

Amendment to HB 2-FN-A-LOCAL

1           1 Statement of Purpose. The purpose of sections 3-23 of this act is to provide legislative  
2 authorization for initiatives to improve the health coverage available through this state's individual  
3 and small employer markets, including authorizing new forms of multiple employer welfare  
4 arrangements contingent on the establishment of the legal validity of the United States Department  
5 of Labor's Association Health Plan Rule codified at 29 C.F.R. section 2510.3-5(b), authorizing the  
6 insurance commissioner to apply for a waiver on an expedited basis under section 1332 of the  
7 Affordable Care Act to create a market stabilization mechanism for the individual market, and  
8 creating a legislative commission on the status of health coverage markets for individuals and small  
9 employers. The general court hereby seeks to help individuals and small businesses obtain more  
10 affordable health care coverage and new coverage options while preserving protections for higher  
11 risk individuals and groups and while protecting against adverse impacts on New Hampshire's  
12 existing individual and small group health insurance markets.

13           2 Title. Sections 3-23 of act shall be known as the Individual and Small Business Health Care  
14 Reform Act of 2019.

15           3 Multiple-Employer Welfare Arrangements; Definitions. RSA 415-E:1 is repealed and  
16 reenacted to read as follows:

17           415-E:1 Definitions. In this chapter:

18           I. "Bona fide association" means a bona fide pathway I association or a bona fide pathway II  
19 association.

20           II. "Bona fide pathway I association" means a group or association that satisfies the criteria  
21 established by the United States Department of Labor prior to the adoption in 2018 of 29 C.F.R.  
22 section 2510.3-5, including the guidance provided in the United States Department of Labor  
23 publication entitled "MEWAS, Multiple-Employer Welfare Arrangements under the Employee  
24 Retirement Income Security Act (ERISA): A Guide to Federal and State Regulation, Revised August  
25 2013" and including published United States Department of Labor ERISA Advisory Opinion Letters.

26           III. "Bona fide pathway II association" means a group or association that meets the  
27 requirements of 29 C.F.R. section 2510.3-5(b).

28           IV. "Commissioner" means the insurance commissioner of the state of New Hampshire.

29           V. "Eligible employee" means a full-time or part-time employee who meets the requirements  
30 for eligibility for group coverage set forth in RSA 415:18, I(q).

31           VI. "Employee welfare benefit plan" has the same meaning as in 29 U.S.C. section 1002(1).

32           VII. "Fully insured health benefit plan" means a policy, contract, certificate, or agreement

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1 to provide, deliver, arrange for, pay for, or reimburse any of the costs of health services, that is  
2 offered or issued to bona fide association by a health insurer licensed to do business in New  
3 Hampshire and that bears the risk under the plan.

4 VIII. "Fund balance" means the total assets in excess of total liabilities, except that assets  
5 pledged to secure debts not reflected on the books of the multiple-employer welfare arrangement  
6 shall not be included in the fund balance. Fund balance shall include other contributed capital,  
7 retained earnings, and surplus notes.

8 IX. "Insolvency termination" means the termination of an arrangement where the fund  
9 balance as of the termination date is inadequate.

10 X. "Insurer" means any insurer, nonprofit hospital or medical service corporation, health  
11 maintenance organization, or managed care organization, including but not limited to an insurer  
12 offering health coverage as defined in RSA 420-G:2, IX.

13 XI. "Multiple-employer welfare arrangement (MEWA)" or "association" means an employee  
14 welfare benefit plan or any other arrangement which is established or maintained for the purpose of  
15 offering or providing health benefits to the eligible employees of 2 or more employers, or to their  
16 beneficiaries, and shall include a MEWA as defined in the Employee Retirement Income Security  
17 Act of 1974, 29 U.S.C. section 1001 et seq. (ERISA). This shall include plans established by any  
18 political subdivision of the state or religious organization, but shall not include any plan or  
19 arrangement established or maintained under or pursuant to one or more agreements deemed  
20 collective bargaining agreements under section 3(40)(A)(i) of (ERISA). For the purposes of this  
21 chapter, 2 or more trades or businesses, whether or not incorporated, shall be deemed a single  
22 employer if such trades or businesses are under common ownership or within the same control  
23 group as defined under section 3(40)(B) of ERISA.

24 4 Multiple-Employer Welfare Arrangements; Applicability; General Eligibility. Amend RSA  
25 415-E:2, I and II to read as follows:

26 I. No person shall ~~[, after April 1, 1992,]~~ operate a multiple-employer welfare arrangement  
27 unless such arrangement is approved by the commissioner. ~~[No person shall, after April 1, 1992,~~  
28 ~~operate a multiple-employer welfare arrangement in existence prior to April 1, 1992, unless such~~  
29 ~~arrangement has submitted for approval in compliance with RSA 415-E:4, or otherwise meets the~~  
30 ~~special requirements of paragraph III of this section.]~~ ***A foreign or domestic MEWA or***  
31 ***association shall be subject to the jurisdiction of this state if it provides a health benefit***  
32 ***plan that covers the employees of at least one employer that maintains a work location in***  
33 ***New Hampshire, which is the primary workplace of at least one New Hampshire resident,***  
34 ***including any self-employed New Hampshire resident who is qualified to enroll in the***  
35 ***plan.***

36 II. This chapter shall not apply to a multiple-employer welfare arrangement ***that is a bona***  
37 ***fide pathway I association*** which offers or provides benefits which are fully insured by an

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1 authorized insurer or under the provisions of RSA 5-B.

2 5 Multiple-Employer Welfare Arrangements. RSA 415-E:3 is repealed and reenacted to read as  
3 follows:

4 415-E:3 General Eligibility; Pathway I and Pathway II. To meet the requirements for approval  
5 and to maintain a multiple employer welfare arrangement, an association not exempted under RSA  
6 415-E:2, II shall be approved either as a self-insured bona fide pathway I association or as a bona  
7 fide pathway II association as follows:

8 I. An association seeking approval as a self-insured bona fide pathway I association shall:

9 (a) Meet the definition in RSA 415-E:1, II of a bona fide pathway I association.

10 (b) Sponsor health coverage that is self-insured.

11 (c) Be nonprofit.

12 (d) Be established by a trade association, industry association, political subdivision of  
13 the state, religious organization, or professional association of employers or professionals which has  
14 a constitution or bylaws and which has been organized and maintained in good faith for a  
15 continuous period of one year for purposes other than that of obtaining or providing insurance.

16 (e) Be operated pursuant to a trust agreement by a board of trustees which shall have  
17 complete fiscal control over the arrangement and which shall be responsible for all operations of the  
18 arrangement. The trustees selected shall be owners, partners, officers, directors, or employees of  
19 one or more employers in the arrangement. A trustee may not be an owner, officer, or employee of  
20 the administrator or service company of the arrangement. The trustees shall have the authority to  
21 approve applications of association members for participation in the arrangement and to contract  
22 with an authorized administrator or service company to administer the day-to-day affairs of the  
23 arrangement.

24 (f) Be neither offered nor advertised to the public generally.

25 (g) Be operated in accordance with sound actuarial principles.

26 II. An association seeking approval as a bona fide pathway II association shall:

27 (a) Meet the definition in RSA 415-E:1, III of a bona fide pathway II association.

28 (b) Have a formal organizational structure with a governing body, bylaws, and other  
29 similar indications of formality, and complies with RSA 415-E:3, I-a(e) and with all other  
30 organizational requirements under this chapter and, if the association offers fully insured coverage,  
31 under RSA 420-M.

32 (c) Have its functions and activities controlled by its employer members, and the  
33 association's employer members that participate in the group health plan shall control the plan,  
34 both in form and in substance.

35 (d) Have a commonality of interest with its employer members, such that one or both of  
36 the following standards are met, in a manner that is not a subterfuge for discrimination as  
37 prohibited under RSA 415-E:1-e:

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1 (1) The employers are in the same trade, industry, line of business, or profession; or

2 (2) Each employer has a principal place of business in the same region.

3 (e) Have at least one substantial business purpose unrelated to offering and providing  
4 health coverage or other employee benefits to its employer members and their employees.

5 (f) Have each employer member of the association participating in the group health  
6 plan who is a person acting directly as an employer of at least one employee who is a participant  
7 covered under the plan.

8 (g) Not make health coverage through the association's group health plan available  
9 other than to:

10 (1) An employee of a current employer member of the association; and

11 (2) A beneficiary of an individual eligible under subparagraph (1).

12 (h) Not be a health insurance issuer, or owned or controlled by a health insurance  
13 issuer, or by a subsidiary or affiliate of a health insurance issuer, other than to the extent such  
14 entities participate in the association in their capacity as employer members of the association.

15 6 New Sections; Multiple-Employer Welfare Arrangements. Amend RSA 415-E by inserting  
16 after section 3 the following new sections:

17 415-E:3-a Bona Fide Pathway I and II Association Coverage; General Authorization. Bona fide  
18 pathway association coverage as set forth in the United States Department of Labor's June 21, 2018  
19 amendment to 29 C.F.R. section 2510, 83 Fed. Reg. 28,961 (codified at 29 C.F.R. section 2510.3-5)  
20 shall be permissible in New Hampshire provided it conforms with this chapter and all of the  
21 provisions of Title XXXVII concerning this coverage.

22 415-E:3-b Bona Fide Pathway I and II Association Coverage: Option to Offer Fully-Insured  
23 Coverage.

24 I. A bona fide pathway I association may offer coverage on a fully insured basis if it is a  
25 qualified association trust as defined in RSA 420-G:2, XV.

26 II. A bona fide pathway II association may offer coverage on a fully insured basis if it is  
27 licensed as a qualified purchasing alliance under RSA 420-M and meets all of the pathway II  
28 requirements under this chapter.

29 III. No insurer shall issue a fully-insured health benefit plan to an association or MEWA  
30 with covered lives in New Hampshire unless the association or MEWA meets the requirements of  
31 either paragraphs I or II.

