

Amendment to HB 2-FN-A-LOCAL

1 1 New Paragraph; Bank Commissioner; Public Deposit Investment Pool. Amend RSA 383:22 by
2 inserting after paragraph IV the following new paragraph:

3 V. The commissioner shall charge the public deposit investment pool any actual costs
4 incurred by the department for the operation of the pool as well as any expenses of department
5 personnel assisting in the operation of the pool. The cost for personnel assisting in the operation of
6 the pool shall be determined in accordance with the per diem examination charge established in RSA
7 383:11, I, provided that the requirement that no entity shall be charged or pay less than one full day
8 shall not apply. The private investment advisor retained under paragraph II shall be responsible for
9 processing any invoice submitted for the actual costs incurred by the department and the expenses of
10 department personnel under this paragraph.

2021-0635h

AMENDED ANALYSIS

1. Requires the bank commissioner to charge the public deposit investment pool for actual costs incurred by the banking department to operate the pool.

UNAPPROVED

Amendment to HB 2-FN-A-LOCAL

1 Amend RSA 21-I:30, XVII as inserted by section 9 of the bill by replacing it with the following:

2

3 XVII. The cost sharing and plan design for unrepresented active state employees who
4 participate in the health plans offered by the state shall be the same as those for individuals covered
5 by the collective bargaining agreement between the state of New Hampshire and the State
6 Employees' Association of New Hampshire, Inc. Changes to the above plan design cost sharing
7 provisions consistent with RSA 21-I:30, I are permitted with the prior approval of the fiscal
8 committee of the general court. The cost sharing and plan designs for represented active state
9 employees who participate in the health plans offered by the state shall be in accordance with the
10 provisions of the collective bargaining agreements between the state and the employee organizations
11 representing those employees.

UNAPPROVED

Amendment to HB 2-FN-A-LOCAL

1 Amend the bill by replacing section 127 with the following:

2

3 127 Workers' Compensation; Appeals Board. Amend RSA 281-A:42-a, III to read as follows:

4 III. Attorney members of the board shall receive \$400 per diem and all other members of the
5 board shall each receive \$250 per diem for each day devoted to ~~the work~~ hearings of the board and
6 shall be reimbursed for necessary travel expenses. ***Such per diems shall be prorated to an***
7 ***hourly rate for other related work performed by board members.***

UNAPPROVED

Amendment to HB 2-FN-A-LOCAL

1 1 Tax Expenditure Report; Weighted Apportionment Factors Removed. Amend RSA 71-C:2 to
2 read as follows:

3 71-C:2 Tax Expenditures Specified. Tax expenditures include, but may not be limited to, the
4 community development finance authority investment tax credit as computed in RSA 162-L:10; the
5 economic revitalization zone tax credit as computed in RSA 162-N:6; the research and development
6 tax credit under RSA 77-A:5, XIII; the Coos county job creation tax credit under RSA 77-E:3-c; the
7 education tax credit as computed in RSA 77-G:4; ~~the weighted apportionment factors under RSA 77-~~
8 ~~A:3, II(a);~~ **the regional career and technical education center tax credit pursuant to RSA**
9 **188-E:9-a;** and the exemption for qualified regenerative manufacturing companies allowed under
10 RSA 77-A:1, I and RSA 77-E:1, III.

11 2 Business Profits Tax; Single Sales Factor; Amendment to Prospective Amendment. 2019,
12 346:426, prospectively amending RSA 77-A:3, I-III, are repealed and reenacted to read as follow:

13 346:426 Business Profits Tax; Apportionment; 2026. RSA 77-A:3, I-III are repealed and
14 reenacted to read as follows:

15 I. A business organization which derives gross business profits from business activity both
16 within and without this state, and which is subject to a net income tax, a franchise tax measured by
17 net income, or a capital stock tax in another state or is subject to the jurisdiction of another state to
18 impose a net income tax or capital stock tax upon it, whether or not such tax is actually imposed,
19 shall apportion its gross business profits so as to allocate to this state a fair and equitable proportion
20 of such business profits. Except as provided in this section, such apportionment shall be made in the
21 following manner:

22 (a) For taxable periods ending before December 31, 2026:

23 (1) The business organization's gross business profits shall be apportioned on the
24 basis of the following 3 factors:

25 (A) The percentage of value of the total real and tangible personal property
26 owned, rented and employed by the business organization everywhere as is owned, rented and
27 employed by it in the operation of its business in this state. Property owned by the business
28 organization shall be valued at its original cost. Property rented by the business organization shall
29 be valued at 8 times the net annual rental rate. Net annual rental rate is the annual rental rate
30 paid by the business organization less any annual rental rate received by the business organization
31 from subrentals.

