c) In the event of the contractor's noncompliance with the requirements of this section,
4 or with any rules, regulations, or policies that may be promulgated in accordance with this section,
5 the contract may be canceled, terminated, or suspended in whole or in part and the contractor may
6 be declared ineligible for further government contracts.

7 (d) The contractor shall include the provisions of this section in every subcontract or
8 purchase order unless exempted by rules, regulations, or policies of the department of administrative
9 services, so that such provisions shall be binding upon each subcontractor or vendor. The contractor
10 shall take such action with respect to any subcontract or purchase order as may be directed by the
11 department of administrative services as a means of enforcing such provisions including sanctions
12 for noncompliance.

13 III. The department of administrative services, or an agency designated by the department
14 of administrative services, is directed to investigate complaints received alleging that a state
15 contractor is utilizing such training programs in violation of the contractor's obligations under the
16 binding provisions of this section. The department shall take appropriate enforcement action and
17 provide remedial relief, as appropriate.

18 IV. The heads of all agencies shall review their respective grant programs and identify
19 programs for which the agency may, as a condition of receiving such a grant, require the recipient to
20 certify that it will not use state funds or assets to promote any of the divisive concepts defined in
21 RSA 10-C:1, II.

22 V. Requirements for agencies.

23 (a) The fair and equal treatment of individuals is an inviolable principle that must be
24 maintained in the state workplace. Agencies should continue all training that will foster a
25 workplace that is respectful of all employees. Accordingly:

26 (1) The head of each agency shall use his or her authority under to ensure that the
27 agency, agency employees while on duty status, and any contractors hired by the agency to provide
28 training, workshops, forums, or similar programming, for purposes of this section, "training," to
29 agency employees do not teach, advocate, act upon, or promote in any training to agency employees
30 any of the divisive concepts listed in RSA 10-C:1; and

31 (2) Agency diversity and inclusion efforts shall, first and foremost, encourage agency
32 employees not to judge each other by their color, race, ethnicity, sex, or any other characteristic
33 protected by federal or state law.

34 (b) The commissioner of the department of administrative services, pursuant to RSA
35 541-A, shall develop regulations for the enforcement of the provisions of this statute.

36 (c) Each agency head shall:

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1 (1) Issue a policy incorporating the requirements of this chapter into agency
2 operations, including by making compliance with the policy a provision in all agency contracts;

3 (2) Request that the agency thoroughly review and assess not less than annually
4 thereafter, agency compliance with the requirements of the policy in the form of a report submitted
5 to the department of administrative services; and

6 (3) Assign at least one senior political appointee responsibility for ensuring
7 compliance with the requirements of the policy.

8 VI. Review of agency training.

9 (a) All training programs for state agency employees relating to diversity or inclusion
10 shall, before being used, be reviewed by the department of administrative services for compliance
11 with the requirements of RSA 10-C:2, V.

12 (b) If a contractor provides a training for agency employees relating to diversity or
13 inclusion that teaches, advocates, or promotes the divisive concepts defined in RSA 10-C:1, II, and
14 such action is in violation of the applicable contract, the agency that contracted for such training
15 shall evaluate whether to pursue debarment of that contractor, consistent with applicable law and
16 regulations.

17 10-C:3 General Provisions.

18 I. Nothing in this chapter shall prevent agencies or contractors from promoting racial,
19 cultural, or ethnic diversity or inclusiveness, provided such efforts are consistent with the
20 requirements of this chapter.

21 II. Nothing in this chapter shall be construed to prohibit discussing, as part of a larger
22 course of academic instruction, the divisive concepts listed in RSA 10-C:1, II in an objective manner
23 and without endorsement.

24 III. If any provision of this chapter, or the application of any provision to any person or
25 circumstance, is held to be invalid, the remainder of this chapter and the application of its provisions
26 to any other persons or circumstances shall not be affected thereby.

27 2. Effective Date. This act shall take effect January 1, 2022.

2021-0925h

AMENDED ANALYSIS

1. Defines and prohibits the dissemination of certain divisive concepts related to sex and race in state contracts, grants, and training programs.

UNAPPROVED