32 IV. A fully-insured association or MEWA that is a qualified association trust or that has  
33 been licensed by the department as a qualified purchasing alliance shall not be subject to the  
34 financial reporting and solvency requirements of this chapter that are applicable only to self-funded  
35 associations.

36 V. An insurer issuing a fully insured health benefit plan to an association or MEWA shall  
37 ensure that the terms of the plan conform with all applicable requirements of this chapter with

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1 respect to bona fide association coverage and that the coverage has received all required approvals  
2 from the department.

3 415-E:3-c Bona Fide Pathway II Association Coverage; Benefit Requirements.

4 I. Each health benefit plan offered to or by a bona fide pathway II association, whether on a  
5 fully insured or self-funded basis, shall, at a minimum, provide the following benefits:

6 (a) Coverage for each of the 10 essential health benefits as defined in 42 U.S.C. section  
7 18022(b)(1), subject to approval of the commissioner based on the New Hampshire benchmark plan;

8 (b) Cost sharing requirements of 42 U.S.C. section 18022(c)(1)-(c)(3);

9 (c) Lifetime and annual limits as prescribed in 29 C.F.R. section 2590.715-2711;

10 (d) A level of coverage equal to or greater than that designed to provide benefits that  
11 are actuarially equivalent to 60 percent of the full actuarial value of the benefits provided under the  
12 plan; and

13 (e) All other benefits required to comply with applicable federal laws and regulations  
14 and with any provision of title XXXVII that applies to large group health insurance coverage.

15 II. Every health benefit plan offered by any bona fide pathway II association, whether  
16 offering coverage on a self-funded basis or fully insured basis, and any insurer contracting with an  
17 offering association, shall comply with the following:

18 (a) Except as otherwise specifically provided herein, all requirements of RSA 420-G,  
19 including claims data and other reporting requirements;

20 (b) Requirements contained in RSA 420-J, and any rules adopted thereunder by the  
21 commissioner including, but not limited to, network adequacy, balance billing protections, and  
22 appeal and grievance processes;

23 (c) Payment of premium tax as provided in RSA 400-A:31-35 and administrative  
24 assessment under RSA 400-A:39;

25 (d) Requirements pertaining to examinations under RSA 400-A:37;

26 (e) Requirements pertaining to unfair insurance trade practices under RSA 417;

27 (f) Vaccine association assessment under RSA 126-Q; and

28 (g) Individual market assessment under RSA 404-G.

29 III. No health benefit plan or related policy, contract, certificate, or agreement offered or  
30 issued in this state to a bona fide pathway II association, whether offering coverage on a self-funded  
31 basis or fully insured basis, shall reserve discretion to the insurer or sponsoring association to  
32 interpret the terms of the contract or to provide standards of interpretation or review that are  
33 inconsistent with the laws of this state. Any such policy, contract, certificate, or agreement shall be  
34 void and unenforceable to the extent it conflicts with this section.

35 IV. A bona fide pathway II association, whether offering coverage on a self-funded basis or  
36 fully insured basis, shall not offer, and an insurer shall not deliver or issue for delivery to such  
37 association, a health benefit plan covering lives located in this state that contains an exclusion or

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1 limitation for pre-existing conditions or a waiting period on the coverage of pre-existing conditions.

2 V. For any bona fide pathway II association, whether offering coverage on a self-funded  
3 basis or fully insured basis, if coverage is issued to a sole proprietor, the association sponsoring the  
4 coverage shall be responsible for monitoring and ensuring that the sole proprietor meets the  
5 requirements to qualify as an employer under 29 C.F.R. section 2510.3-5(b) and meets the per  
6 month hourly work requirement contained in RSA 126-AA:2, III. Failure to ensure compliance with  
7 this provision shall be a violation of this chapter.

8 415-E:3-d Rating Requirements for Bona Fide Pathway I Fully Insured Coverage and all  
9 Pathway II Coverage; Rating Requirements.

10 I. Any fully insured bona fide pathway I association and any pathway II association,  
11 whether self-funded or fully insured, or any insurer contracting with such bona fide pathway I or II  
12 association to provide a health benefit plan, shall comply with all requirements of RSA 420-G,  
13 except that, for any such association with 250 or more New Hampshire covered lives, the  
14 association as a whole may be rated as a single risk pool separately from the small employer  
15 market.

16 II. Coverage for a fully insured bona fide pathway I association with 250 or more New  
17 Hampshire covered lives and any bona fide pathway II association with 250 or more New  
18 Hampshire covered lives may be rated as a single large group based on the association's group  
19 experience and in accordance with all standards applicable to large employer groups under RSA  
20 420-G. The following additional requirements shall apply to such coverage:

21 (a) All premium rates charged shall be guaranteed for a rating period of at least 12  
22 months, and shall not be changed for any reason, including, but not limited to, a change in the  
23 group's case characteristics.

24 (b) For fully insured bona fide pathway I associations, the association may vary rates  
25 among member small employers only in accordance with the provisions in RSA 420-G:10 applying to  
26 qualified association trusts.

27 (c) For any pathway II association, whether self funded or fully insured, the association  
28 may vary rates among member small employers, including participating self-employed New  
29 Hampshire members, as follows:

30 (1) Variation associated with age shall not exceed 5:1.

31 (2) Variation associated with tobacco use shall not exceed 1.5 to 1.

32 (3) No other variation shall be permitted.

33 (d) The same rating methodology shall apply to newly covered member employer groups  
34 and employee members renewing at each annual renewal date or anniversary date. The rating  
35 methodology shall not be construed to include health carrier incentives to individual subscribers or  
36 members to participate in wellness and fitness programs provided such incentives are approved by  
37 the insurance department.

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1 (e) Nothing in this chapter shall be construed to allow a member small employer group  
2 within any association to be rated separately under large group rating standards.

3 415-E:3-e Bona Fide Pathway II Association Coverage; Nondiscrimination Requirements. In  
4 accordance with 29 C.F.R. section 2590.702, bona fide pathway II association coverage shall comply  
5 with the following:

6 I. The group or association shall not condition employer membership in the group or  
7 association on any health factor of any individual who is or may become eligible to participate in the  
8 group health plan sponsored by the group or association.

9 II. The group health plan sponsored by the group or association shall comply with 29 C.F.R.  
10 section 2590.702(b) with respect to nondiscrimination in rules for eligibility of benefits.

11 III. The group health plan sponsored by the group or association shall comply with 29  
12 C.F.R. section 2590.702(c) with respect to nondiscrimination in premiums or contributions required  
13 by any participant or beneficiary for coverage under the plan.

14 IV. In applying the nondiscrimination provisions of paragraphs II and III, the group or  
15 association shall not treat the employees of different employer members of the group or association  
16 as distinct groups of similarly-situated individuals based on a health factor of one or more  
17 individuals.

18 415-E:3-f Free Movement Between Bona Fide Association Coverage and Small Group Coverage.  
19 A small employer that leaves the small group market for bona fide pathway I or II association  
20 coverage or that leaves pathway I or II association coverage for the small group market shall not be  
21 subjected to a waiting period before being permitted to return to the original market, nor shall an  
22 insurer or administrator be permitted to impose such a waiting period.

23 415-E:3-g Bona Fide Pathway II Association Coverage; Mitigation of Small Group Market  
24 Impacts of Pathway II Association Coverage.

25 I. In order to mitigate potential adverse effects of pathway II association coverage on the  
26 existing small group markets, the commissioner shall retain an independent actuarial firm to model  
27 and quantify the impacts of pathway II coverage on the existing small group markets and to  
28 perform the actuarial review necessary to support the small group risk adjustment program  
29 required under RSA 420-K. The plan of operation for the small group risk adjustment program  
30 required under RSA 420-K shall be approved and in place before any pathway II association  
31 coverage may be issued.

32 II. Upon the recommendation of the commission on the status of health coverage markets  
33 for individuals and small employers established under RSA 404-J, or upon the commissioner's own  
34 initiative, the commissioner may limit pathway II associations to the writing of existing business  
35 only and may adjust the risk score differential amount in RSA 420-K:4, I(d) as necessary to prevent  
36 the pathway II association market from having an adverse impact on the availability and choice of  
37 coverage in the small group market and as necessary to prevent average premiums for small groups

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1 from increasing at a rate that is significantly higher than the trend in claims costs.

2 7 Multiple-Employer Welfare Arrangements; Filing of Application. Amend the section heading  
3 and the introductory paragraph of RSA 415-E:4 to read as follows:

4 415-E:4 ***Self-Funded Arrangements***; Filing of Application. ***For self-funded arrangements***,  
5 the sponsoring association shall file with the commissioner an application for approval of the  
6 arrangement upon a form to be furnished by the commissioner, which shall include or have  
7 attached the following:

8 8 Multiple-Employer Welfare Arrangements; Termination Liability Fund. RSA 415-E:5 is  
9 repealed and reenacted to read as follows:

10 415-E:5 Self-Funded Arrangements: Termination Liability Fund.

11 I. Each self-funded multiple-employer welfare arrangement shall maintain a termination  
12 liability fund wherein the fund balance of the multiple-employer welfare arrangement shall at no  
13 time, for a consecutive 90-day period, be less than \$750,000 or 33 percent of the aggregate  
14 premiums billed during the 12 prior months, whichever is greater. For purposes of this paragraph,  
15 that surety amount, if any, deposited with the commissioner pursuant to RSA 415-E:7, I, may be  
16 credited as a fund balance asset toward the termination liability fund amount.

17 II. Each self-funded multiple-employer welfare arrangement shall file with the  
18 commissioner, not later than 4 months following the end of each fiscal year, a report on the  
19 financial status of the termination liability fund, which report is filed under oath by a member of its  
20 board of trustees, or by an administrative executive duly appointed by the board, and further  
21 certified to by an independent certified public accountant.