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1 (B) The percentage of total compensation paid by the business organization to
2 employees everywhere as is paid by the business organization to employees for services rendered
3 within this state. Such compensation is deemed to be disbursed for services in this state if the
4 service is performed entirely within this state, or if the service is performed both within and without
5 this state and the service performed without this state is incidental to the service within this state,
6 or some of the service is performed in this state and (i) the base of operations or, if there is no base of
7 operations, the place from which the service is directed or controlled is in this state, or (ii) the base of
8 operations or the place from which the service is directed or controlled is not in any state in which
9 some part of the service is performed, but the individual performing such service resides within this
10 state.

11 (C) The percentage of the total sales, including charges for services, made by the
12 business organization everywhere as is made by it within this state:

13 (i) Sales of tangible personal property are made in this state if the property
14 is delivered or shipped to a purchaser, other than the United States government, within this state
15 regardless of f.o.b. point or other conditions of sale, or the property is shipped from an office, store,
16 warehouse, factory or other place of storage in this state and the purchaser is the United States
17 government, or the business organization is not taxable in the state of the purchaser.

18 (ii) Sales other than sales of tangible personal property are in this state if
19 the business organization's market for the sales is in this state, as follows:

20 1. In the case of sale, rental, lease, or license of real property, if and to
21 the extent the property is located in this state;

22 2. In the case of rental, lease, or license of tangible personal property, if
23 and to the extent the property is located in this state;

24 3. In the case of sale of a service, if and to the extent the service is
25 delivered to a location in this state;

26 4. In the case of sale, rental, lease, or license of intangible property, if
27 and to the extent the property is used in this state;

28 5. In the case of interest income, if and to the extent the debtor or
29 encumbered property is located in this state;

30 6. In the case of dividend income, if and to the extent the business
31 organization's commercial domicile is in this state; and

32 7. In the case of other income, if and to the extent the income is derived
33 from sources in this state.

34 (iii) In the case of sales other than sales of tangible personal property, if the
35 state or states of assignment cannot be determined, the state or states of assignment shall be
36 reasonably approximated.

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1 (iv) In the case of sales other than sales of tangible personal property, if the
2 taxpayer is not taxable in a state to which a sale is assigned, or if the state of assignment cannot be
3 determined or reasonably approximated, such sale shall be excluded from the denominator of the
4 sales factor.

5 (2) A fraction, the numerator of which shall be the property factor in subparagraph
6 I(a)(1)(A) plus the compensation factor in subparagraph I(a)(1)(B) plus 2 multiplied by the sales
7 factor in subparagraph I(a)(1)(C) and the denominator of which is 4, shall be applied to the total
8 gross business profits (less foreign dividends) of the business organization to ascertain its gross
9 business profits in this state.

10 (b) For taxable periods ending on or after December 31, 2026, the business
11 organization's gross business profits shall be apportioned by multiplying the total gross business
12 profits (less foreign dividends) of the business organization by the sales factor in subparagraph
13 I(a)(1)(C).

14 II.(a) If the applicable method of apportionment in paragraph I does not fairly represent the
15 business organization's business activity in this state, the business organization may petition for, or
16 the commissioner may require, in respect to all or any part of the business organization's business
17 activity, if reasonable, the employment of any other method to effect an equitable apportionment of
18 the business organization's gross business profits.

19 (b) For foreign dividends from unitary sources, the following formula shall be used to
20 modify factors relating to included dividends:

21 (1) Determine a percentage for each dividend payor consisting of dividends paid
22 divided by taxable income which has been computed using United States standards.

23 (2) Apply this percentage to the dividend payor's foreign property, payroll, and sales
24 for taxable periods ending before December 31, 2026, or to the dividend payor's foreign sales for
25 taxable periods ending on or after December 31, 2026.