22 9 Multiple-Employer Arrangements, Financial Condition, Loss Reserves. Amend RSA 415-E:6  
23 to read as follows:

24 415-E:6 ***Self-Funded Arrangements***; Financial Condition, Loss Reserves, Reinsurance, or  
25 Working Capital; Determination of Inadequacy.

26 ***I. Each self-funded arrangement shall maintain specific excess insurance with a***  
27 ***retention level determined in accordance with sound actuarial principles and approved***  
28 ***by the commissioner.***

29 ***II. Each self-funded arrangement shall establish and maintain appropriate loss***  
30 ***reserves determined in accordance with sound actuarial principles and approved by the***  
31 ***commissioner.***

32 [~~I~~] ***III.*** The commissioner may, upon reasonable notice, conduct an examination of the loss  
33 reserves, financial condition, specific excess insurance, and working capital of a multiple-employer  
34 welfare arrangement ***the costs of which shall be borne by the arrangement.*** If the  
35 commissioner preliminarily finds that the reserves, specific excess insurance, or financial condition  
36 may be inadequate, or that the arrangement does not have a combined working capital in an  
37 amount establishing the financial strength and liquidity of the arrangement to pay claims promptly

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1 and showing evidence of the financial ability of the arrangement to meet its obligations to covered  
2 employees, the commissioner shall notify the arrangement of such inadequacy. Upon being so  
3 notified, the arrangement shall within 30 days file with the commissioner all information which, in  
4 the belief of the arrangement, proves the reasonableness and adequacy of the condition noted as  
5 being inadequate.

6 ~~[H.]~~ **IV.** If the commissioner determines, after reviewing the information filed, that an  
7 inadequate condition exists, the arrangement shall implement, within 30 days, a plan to correct the  
8 inadequacy and shall file proof of reasonable improvement or adequate condition with the  
9 commissioner within 6 months of the implementation of the plan. If the commissioner is satisfied  
10 that the plan submitted to improve the inadequate condition of the arrangement is sufficient, he  
11 shall so notify the arrangement. The arrangement shall report quarterly to the commissioner until  
12 the causes of the inadequate condition have been corrected.

13 ~~[H.]~~ **V.** The commissioner may suspend or revoke the approval of an arrangement if he  
14 finds that the arrangement has failed to correct or reasonably improve an inadequate condition  
15 within the time authorized by paragraph ~~[H.]~~ **IV.**

16 10 Multiple-Employer Arrangements; Insolvency Protection. Amend RSA 415-E:7, I to read as  
17 follows:

18 I. To assure the faithful performance of its obligations to its member employers and covered  
19 employees *who are Hampshire residents* and their dependents, every arrangement shall, within  
20 30 days after the close of the arrangement's fiscal year, deposit with the commissioner cash,  
21 securities, or any combination of these or other measures acceptable to the commissioner, in an  
22 amount equal to ~~[25 percent of the preceding 12 months' health care claims expenditures or 5~~  
23 ~~percent of gross annual premiums for the succeeding year], \$100,000 or 25 percent of the~~  
24 ***aggregate premiums billed during the 12 prior months attributable to New Hampshire***  
25 ***residents***, whichever is greater~~;~~ ~~however, in no case shall the amount of the deposit exceed~~  
26 ~~\$100,000].~~ All income from deposits shall belong to the depositing arrangement and shall be paid to  
27 it as it becomes available. An arrangement that has made a securities deposit may withdraw that  
28 deposit, or any part of such deposit, after making a substitute deposit of cash, securities, or any  
29 combination of these or other measures of equal amount and value, upon approval by the  
30 commissioner. No judgment creditor or other claimant of a multiple-employer welfare association  
31 shall have the right to levy upon any of the assets or securities held in this state as a deposit under  
32 this section.

33 11 Multiple-Employer Arrangements. Amend RSA 415-E:8 through RSA 415-E:13 to read as  
34 follows:

35 415-E:8 Policy Forms.

36 I. ***Whether an arrangement is self-funded or fully insured***, no policy or contract form,  
37 application form, certificate, rider, endorsement, summary plan description, or other evidence of

1 coverage shall be **sponsored or** issued by an arrangement unless the form and all changes to it  
2 have been filed with the commissioner by or on behalf of the arrangement which proposed to use  
3 such form and have been approved by the commissioner.

4 II. The commissioner shall disapprove any form filed under this section, or withdraw any  
5 previous approval, only if the form:

6 (a) Is in any respect in violation of, or does not comply with, this chapter.

7 (b) Contains or incorporates by reference, where such incorporation is otherwise  
8 permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which  
9 deceptively affect the risk purported to be assumed in the general coverage of the contract.

10 (c) Has any title, heading, or other indication of its provisions which is misleading.

11 (d) Is printed or otherwise reproduced in such manner as to render any material  
12 provision of the form substantially illegible.

13 (e) Contains provisions which are unfair or inequitable, or contrary to the public policy  
14 of this state or which encourage misrepresentation.

15 **III. Each self-funded arrangement shall issue to each covered employee a policy**  
16 **contract, certificate, summary plan description, or other evidence of the benefits and**  
17 **coverages provided. The evidence of the benefits and coverages provided shall contain in**  
18 **boldfaced print in a conspicuous location, the following statement: "The benefits and**  
19 **coverages described herein are provided through a trust fund established and funded by a**  
20 **group of employers."**

21 **IV. Each self-funded arrangement shall provide to each covered employee, on**  
22 **request, a written statement of the dollar amount of allowable benefit for any procedure**  
23 **which is requested by the appropriate procedure code.**

24 415-E:9 **Self-Funded Arrangements; Employer Participants' Liability. For self-funded**  
25 **arrangements:**

26 I. The liability of each employer participant for the obligations of the multiple-employer  
27 welfare arrangement shall be individual, several, and proportionate, but not joint.

28 II. Each employer participant shall have a contingent assessment liability pursuant to 415-  
29 E:10 for payment of actual losses and expenses incurred while the policy was in force.

30 III. Each policy issued by the arrangement shall contain a statement of the contingent  
31 liability. Both the application for insurance and policy shall contain, in contrasting color and not  
32 less than 10-point type, the following statement: "This is a fully assessable policy. In the event the  
33 arrangement is unable to pay its obligations, policyholders (employers) shall be required to  
34 contribute on a pro rata earned premium basis the money necessary to meet any unfulfilled  
35 obligations."

36 415-E:10 **Self-Funded Arrangements; Termination of Arrangement. For self-funded**  
37 **arrangements, if an arrangement is terminated for any reason, it shall pay all outstanding claims,**

1 debts, and obligations. The arrangement may retain sufficient funds to provide coverage for such  
2 additional period as the trustees of the arrangement consider prudent. In addition, the trustees  
3 may purchase such additional insurance as they consider necessary for protection against potential  
4 future claims. Any funds remaining in the arrangement after satisfaction of all obligations upon  
5 termination shall be paid to participating employers and/or covered employees as of the termination  
6 date in some equitable manner meeting with the approval of the commissioner, including, without  
7 ruling out other alternatives, equally on a per capita basis to each participating employer and/or  
8 employee who is covered under the arrangement as of the effective date of termination.

9 415-E:11 ***Self-Funded Arrangements***; Annual Reports and Triennial Actuarial Reports. ***For***  
10 ***self-funded arrangements***:

11 I. Every ***such*** arrangement shall, annually within 4 months of the end of the fiscal year or  
12 within such extension of time as the commissioner for good cause may grant, file a report with the  
13 commissioner, verified by the oath of a member of the board of trustees or by an administrative  
14 executive appointed by the board, showing its condition on the last day of the preceding fiscal year.  
15 The report shall contain a financial statement of the arrangement, including its balance sheet and a  
16 statement of operations for the preceding year certified by an independent certified public  
17 accountant. The report shall also include an analysis of the adequacy of reserves and contributions  
18 or premiums charged, based on a review of past and projected claims and expenses.

19 II. In addition to information called for and furnished in connection with the annual report,  
20 if reasonable grounds exist, the commissioner may request information which summarizes paid and  
21 incurred expenses, and contributions or premiums received, and may request evidence satisfactory  
22 to the commissioner that the arrangement is actuarially sound. Such information and evidence  
23 shall be furnished to the commissioner by the arrangement as soon as reasonably possible after  
24 requested by the commissioner, but no later than 30 days after such request, unless the  
25 commissioner, for good cause, grants an extension.

26 III. At least once every 3 years, each ***such*** arrangement shall have a report prepared by an  
27 actuary who is a member of the Society of Actuaries of the American Academy of Actuaries as to the  
28 actuarial soundness of the arrangement. The report shall be made available to the commissioner  
29 upon request. The report shall consist of, but shall not be limited to, the following:

30 (a) Adequacy of contribution rate in meeting the level of benefits provided and changes,  
31 if any, needed in the contribution rates to achieve or preserve a level of funding deemed adequate to  
32 enable payment of the benefit amounts provided under the arrangement, which shall include a  
33 valuation of present assets, based on statement value, and prospective assets and liabilities of the  
34 plan and the extent of any unfunded accrued liabilities.

35 (b) A plan to amortize any unfunded liabilities and a description of actions taken to  
36 reduce unfunded liabilities.

37 (c) A description and explanation of actuarial assumptions.

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1 (d) A schedule illustrating the amortization of any unfunded liabilities.

2 (e) A comparative review illustrating the level of funds available to the arrangement  
3 from rates, investment income, and other sources realized over the period covered by the report,  
4 indicating the assumptions used.

5 (f) A statement by the actuary that the report is complete and accurate and that in his  
6 opinion the techniques and assumptions used are reasonable and meet the requirements and intent  
7 of this chapter.

8 (g) Other factors or statements as may be reasonably required by the commissioner in  
9 order to determine the actuarial soundness of the plan.

10 415-E:12 ~~[Place of Business;]~~ Maintenance of Records. Each arrangement shall ~~[have and~~  
11 ~~maintain its principal place of business in this state and shall]~~ make available to the commissioner  
12 complete records of its assets, transactions, and affairs in accordance with such methods and  
13 systems as are customary for, or suitable to, the kind or kinds of business transacted.

14 415-E:13 ***Qualification for Approval and*** Suspension<sup>[7]</sup> ***or*** Revocation of Approval.

15 I. Subject to other provisions in this chapter, the commissioner shall deny, suspend, or  
16 revoke an arrangement's approval if it finds that the arrangement:

17 (a) Has failed to meet the financial requirements of this chapter, RSA 420-G, or has  
18 violated any lawful order or rules.

19 (b) Has refused to be examined or to produce its accounts, records and files for  
20 examination, or if any of its officers has refused to give information with respect to its affairs or to  
21 perform any other legal obligation as to such examination, when required by the commissioner.

22 (c) Has failed to pay any final judgment rendered against it in this state within 60 days  
23 after the judgment became final.

24 (d) No longer meets the requirements for the authority originally granted.

25 II. The commissioner may, in his discretion, deny, suspend, or revoke the approval of any  
26 arrangement if it finds that the arrangement:

27 (a) Has violated any lawful order or rule of the commissioner, provision of this chapter,  
28 RSA 420-J, or relevant provision of RSA 161-H.

29 (b) Has refused to be examined or to produce its accounts, records, and files for  
30 examination, or if any of its officers have refused to give information with respect to its affairs or to  
31 perform any other legal obligation as to such examination, when required by the commissioner.

32 ***III. The commissioner shall not grant or continue approval until such time as the***  
33 ***arrangement replaces any trustee found by the commissioner, upon the presentation of***  
34 ***sufficient evidence:***

35 (a) ***To be incompetent;***

36 (b) ***To be guilty of, or to have pled guilty or no contest to a felony, or a crime***  
37 ***involving moral turpitude;***

1           (c) *To have had any type of insurance license revoked in this or any other state;*  
2 *or*

3           (d) *To have improperly manipulated assets, accounts, or specific excess*  
4 *insurance or to have otherwise acted in bad faith.*

5           IV. *To qualify for and retain approval to transact business, an arrangement shall*  
6 *make all contracts with administrators or service companies available for inspection by*  
7 *the department initially, and thereafter upon reasonable notice.*

8           V. *Failure to maintain compliance with applicable eligibility or filing*  
9 *requirements established by this section shall be grounds for suspension or revocation of*  
10 *approval of an arrangement, provided, however, that such arrangement shall have 60*  
11 *days after notification by the commissioner to take such action necessary to correct the*  
12 *deficiency.*

13           12 Multiple Employer Arrangements; Rehabilitation; Rulemaking. Amend RSA 415-E:15 and  
14 RSA 415-E:16 to read as follows:

15           415-E:15 Rehabilitation, Dissolution. Any rehabilitation, liquidation, conservation,  
16 **supervision**, or dissolution of a multiple-employer welfare arrangement shall be conducted under  
17 the supervision of the commissioner, who shall have all power with respect thereto granted to it  
18 under the laws governing the rehabilitation, liquidation, conservation, **supervision**, or dissolution  
19 of insurers.

20           415-E:16 Rulemaking. The commissioner may adopt such rules, pursuant to RSA 541-A, as [he  
21 deems] **are** reasonable and necessary in order to carry out properly the functions and  
22 responsibilities assigned the insurance department under [the laws of the state] **this chapter**.  
23 [~~This rulemaking authority shall expire on January 1, 1993, at which time this section, unless~~  
24 ~~replaced by a later legislative enactment, shall be deemed repealed. Any rules adopted under this~~  
25 ~~section shall be drafted in as narrow a manner as possible, consistent with the authority granted~~  
26 ~~the department under the laws of this state.~~]

27           13 Health Coverage; Definitions. Amend RSA 420-G:2, XVI(a) to read as follows:

28           XVI.(a) "Small employer" means a business or organization which employed on average, one  
29 and up to 50 employees, including owners and self-employed persons, on business days during the  
30 previous calendar year. A small employer is subject to this chapter whether or not it becomes part  
31 of an association, multi-employer plan, trust, or any other entity cited in RSA 420-G:3 provided it  
32 meets this definition. **However, with respect to coverage written under RSA 415-E to a bona**  
33 **fide pathway II association, whether self funded or fully insured, if such association has**  
34 **at least 250 New Hampshire covered lives and meets all applicable standards under RSA**  
35 **415-E and all large group standards under this chapter, coverage offered by such**  
36 **association may be offered to sole proprietors or self-employed persons.**

37           14 Purchasing Alliances; Definitions. Amend RSA 420-M:2, X to read as follows:

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1 X. "Qualified purchasing alliance" means a purchasing alliance that has obtained  
2 certification from the commissioner under RSA 420-M:13 as a qualified purchasing alliance with  
3 authority to ~~operate in the same manner as a qualified association trust pursuant to RSA 420-G:10]~~  
4 ***sponsor fully-insured bona fide pathway II association coverage under RSA 415-E.***

5 15 Purchasing Alliances. RSA 420-M:13 is repealed and reenacted to read as follows:

6 420-M:13 Qualified Purchasing Alliance. A purchasing alliance that has a minimum of 500  
7 enrollees may elect to obtain certification from the commissioner as a qualified purchasing alliance.  
8 To obtain certification, a purchasing alliance shall demonstrate:

9 I. That the purchasing alliance meets all requirements under RSA 415-E to operate as a  
10 bona fide pathway II association; and

11 II. That certification of the applicant as a qualified purchasing alliance will promote the  
12 purposes set out in RSA 420-M:1; and

13 III. That the purchasing alliance has the capacity to monitor and screen sole proprietor  
14 members purchasing pathway II association coverage to ensure that they meet all requirements to  
15 qualify as an "employee" under 29 C.F.R. section 2510.3-5(b) and meets the per month hourly work  
16 requirement contained in RSA 126-AA:2, III.

17 16 Definition of Qualified Association Trust. Amend the introductory paragraph of RSA 420-  
18 G:2, XV to read as follows:

19 XV. "Qualified association trust or other entity" means an association established trust or  
20 other entity in existence on January 1, 1995, and providing health coverage within the state of New  
21 Hampshire to at least ~~[1,000]~~ **250** employees and/or the dependents of association members, which  
22 association:

23 17 Health Coverage; Qualified Association Trust. Amend RSA 420-G:10 to read as follows:

24 420-G:10 Qualified Association Trust ~~[and Qualified Purchasing Alliance].~~

25 I. A qualified association trust or other entity, as defined in RSA 420-G:2, XV~~[, and a~~  
26 ~~qualified purchasing alliance, as defined in RSA 420-M:2, X,]~~ shall:

27 (a) Comply with the rating restrictions outlined in RSA 420-G:4 for all small employer  
28 members with 50 or fewer employees based upon the association's or alliance's group experience,  
29 except that ~~[for a qualified association trust,]~~ no rating factor shall be utilized without the express  
30 written consent of the association.

31 (b) Offer all eligible members, as defined under the applicable trust or other documents,  
32 coverage and rates on a guaranteed issue and renewable basis.

33 (c) Comply with the regulations concerning medical underwriting in RSA 420-G:5.

34 (d) Comply with the preexisting conditions provision of RSA 420-G:7.

35 ~~[(e) Prohibit any employer that voluntarily discontinues participation in either a~~  
36 ~~qualified association trust or a qualified purchasing alliance from rejoining for a period of at least 24~~  
37 ~~months.]~~

1           II. Nothing in this chapter shall be interpreted to limit the size of employers who may  
2 participate in coverage with a qualified association trust [~~or a qualified purchasing alliance~~].

3           18 Small Employer Health Reinsurance Pool. Amend the chapter heading of RSA 420-K to  
4 read as follows:

5                           SMALL EMPLOYER HEALTH [~~REINSURANCE POOL~~]  
6   **RISK ADJUSTMENT PROGRAM**

7           19 Small Employer Health Reinsurance Pool; Definitions. RSA 420-K:1 is repealed and  
8 reenacted to read as follows:

9           420-K:1 Definitions. In this chapter:

10           I. "Assessment" means the liability of the member insurer to the reinsurance pool.

11           II. "Board" means the board of directors of the small employer health reinsurance pool.

12           III. "Bona fide pathway II association coverage" means coverage, whether self-funded or  
13 fully insured, that constitutes an employee welfare benefit plan sponsored by a bona fide pathway II  
14 association as defined in RSA 415-E:1.

15           IV. "Commissioner" means the insurance commissioner.

16           V. "Covered lives" shall include all persons who have health insurance via a health carrier  
17 and who are employees or dependents of employees of a small employer, including sole proprietors  
18 covered under bona fide pathway II association coverage.

19           VI. "Health insurance" means "health insurance" as defined in RSA 404-G:2, VII.

20           VII. "Plan of operation" means the plan of operation of the small employer health risk  
21 adjustment program, including articles, bylaws and operating rules, procedures and policies  
22 approved by the commissioner and adopted by the pool.

23           VIII. "Small employer" means "small employer" as defined in RSA 420-G:2, XVI.

24           IX. "Small employer health carrier" means any entity licensed pursuant to RSA 402, RSA  
25 420-A, or RSA 420-B that delivers, issues for delivery or maintains in force policies of health  
26 insurance in New Hampshire to any small employer. For purposes of this chapter, health carrier  
27 shall include any association, organization or arrangement offering or sponsoring bona fide pathway  
28 II association coverage.

29           20 Establishment of the Risk Adjustment Program. Amend RSA 420-K:2 to read as follows:

30           420-K:2 Establishment of the [~~Pool~~] **Risk Adjustment Program**.