26 (3) Sum the results in subparagraph (2) for all dividend payors.

27 (4) Add the result in subparagraph (3) to the denominators of the combined water's
28 edge group. The numerator will remain the New Hampshire numerator.

29 (5) Apply the resulting percentage to the foreign dividends.

30 (6) Add this amount to the amount of New Hampshire taxable business profits
31 computed pursuant to RSA 77-A:3, I.

32 III. When 2 or more related business organizations are engaged in a unitary business, as
33 defined in RSA 77-A:1, XIV, a part of which is conducted in this state by one or more members of the
34 group, the income attributable to this state shall be determined by means of the applicable combined
35 apportionment factors of the unitary business group in accordance with paragraphs I and II.

36 3 Legislative Committee on Apportionment; Extended; Duties Revised. Amend RSA 77-A:23-a
37 to read as follows:

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1 77-A:23-a Legislative Committee on Apportionment. There is established a committee to study
2 the apportionment of gross business profits under the business profits tax, ~~[and to authorize the~~
3 ~~enactment of]~~ ***with special emphasis on the impact on the state's businesses, employment***
4 ***and revenues of moving to*** the single sales factor for the business profits tax and business
5 enterprise tax.

6 I. The members of the committee shall be as follows:

7 (a) Three members of the senate, appointed by the president of the senate.

8 (b) Four members of the house of representatives, appointed by the speaker of the house
9 of representatives.

10 II. Members of the committee shall receive mileage at the legislative rate when attending to
11 the duties of the committee.

12 III.(a) The committee shall study apportionment among states pursuant to RSA 77-A:3 of
13 gross business profits under the business profits tax. The committee shall also monitor the laws and
14 legislation of other states concerning market-based sourcing ***and single sales factor***
15 ***apportionment*** and may study any other related issues. The committee may solicit input or
16 testimony from any person or organization the committee deems relevant to the study.

17 (b) ~~[The committee shall conduct meetings and]~~ ***Beginning*** on or before November 1,
18 ~~[2020]~~ ***2024, the committee shall examine the data provided by the department of revenue***
19 ***administration on the effects of single sales factor apportionment under the new market***
20 ***rules, and*** shall ~~[hold at least 2 public hearings on the enactment of the single sales tax provisions~~
21 ~~contained in sections 426-429 of HB 4-FN-A-LOCAL of the 2019 regular legislative session. In~~
22 ~~November 2020, the committee shall, by majority vote of the committee, vote on whether to rescind~~
23 ~~the enactment of the amendments contained in sections 426-429 of HB 4-FN-A-LOCAL regular~~
24 ~~legislative session. If the majority of the committee rescinds the enactment of sections 426-429 of~~
25 ~~HB 4-FN-A-LOCAL regular legislative session, such sections shall not take effect.]~~ ***by majority vote***
26 ***of the committee, vote on whether to recommend and sponsor legislation to rescind or***
27 ***further delay the change to single sales factor apportionment described in RSA 77:3.*** The
28 committee shall report on its actions to the chairpersons of the senate and house finance committees,
29 the chairpersons of the senate and house ways and means committees, the secretary of state, and the
30 director of the office of legislative services.

31 IV. The members of the committee shall elect a chairperson from among the members. The
32 first meeting shall be called by the first-named ~~[senate]~~ ***house*** member. The first meeting of the
33 committee shall be held within 45 days ~~[of the effective date of this section]~~ ***after May 1, 2024.*** Four
34 members of the committee shall constitute a quorum.

35 V. The committee shall report its findings and any recommendations for proposed legislation
36 to the president of the senate, the speaker of the house of representatives, the senate clerk, the
37 house clerk, the governor, and the state library on or before December 1, ~~[2020]~~ ***2024.***

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1 4 Enactment of Single Sales Factor; Date Changed. Amend 2019, 346:432 to read as follows:
2 346:432 Enactment of Single Sales Factor. Sections 426-429 of this act shall take effect January
3 1, [2022] **2026** unless upon the report of the committee established in RSA 77-A:23-a, as inserted in
4 this act, [~~that by majority vote of the committee, sections 426-429 are rescinded~~] **legislation is**
5 **adopted to rescind or further delay the change to single sales factor apportionment.**
6 5 Repeal of Legislative Committee; Change to Effective Date. Amend 2019, 346:440, XIII to
7 read as follows:
8 XIII. Section 433 of this act shall take effect December 1, [2020] **2024.**

UNAPPROVED

2021-0695h

AMENDED ANALYSIS

Insert: 1. Removes the consideration of weighted apportionment factors under the business profits tax from inclusion in the tax expenditure report and includes the regional career and technical education center tax credit.