31           I. There is established a nonprofit entity to be known as the "New Hampshire small  
32 employer health [~~reinsurance pool~~] **risk adjustment program**." All **small employer** health  
33 carriers[~~, writers of health insurance, and other insurers~~] issuing or maintaining health insurance  
34 in this state shall be members of the [~~pool~~] **program**.

35           II. [~~On or before July 1, 2005,~~] The commissioner shall give notice to all members of the  
36 [~~pool~~] **program** of the time and place for the initial organizational meeting[~~, which shall take place~~  
37 ~~by July 15, 2005~~]. The members shall select the initial board at the organizational meeting and

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1 such initial board shall be subject to approval by the commissioner. The members shall elect each  
2 subsequent board at the annual meeting of members and each such subsequent board shall be  
3 subject to approval by the commissioner. The initial board and each subsequent board shall consist  
4 of at least 5 and not more than 9 representatives of members. There shall be no more than one  
5 board member on the initial board and each subsequent board representing any one member  
6 company. In determining voting rights at the organizational meeting and all subsequent meetings  
7 of members, each member shall be entitled to vote in person or by proxy. All such votes shall be  
8 proportional to the member's covered lives. To the extent possible, at least 2/3 of members of each  
9 board shall be small employer health carriers. ~~[At least one member of each board shall be a small~~  
10 ~~employer health carrier with less than \$100,000,000 in net small employer health insurance~~  
11 ~~premium in this state.]~~ The commissioner, or designee, shall be an ex-officio voting member of the  
12 board. In approving selection of each board, the commissioner shall assure that all members are  
13 fairly represented.

14 III. If the initial board is not elected at the organizational meeting, the commissioner shall  
15 appoint the initial board within 15 days of the organizational meeting.

16 IV. Within 60 days after the appointment of such initial board, the board shall submit to  
17 the commissioner a plan of operation and thereafter any amendments to the plan necessary or  
18 suitable to assure the fair, reasonable, and equitable administration of the ~~[pool]~~ **program**. The  
19 commissioner shall, after notice and hearing, approve the plan of operation provided he or she  
20 determines it to be suitable to assure the fair, reasonable, and equitable administration of the ~~[pool]~~,  
21 ~~and provides for the sharing of pool gains or losses on an equitable proportionate basis in~~  
22 ~~accordance with the provisions of paragraph VI of this section]~~ **program**. The plan of operation  
23 shall become effective upon approval in writing by the commissioner consistent with the date on  
24 which the coverage under this section shall be made available. If the board fails to submit a  
25 suitable plan of operation within 60 days after its appointment, or at any time thereafter fails to  
26 submit suitable amendments to the plan of operation, the commissioner shall, after notice and  
27 hearing, adopt and promulgate a plan of operation or amendments ~~[no later than October 1, 2005]~~.  
28 The commissioner shall amend any plan adopted by him or her, as necessary at the time a plan of  
29 operation is submitted by the board and approved by the commissioner.

30 V. The board shall select ~~[reinsurance pool]~~ **risk adjustment program** administrators  
31 through a competitive bidding process to administer the ~~[pool]~~ **program**. The board shall evaluate  
32 bids submitted based on criteria established by the board. ~~[Each month, total payments to~~  
33 ~~administrators shall not exceed the larger of \$2,500 or an amount equal to \$10 per life for which the~~  
34 ~~reinsurance pool has any potential claims liability.]~~

35 VI. The plan of operation shall establish procedures for:

36 (a) Handling and accounting of assets and moneys of the pool, and for annual fiscal  
37 reporting to the commissioner.

1 (b) Filling vacancies on the board, subject to the approval of the commissioner.

2 (c) Selecting an administrator and setting forth the powers and duties of the  
3 administrator.

4 (d) ~~[Reinsuring risks in accordance with the provisions of this chapter]~~ **Establishing**  
5 **risk adjustment parameters.**

6 (e) Collecting assessments from all members to provide for ~~[claims reinsured]~~ **risk**  
7 **adjustment payments** by the ~~[pool]~~ **program** and for administrative expenses incurred or  
8 estimated to be incurred during the period for which the assessment is made.

9 (f) Any additional matters at the discretion of the board.

10 21 Powers of the Program. RSA 420-K:3 and RSA 420-K:4 are repealed and reenacted to read  
11 as follows:

12 420-K:3 Powers of the Program. The program may:

13 I. Enter into contracts as are necessary or proper to carry out the provisions and purposes  
14 of this chapter, including the authority, with the approval of the commissioner, to enter into  
15 contracts with programs of other states for the joint performance of common functions, or with  
16 persons or other organizations for the performance of administrative functions.

17 II. Sue or be sued, including taking any legal actions necessary or proper for recovery of  
18 any assessments for, on behalf of, or against members.

19 III. Take such legal action as necessary to avoid the payment of improper claims against  
20 the program.

21 IV. Define the array of health coverage products for which risk adjustment will be applied  
22 in accordance with the requirements of this chapter.

23 V. Establish rules, conditions, and procedures pertaining to the risk adjustment  
24 mechanism, including implementation and measurement time frames and the permitted risk  
25 corridor where no transfer of risk adjustment funds shall take place.

26 VI. Establish appropriate rates, rate schedules, rate adjustments, rate classifications, and  
27 any other actuarial functions appropriate to the operation of the program.

28 VII. Assess members in accordance with the provisions of this chapter, and to make  
29 advance interim assessments as may be reasonable and necessary for organizational and interim  
30 operating expenses and to pay claims by the program. Any such interim assessments shall be  
31 credited as offsets against any regular assessments due following the close of the fiscal year.

32 VIII. Appoint from among the members appropriate legal, actuarial, and other committees  
33 as necessary to provide technical assistance in the operation of the program, policy, and other  
34 contract design, and any other function within the authority of the program.

35 IX. Borrow money to effectuate the purposes of the program. Any notes or other evidence  
36 of indebtedness of the program not in default shall be legal investments for insurers and may be  
37 carried as admitted assets.

1           420-K:4 Risk Adjustment Program.

2           I. The board shall:

3                   (a) Develop and monitor a measure of risk to be used in comparing populations covered  
4 by small employer health insurance coverage and bona fide pathway II association coverage. The  
5 population covered by qualified association trust coverage or by bona fide pathway I association  
6 coverage, whether self-funded or fully insured, shall not be a part of the risk adjustment program  
7 and, for the purposes of this chapter, shall not be considered to be small group coverage.

8                   (b) Access from the New Hampshire comprehensive health care information system  
9 (CHIS), as described under RSA 420-G:11-a, member level information, including length of  
10 coverage, gender, age, and diagnosis, sufficient to measure and monitor risk for carriers issuing or  
11 administering small employer health insurance.

12                   (c) Perform risk adjustment analysis which may include the use of data from the CHIS,  
13 including calculating New Hampshire specific relative weights as necessary, to analyze the  
14 difference in the medical care resources expected to be necessary to treat the 2 different  
15 populations, one covered in the small group insurance risk pool and the other covered by bona fide  
16 pathway II association coverage.

17                   (d) Subject to the limitation in paragraph II, establish risk adjustment payments  
18 between carriers that are triggered whenever the average risk over any calendar year between bona  
19 fide pathway II association coverage and all other small group coverage differs by more than the  
20 maximum allowed amount, and that serve to create a net effect of reducing future expected risk  
21 score differences after payments to approximately the target amount. The commissioner shall  
22 establish the maximum allowed amount and the target amount by retaining actuarial experts. The  
23 standard that the actuarial experts shall use in recommending values for the maximum allowed  
24 amount and the target amount is that such amounts should be so determined as to prevent the  
25 pathway II association market from having an adverse impact on the availability and choice of  
26 coverage in the small group market and to prevent adverse selection against the small group  
27 market that is sufficient to cause the average premiums for small groups to increase at a rate that  
28 is significantly higher than the trend in claims costs.

29                   (e) Provide a report to the insurance commissioner in a form and format acceptable to  
30 the commissioner.

31           II. The board shall not implement any adjustments until the number of lives covered by  
32 bona fide pathway II association coverage exceeds 2,000 member months for 3 consecutive months.

33           22 Immunity and Indemnification. Amend RSA 420-K:7 to read as follows:

34           420-K:7 Immunity and Indemnification.

35                   I. Neither the participation in the ~~[pool]~~ **program** as members, the establishment of rates,  
36 forms, or procedures, nor any other joint or collective action required by this chapter shall be the  
37 basis of any legal action against the ~~[pool]~~ **program** or any of its members.



1 significant clientele in the small employer market.

2 (6) A public member from an academic institution or charitable foundation who has  
3 health care and health insurance expertise, appointed by the senate president.

4 (7) A public member who shall represent the interests of persons who obtain their  
5 coverage through that market, appointed by the speaker of the house of representatives.

6 (8) A public member who shall represent the interests of persons who obtain their  
7 coverage through the individual market, appointed by the president of the senate.

8 (9) Two public members from organizations that represent the interests of the  
9 medically underserved, persons with pre-existing conditions, or persons with chronic health  
10 conditions, including mental health or substance use disorders, appointed by the governor.

11 (10) A public member who shall represent the interests of small employers  
12 sponsoring health coverage for their employees, appointed by the governor.

13 (11) A public member from the Business and Industry Association of New  
14 Hampshire or a New Hampshire chamber of commerce, appointed by the governor.

15 (12) A public member from a national organization with a New Hampshire chapter  
16 that is interested in qualifying as a bone fide pathway II association, as defined in RSA 415-E:1, III,  
17 appointed by the governor.

18 (b) Of the commission members listed under subparagraph (a), only the 6 legislative  
19 members shall be voting members. All other members shall serve in an advisory capacity only.

20 (c) Legislative members of the commission shall receive mileage at the legislative rate  
21 when attending to the duties of the commission.

22 (d) The commission shall be a public body subject to RSA 91-A, and its meetings shall be  
23 considered public proceedings.

24 II.(a) The commission shall evaluate the status of health coverage markets for individuals  
25 and small employers. This shall include the individual market, the small employer market, and  
26 alternative sources of coverage that may be available to individuals and small employers, including  
27 pathway II association coverage, transitional coverage, and short-term limited duration coverage.  
28 These markets shall be evaluated in terms of their performance in making available to individuals  
29 and small employers affordable coverage that provides access to medically necessary care on  
30 affordable terms. Consideration shall be given to market competitiveness, price, choice of plans,  
31 market size, market segmentation, the risk profile of the covered population in each market,  
32 adverse selection against specific markets, migration between markets, the rate of growth or  
33 diminution in the overall number of covered lives, and other similar factors that may affect the  
34 coverage available to individuals and small employers. Specifically, the commission shall evaluate  
35 markets and make recommendations on the following:

36 (1) The performance and effectiveness of the small group market in itself and in  
37 conjunction with other markets that may be available to small employers and their employees,

1 including, if applicable, pathway II association coverage. This shall include consideration of  
2 coverage for pre-existing conditions and essential health benefits, premium rates and product  
3 offerings, impact on premiums, the availability and choice of plans, the number of covered lives, and  
4 the overall impact on the availability and affordability of coverage for higher risk individuals and  
5 small employer groups. Based on this evaluation, the commission shall make recommendations in  
6 its annual report for future program or legislative modifications, including, if applicable,  
7 modifications to the risk adjustment program authorized under RSA 420-K, as well as a final  
8 recommendation as to whether the general court should allow the continuation or should phase out  
9 the market for pathway II association coverage.

10 (2) The performance and effectiveness of the individual market in itself and in  
11 conjunction with other markets that may be available to individuals and sole proprietors, including,  
12 if applicable, pathway II association coverage. This shall include consideration of the migration of  
13 sole proprietors to the pathway II market and the effectiveness of screening procedures in  
14 validating sole proprietorship status, the price and availability of coverage for individuals who do  
15 not qualify for an advanced premium tax credit or cost sharing reduction assistance through the  
16 marketplace exchange, and the design and effectiveness of the risk sharing mechanism and 1332  
17 waiver for the individual market authorized under RSA 420-N:6-a. Based on this evaluation, the  
18 commission shall make recommendations concerning the individual market risk sharing mechanism  
19 under the 1332 waiver, any changes that are needed to screening and monitoring procedures for  
20 compliance with the hourly work standard to qualify as a sole proprietor under pathway II  
21 association coverage, and any other legislative or regulatory measures that would promote market  
22 stability and growth in the individual market.

23 (b) The commission shall not make any recommendation that includes the use of new  
24 general funds.

25 (c) The commission shall solicit information from any person or entity the commission  
26 deems relevant to its study.

27 III. The insurance commissioner shall provide information and reports to the commission  
28 on a biannual basis concerning the status of the individual, small employer and, if applicable,  
29 pathway II association markets as necessary to allow the commission to carry out its duties. The  
30 commission shall have the authority, at any time, upon a finding that pathway II association  
31 coverage is having an adverse impact on the availability and choice of coverage in the individual or  
32 small employer markets or is causing average premiums for individuals or small groups to increase  
33 at a rate that is significantly higher than the trend in claims costs, to recommend that the  
34 commissioner limit pathway II associations to the writing of existing business only or adjust the  
35 risk score differential amount in RSA 420-K:4, I(d), and the commissioner shall have authority to  
36 implement this recommendation by order pursuant to RSA 400-A:14 and this paragraph.

37 IV. The members of the commission shall elect a chairperson from among the members.

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1 The first meeting of the commission shall be called by the first-named senate member. The first  
2 meeting of the commission shall be held within 45 days of the effective date of this section. Four of  
3 the 6 voting members of the commission shall constitute a quorum.

4 V. The commission shall submit an annual report on or before November 1 of each year  
5 with its findings and any recommendations for proposed legislation, and a final report on December  
6 1, 2024 to the president of the senate, the speaker of the house of representatives, the senate clerk,  
7 the house clerk, the governor, and the state library. If applicable, the commission's reports shall  
8 contain the commission's recommendation regarding whether the market for pathway II association  
9 coverage should continue or be phased out.

10 24 Individual Health Insurance; Market; Contingency. RSA 404-G:12, I and II are repealed  
11 and reenacted to read as follows:

12 I. Notwithstanding RSA 404-G:11, and if supported by the recommendations of actuarial  
13 experts retained by the department, the commissioner may request that the board of directors of the  
14 association develop a plan of operation to support the affordability and accessibility of health  
15 insurance in the state's individual health insurance market. The proposal may include resumption  
16 of a risk sharing program similar to that referenced in RSA 404-G:5, creation and operation of a  
17 reinsurance program, or such other program as the board finds will best support the availability  
18 and affordability of health insurance in the state and may also include the development of a waiver  
19 application under the Act. The commissioner shall approve the revised plan of operations if the  
20 commissioner finds that the plan will further the purpose of this chapter as stated in RSA 404-G:1,  
21 I, and is otherwise consistent with New Hampshire and federal law.

22 II. The board's proposal may include a recommendation that the state apply for a waiver  
23 under the Act, or any successor to the Act. If the approved plan includes an application for a  
24 waiver, the commissioner and the board shall proceed in accordance with RSA 420-N:6-a. If the  
25 waiver is approved by the federal government, the board shall prepare a revised plan of operations  
26 consistent with the terms of the waiver, and shall implement it upon approval by the commissioner.

27 25 Federal Health Care Reform 2010; Waiver. RSA 420-N:6-a is repealed and reenacted to read  
28 as follows:

29 420-N:6-a Waiver. If such action is supported by the recommendations of actuarial experts  
30 retained by the department as being consistent with the purposes of RSA 404-G:1, I, the  
31 commissioner shall, at the earliest practicable date, submit an application on behalf of the state to  
32 the United States Secretary of the Treasury, and if required, to the United States Secretary of  
33 Health and Human Services, to waive certain provisions of the Act, as provided in section 1332 of  
34 the Act, or any other applicable waiver provision in order to create a risk sharing or reinsurance  
35 mechanism for the individual market under RSA 404-G which is eligible to draw down federal pass-  
36 through funding to support such mechanism. The commissioner shall publish and accept public  
37 comment on the 1332 waiver application and the plan of operation for the individual market

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1 mechanism prior to approving such plans. Upon approval of the joint health care reform oversight  
2 committee, the commissioner shall implement any federally approved waiver, including but not  
3 limited to overseeing the implementation of a revised plan of operations under RSA 404-G:12.

4 26 Repeal. The following are repealed:

5 I. RSA 404-J, relative to the commission on the status of health insurance markets for  
6 individuals and small employers.

7 II. 2017, 221:8, relative to the 2020 repeal of RSA 404-G:12.

8 III. 2017, 221:11, relative to the 2020 repeal of RSA 420-N:6-a.

9 27 Applicability. Sections 3-23 of this act shall take effect 60 days after the insurance  
10 commissioner, with the advice of the department of justice, certifies to the secretary of state and the  
11 director of legislative services that the federal rule codified at 29 C.F.R. section 2510.3-5(b) is legally  
12 valid and the issues raised by the opinion issued on March 28, 2019 in *State of New York v. United*  
13 *States Department of Labor*, United States District Court of the District of Columbia, Civil Action  
14 No. 18-1747 have been resolved. However, in no event shall sections 3-23 of this act take effect at a  
15 date later than December 1, 2021.

16 28 Effective Date.

17 I. Sections 3-23 of this act shall take effect as provided in section 27 of this act.

18 II. Paragraph I of section 26 of this act shall take effect December 1, 2024.

19 III. The remainder of this act shall take effect July 1, 2019.

2019-2498s

AMENDED ANALYSIS

Makes changes to the law governing multiple-employer arrangements.

Sen. Feltes, Dist 15  
June 17, 2019  
2019-2515s  
04/10

Amendment to HB 2-FN-A-LOCAL

1 Insert after section 209 the following new sections:

2

3 210 Contingent Nullification. If sections 202-209 of this act, relative to the granite state jobs  
4 act of 2019 become law, then SB 2-FN of the 2019 regular legislative session is nullified and shall  
5 not take effect.

6 211 Applicability. If SB 2-FN of the 2019 regular legislative session becomes law, section 210 of  
7 this act shall take effect one minute after the effective date of SB 2-FN.

8 212 Effective Date. Section 210 of this act shall take effect as provided in section 211 of this  
9 act.

2019-2515s

AMENDED ANALYSIS

Replace paragraph 69:

69. Transfers the job training program for economic growth from the department of business and economic affairs to the department of employment security and nullifies the provisions of SB 2 of the 2019 regular legislative session.

Amendment to HB 2-FN-A-LOCAL

1 Amend the bill by replacing section 392 with the following:

2

3 392 Department of Health and Human Services; Medicaid Rate Increases.

4 I. The commissioner of the department of health and human services shall increase all  
5 Medicaid provider rates, including all state plan services and waiver programs, excluding any  
6 provider rate increases for inpatient-only substance use disorder treatment services, by 3.1 percent  
7 in the fiscal year ending June 30, 2020 and an additional 3.1 percent in the fiscal year ending June  
8 30, 2021. The commissioner shall apply the rate increases to the Medicaid fee-for-service fee  
9 schedule for the purpose of determining payments for all services not delivered through managed  
10 care, and shall require the department's actuary to incorporate the rate increases into the  
11 capitation payment for all services provided in the care management program. Nothing in this  
12 section shall be construed to alter the traditional method of establishing the county contribution for  
13 the Medicaid federal medical assistance percentage.

14 II. The department of health and human services shall, beginning on October 1, 2019 and  
15 every 3 months thereafter, provide a report to the fiscal committee of the general court on the  
16 status of the rate increases described in paragraph I. Such reports shall include, but not be limited  
17 to, year-to-date expenditures compiled by funding source and provider type.

18

19 Amend the bill by replacing section 393 with the following:

20

21 393 Department of Health and Human Services; Appropriation.