2. Delays the enactment of the single sales factor for determining apportionment under the business profits tax and the business enterprise tax and extends and amends the legislative committee on apportionment.

UNAPPROVED

Amendment to HB 2-FN-A-LOCAL

1 Amend the bill by replacing section 57 with the following:

2

3 57 New Section; Department of Corrections; Officials; Status in Retirement System. Amend
4 RSA 21-H by inserting after section 8-a the following new section:

5 21-H:8-b Status in Retirement System.

6 I. For purposes of classification under RSA 100-A, any person who is or become the assistant
7 commissioner, the director or deputy director of professional standards, or the director or deputy
8 director of community corrections, such person shall be included in the definition of correctional line
9 personnel, as defined in RSA 100-A:1, VII under the retirement system, if such person was a group
10 II member for at least 15 years prior to appointment in his or her position and shall remain in group
11 II status for the duration of service in that position with the department.

12 II. For purposes of classification under RSA 100-A, any person who is or becomes the
13 director of security and training, the director or deputy director of field services, or the director or
14 deputy director of medical and psychiatric services, such person shall be included in the definition of
15 correctional line personnel, as defined in RSA 100-A:1, VII under the retirement system, if such
16 person was a group II member for at least 10 years prior to appointment in his or her position and
17 shall remain in group II status for the duration of service in that position with the department.

Rep. L. Ober, Hills. 37
March 9, 2021
2021-0738h
05/08

Amendment to HB 2-FN-A-LOCAL

1 Amend the bill by inserting after section 53 the following new section:

2

3 54 Effective Date. Section 53 of this act shall take effect January 1, 2023.

UNAPPROVED

2021-0738h

AMENDED ANALYSIS

30. Establishes the position of director of intergovernmental affairs in the department of business and economic affairs effective January 1, 2023.

UNAPPROVED

Amendment to HB 2-FN-A-LOCAL

1 Amend the bill by replacing section 52 with the following:

2

3 52 Department of Business and Economic Affairs; New Hampshire Economic Development
4 Fund. Amend RSA 12-O:21 to read as follows:

5 12-O:21 New Hampshire Economic Development Fund.

6 I. There is hereby established the New Hampshire economic development fund which shall
7 be administered by the commissioner of the department of business and economic affairs. Said fund
8 shall be for the purpose of providing funds for grants, loans and other economic development
9 initiatives which shall be generally considered to be beneficial to the state's overall economy as
10 provided for in paragraph II.

11 II. Said fund shall be distributed or expended by the commissioner with prior approval of
12 the fiscal committee of general court and the governor and council for any of the following purposes:

- 13 (a) Business financing and expansion initiatives.
14 (b) ~~[Job]~~ **Workforce recruitment** retention and creation.
15 (c) International trade.
16 (d) Research and development activities.
17 (e) Other projects or programs recognized as being beneficial to business activity in New
18 Hampshire.

19 III. To maximize the economic impact of expenditures from this fund, and to leverage
20 additional funding from other sources, the commissioner may contract with such organizations as,
21 but not limited to, the following:

- 22 (a) ~~[New Hampshire Business Development Corporation]~~ **Chambers of commerce.**
23 (b) ~~[Small Business Investment Corporation]~~ **Regional economic development or**
24 **planning organizations.**
25 (c) Innovation Research Center.
26 (d) Small Business Development Center.

27 IV. All moneys **appropriated to the fund as well as moneys** returned to the department
28 as a result of contracts between the commissioner and any other party as authorized shall be
29 redeposited into the New Hampshire economic development fund. In addition, the department may
30 accept gifts, grants, donations or other moneys for the purposes of this section. Said moneys shall be
31 deposited into the New Hampshire economic development fund.