22 I. The sum of \$60,000,000 for the biennium ending June 30, 2021 is hereby appropriated to  
23 the department of health and human services for the purposes of section 392 of this act. Said sums  
24 shall be charged as follows:

25 (a) The sum of \$51,238,000 shall be a charge against the state general fund, and the  
26 governor is authorized to draw a warrant for said sum out of any money in the treasury not  
27 otherwise appropriated;

28 (b) The sums of \$3,753,000 in the fiscal year ending June 30, 2020 and \$3,966,000 in the  
29 fiscal year ending June 30, 2021 shall be a charge against state general funds appropriated in  
30 account 05-95-93-930010-7100;

31 (c) The sums of \$74,000 in the fiscal year ending June 30, 2020 and \$79,000 in the fiscal  
32 year ending June 30, 2021 shall be a charge against state general funds appropriated in account 05-

**Amendment to HB 2-FN-A-LOCAL**  
**- Page 2 -**

1 95-48-482010-2152;

2 (d) The sums of \$92,000 in the fiscal year ending June 30, 2020 and \$92,000 in the fiscal  
3 year ending June 30, 2021 shall be a charge against state general funds appropriated in account 05-  
4 95-93-930010-7110; and

5 (e) The sums of \$353,000 in the fiscal year ending June 30, 2020 and \$353,000 in the  
6 fiscal year ending June 30, 2021 shall be a charge against state general funds appropriated in  
7 account 05-95-93-930010-7016.

8 II. Notwithstanding RSA 14:30-a, VI, in addition to the amounts appropriated in paragraph  
9 I, the department of health and human services may accept and expend any matching federal funds  
10 available for the purposes of this section without the prior approval of the fiscal committee of the  
11 general court.

12 III. Nothing in this section shall be construed to provide a rate increase of an amount other  
13 than 3.1 percent in each fiscal year to providers funded in accounts 05-95-93-930010-7100, 05-95-48-  
14 482010-2152, 05-95-93-930010-7110, and 05-95-93-930010-7016.

UNAPPROVED

Amendment to HB 2-FN-A-LOCAL

1 Amend the bill by inserting after section 433 the following new section:

2

3 434 New Subdivision; Statewide Threat Notification System for Schools. Amend RSA 21-P by  
4 inserting after section 52 the following new subdivision:

5

Statewide Threat Notification System for Schools

6

21-P:52-a Statewide Threat Notification System for Schools.

7

I. The department of safety, in conjunction with the United States Department of  
8 Homeland Security, shall commence a process of due diligence in anticipation of future deployment  
9 of a statewide, real-time threat notification system for schools, the purpose of which shall be to link  
10 school personnel directly to law enforcement in the event of a direct threat against the school  
11 community or a general emergency situation in which law enforcement would respond.

12

II. The department of safety shall solicit requests for information (RFI) for a statewide,  
13 real-time threat notification system based on the following criteria:

14

(a) The system would be activated by authorized school personnel using classroom  
15 desktop computers, laptop computers, mobile phones, fobs, and other suitable devices.

16

(b) Upon activation, the system would determine the location of the nearest law  
17 enforcement officers, regardless of jurisdiction, and directly notifies them of the activation.

18

(c) The system would notify the following state and local agencies of the activation:

19

(1) The bureau of emergency communications, or state 911 center.

20

(2) The New Hampshire state police.

21

(3) The New Hampshire information and analysis center.

22

(4) The department of safety, division of homeland security and emergency  
23 management.

24

(5) The appropriate local or regional dispatch center for the school.

25

(d) The system would provide electronic school floor plans and related documents to  
26 responding officers.

27

(e) The system would provide a communication method for responding officers to  
28 communicate with school personnel.

29

III. The threat notification system for schools shall be a state-funded program, available to  
30 all school districts and law enforcement agencies in the state. However, participation in the  
31 program by local school districts and local law enforcement agencies shall be voluntary.

32

IV. No state funds are appropriated for the due diligence process.

**Amendment to HB 2-FN-A-LOCAL**  
**- Page 2 -**

1           V. Deployment of a statewide real-time threat alert system is contingent on an  
2 appropriation of funds from surplus revenues received by the state during the 2020-2021 biennium.

3           VI. The commissioner of the department of safety shall adopt rules, under RSA 541-A,  
4 relative to implementation and operation of the real-time threat notification system for schools.

2019-2556s

AMENDED ANALYSIS

172. Directs the department of safety to solicit requests for information regarding the future deployment of a statewide, real-time threat notification system for schools.

UNAPPROVED

Amendment to HB 2-FN-A-LOCAL

1 Amend the bill by inserting after section 433 the following new sections:

2

3 434 Access to and Use of Tobacco Products; Purpose. Amend RSA 126-K:1 to read as follows:

4 126-K:1 Purpose. The purpose of this chapter is to protect the ~~[children]~~ **citizens** of New  
5 Hampshire from the possibility of addiction, disability, and death resulting from the use of tobacco  
6 products by ensuring that tobacco products will not be supplied to ~~[minors]~~ **persons under the age**  
7 **of 21**.

8 435 Access to and Use of Tobacco Products; Proof of Age of Purchaser. Amend the introductory  
9 paragraph of RSA 126-K:3, I to read as follows:

10 I. For the purposes of this chapter, any person responsible for monitoring sales from a  
11 tobacco vending machine or any person making the sale of tobacco products, e-cigarettes, or liquid  
12 nicotine which vending machine or other sale is to be made to any person who does not appear to be  
13 at least ~~[18]~~ **21** years of age, shall require the purchaser to furnish any of the following  
14 documentation that such person is ~~[18]~~ **21** years of age or over:

15 436 Access to and Use of Tobacco Products; Proof of Age of Purchaser. Amend RSA 126-K:3,  
16 III to read as follows:

17 III. The establishment of all of the following facts by a person responsible for monitoring  
18 sales from a vending machine or a person or sampler making a sale or distribution of tobacco  
19 products, e-cigarettes, or liquid nicotine to a person under ~~[18]~~ **21** years of age shall constitute  
20 prima facie evidence of innocence and a defense to any prosecution for such sale:

21 (a) That the person falsely represented in writing and supported by some official  
22 documents that the person was ~~[18]~~ **21** years of age or older;

23 (b) That the appearance of the person was such that an ordinary and prudent person  
24 would believe such person to be at least ~~[18]~~ **21** years of age or older; and

25 (c) That the sale was made in good faith relying on such written representation and  
26 appearance in the reasonable belief that the person was actually ~~[18]~~ **21** years of age or over.

27 437 Access to and Use of Tobacco Products; Sale and Distribution. Amend the section heading  
28 and paragraph I of RSA 126-K:4 to read as follows:

29 126-K:4 Sale and Distribution of Tobacco Products, E-cigarettes, or Liquid Nicotine to ~~[Minors]~~  
30 **Persons Who Have Not Attained 21 Years of Age** Prohibited.

31 I. No person shall sell, give, or furnish or cause or allow or procure to be sold, given, or  
32 furnished tobacco products, e-cigarettes, or liquid nicotine to a ~~[minor]~~ **person who has not**

**Amendment to HB 2-FN-A-LOCAL**  
**- Page 2 -**

1 **attained 21 years of age.** The prohibition established by this paragraph shall not be deemed to  
2 prohibit ~~[minors]~~ **persons who have not attained 21 years of age** employed by any  
3 manufacturer, wholesaler, sub-jobber, vending machine operator, sampler, or retailer from  
4 performing the necessary handling of tobacco products, e-cigarettes, or liquid nicotine during the  
5 duration of their employment.

6 438 Access to and Use of Tobacco Products; Rolling Papers. Amend RSA 126-K:4-a to read as  
7 follows:

8 126-K:4-a Rolling Papers.

9 I. No person shall sell, give, or furnish rolling papers to a minor. Violations of this  
10 paragraph shall be civil infractions punishable by administrative action of the commission against  
11 the licensee. The fines for violations of this paragraph shall not exceed \$250 for the first offense,  
12 \$500 for the second offense, and \$750 for the third and subsequent offenses.

13 II. No person under ~~[18]~~ **21** years of age shall purchase, ~~[attempt to purchase,]~~ possess, or  
14 use any rolling paper. Any ~~[minor]~~ **person** who violates this section shall be guilty of a violation  
15 and shall be punished by a fine not to exceed \$100 for each offense.

16 439 Access and Use of Tobacco Products; Distribution of Free Samples. Amend RSA 126-K:5, I  
17 and II to read as follows:

18 I. No person may distribute or offer to distribute samples of tobacco products, e-cigarettes,  
19 or liquid nicotine in a public place **or to a person who has not attained 21 years of age.** This  
20 prohibition shall not apply to sampling:

21 (a) In an area to which minors are denied access.

22 (b) In a store to which a retailer's license has been issued.

23 (c) At factory sites, construction sites, conventions, trade shows, fairs, or motorsport  
24 facilities in areas to which minors are denied access.

25 II. The commission shall adopt rules, pursuant to RSA 541-A, concerning the distribution of  
26 free samples of tobacco products, e-cigarettes, or liquid nicotine to prevent their distribution to  
27 ~~[minors]~~ **persons who have not attained 21 years of age.**

28 440 Access to and Use of Tobacco Products; Possession and Use of Tobacco Products, E-  
29 Cigarettes, or Liquid Nicotine. Amend RSA 126-K:6 to read as follows:

30 126-K:6 Possession and Use of Tobacco Products, E-cigarettes, or Liquid Nicotine by ~~[Minors]~~  
31 **Persons Who Have Not Attained 21 Years of Age.**

32 I. No person under ~~[18]~~ **21** years of age shall purchase, attempt to purchase, possess, or use  
33 any tobacco product, e-cigarette, or liquid nicotine.

34 II. The prohibition on possession of tobacco products, e-cigarettes, or liquid nicotine shall  
35 not be deemed to prohibit minors employed by any manufacturer, wholesaler, sub-jobber, vending  
36 machine operator, sampler, or retailer from performing the necessary handling of tobacco products,  
37 e-cigarettes, or liquid nicotine during the duration of their employment.

1 III. A ~~minor~~ **person who has not attained 21 years of age** shall not misrepresent his or  
2 her age for the purpose of purchasing tobacco products.

3 IV. Notwithstanding RSA 169-B and RSA 169-D, a person 12 years of age and older who  
4 violates this section shall not be considered a delinquent or a child in need of services.

5 V. Any ~~minor~~ **person who has not attained 21 years of age** who violates this section  
6 ~~shall~~ **may** be guilty of a violation and shall be punished by a fine not to exceed \$100 for each  
7 offense or shall be required to complete up to 20 hours of community service for each offense, or  
8 both. Where available, punishment may also include participation in an education program.

9 441 Access to and Use of Tobacco Products; Special Provisions. Amend RSA 126-K:8, I to read  
10 as follows:

11 I.(a) No person shall sell, give, or furnish tobacco products, e-cigarettes, or liquid nicotine  
12 to a ~~minor~~ **person who has not attained 21 years of age** who has a note from an adult  
13 requesting such sale, gift, or delivery. **Tobacco products, e-cigarettes, or liquid nicotine shall**  
14 **only be delivered to a person who provides an identification as enumerated in RSA 126-K:3**  
15 **establishing that the person has attained 21 years of age.**

16 (b) **Each school shall establish a policy regarding violations of this paragraph.**  
17 **The policy may include, but not be limited to, mandatory education classes on the hazards**  
18 **of using tobacco products, e-cigarettes, or liquid nicotine, and suspensions and other**  
19 **penalties.**

20 442 Delinquent Children; Limitations of Authority Conferred. Amend RSA 169-B:32 to read as  
21 follows:

22 169-B:32 Limitations of Authority Conferred. This chapter shall not be construed as applying  
23 to persons 16 years of age or over who are charged with the violation of a motor vehicle law, an  
24 aeronautics law, a law relating to navigation or boats, a fish and game law, a law relating to title  
25 XIII, a law relating to fireworks under RSA 160-B or RSA 160-C, any town or municipal ordinance  
26 which provides for a penalty not exceeding \$100 plus the penalty assessment, and shall not be  
27 construed as applying to any minor charged with the violation of any law relating to the possession,  
28 sale, or distribution of tobacco products to or by a person under [18] **21** years of age. However, if  
29 incarceration takes place at any stage in proceedings on such violations, incarceration shall be only  
30 in a juvenile facility certified by the commissioner of the department of health and human services.

31 443 Children in Need of Services; Limitations of Authority Conferred. Amend RSA 169-D:22 to  
32 read as follows:

33 169-D:22 Limitations of Authority Conferred. This chapter shall not be construed as applying  
34 to persons 16 years of age or over who are charged with the violation of a motor vehicle law, an  
35 aeronautics law, a law relating to navigation of boats, a fish and game law, a law relating to title  
36 XIII, or a law relating to fireworks under RSA 160-B or RSA 160-C, and shall not be construed as  
37 applying to any minor charged with the violation of any law relating to the possession, sale, or

**Amendment to HB 2-FN-A-LOCAL**  
**- Page 4 -**

1 distribution of tobacco products to or by a person under [~~18~~] **21** years of age.

2 444 Retail Tobacco License. Amend RSA 178:19-a, III to read as follows:

3 III. The commission, when issuing or renewing a retail tobacco license, shall furnish a sign  
4 which shall read or be substantially similar to the following: "State Law prohibits the sale of  
5 tobacco products to persons under age [~~18~~] **21**. Warning: violators of these provisions may be  
6 subject to a fine."

7 445 Cigar Bars. Amend RSA 178:20-a, II(c) to read as follows:

8 (c) Does not allow any person under the age of [~~18~~] **21** on the premises unless  
9 accompanied by a parent, legal guardian, or adult spouse.

10 446 Adequate Public Education; Policy Regarding Tobacco Products. Amend RSA 193-E:2-a,  
11 I(g) to read as follows:

12 (g) Health education, ***including a policy for violations of RSA 126-K:8, I(a).***

13 447 Effective Date. Sections 434-446 of this act shall take effect January 1, 2020.

2019-2558h

AMENDED ANALYSIS

Insert: Increases the minimum age for sales and possession of tobacco products.

Sen. D'Allesandro, Dist 20  
June 18, 2019  
2019-2562s  
05/10

Amendment to HB 2-FN-A-LOCAL

1        1    Notice of Leased Interests in Public Property; Applicability to the Department of  
2    Transportation Temporarily Suspended. RSA 72:23, I(b)(1)(B), requiring lessors of public property  
3    to provide notice to assessing officials of the municipality in which the property is located, shall not  
4    apply to the department of transportation until January 1, 2021.

2019-2562s

AMENDED ANALYSIS

1. Provides that the department of transportation shall not be required to comply with the notice of lease provisions in RSA 72:73, I(b)(1)(B) until January 1, 2021.

Rep. Nordgren, Graf. 12  
June 18, 2019  
2019-2563h  
10/04

Amendment to HB 2-FN-A-LOCAL

1 Amend paragraphs II and III of section 434 by replacing them with the following:

2

3 II. Sections 261-273, 300-302, and 309-311 of this act shall take effect 60 days after its  
4 passage.

5 III. Sections 133-140, 227, 289-294, RSA 170-G:4-d as inserted by section 388, and 411-413  
6 of this act shall take effect January 1, 2020.

UNAPPROVED

Sen. Feltes, Dist 15  
Rep. Wallner, Merr. 10  
June 19, 2019  
2019-2583s  
11/08

Amendment to HB 2-FN-A-LOCAL

1 Amend the bill by replacing sections 91-93 with the following:

2

3 91 Appropriation; Department of Employment Security. The sum of \$3,500,000 for the fiscal  
4 year ending June 30, 2019 is hereby appropriated to the department of employment security for the  
5 purpose of funding start-up costs of family medical leave insurance with a third party  
6 administrator, provided that if either SB 1, HB 712, or similar legislation of the 2019 legislative  
7 session do not become law then such appropriation shall not take effect. Said sums shall be non-  
8 lapsing and continually appropriated to the department for this purpose. The governor is  
9 authorized to draw a warrant for said sum out of any money in the treasury not otherwise  
10 appropriated.

11 92 Appropriation; Education Trust Fund. The sum of \$6,400,000 for the fiscal year ending  
12 June 30, 2019 is hereby appropriated to the education trust fund. Of this amount, \$3,000,000 shall  
13 not be expended until the biennium ending June 30, 2023. The governor is authorized to draw a  
14 warrant for said sum out of any money in the treasury not otherwise appropriated.

15 Effective Date. Sections 91 and 92 of this act shall take effect June 30, 2019.

16

2019-2583s

AMENDED ANALYSIS

Replace paragraph 32 with the following:

32. Makes an appropriation to the department of employment security for the fiscal year ending June 30, 2019 for the purpose of funding start-up costs of family and medical leave insurance with a third party administrator.

33. Makes an appropriation to the education trust fund for the fiscal year ending June 30, 2019.

Amendment to HB 2-FN-A-LOCAL

1 Amend the bill by inserting after section 433 the following new section:

2

3 434 Adequate Representation for Indigent Defendants in Criminal Cases; Appointment of  
4 Counsel. Amend RSA 604-A:2, I to read as follows:

5 I. In every criminal case in which the defendant is charged with a felony or a class A  
6 misdemeanor and appears without counsel, the court before which he or she appears shall advise  
7 the defendant that he or she has a right to be represented by counsel and that counsel will be  
8 appointed to represent him or her if he or she is financially unable to obtain counsel. Unless the  
9 defendant waives the appointment of counsel, if the defendant indicates to the court that he or she  
10 is financially unable to obtain counsel, the court shall instruct the defendant to complete a financial  
11 [affidavit] **statement under oath** in such form as designated by the unit of cost containment. If  
12 after review of the financial [affidavit] **statement under oath** and application of the rules  
13 established pursuant to RSA 604-A:10, IV the court is satisfied that the defendant is financially  
14 unable to obtain counsel, the court shall appoint counsel to represent him or her; provided,  
15 however, that in any case in which the defendant is charged with a capital offense, the court may  
16 appoint 2 counsel to represent him or her. Whenever defendants have such conflicting interests  
17 that they cannot be properly represented by the same counsel, or when other good cause is shown,  
18 the court shall appoint separate counsel for each of them. In a post-conviction proceeding in which  
19 a defendant seeks to attack the validity of an underlying conviction, the court shall appoint counsel  
20 or approve a request for services other than counsel when the interests of justice or judicial  
21 economy require.

22 435 Appointment of Counsel for nonpayment or Nonperformance; Statement Under Oath.  
23 Amend RSA 604-A:2-f, II(a) to read as follows:

24 (a) Provide the defendant with a financial [affidavit] **statement under oath** and direct  
25 the defendant to complete the [affidavit] **financial statement under oath**;

AMENDED ANALYSIS

172. Requires indigent defendants to complete a financial statement under oath, rather than a financial affidavit, prior to appointment of counsel in criminal cases.

Sen. Feltes, Dist 15  
June 19, 2019  
2019-2587s  
04/05

Amendment to HB 2-FN-A-LOCAL

1 Amend the bill by replacing section 236 with the following:

2

3 236 Appropriation; Department of Health and Human Services; Patients Residing in Hospital  
4 Emergency Rooms.

5 I. There is hereby appropriated to the department of health and human services the sum of  
6 \$750,000 for the fiscal year ending June 30, 2019, which shall be nonlapsing, and shall be expended  
7 for the purpose of providing due process for involuntary emergency admissions patients currently  
8 residing in emergency rooms in hospitals; provided that no hospital shall receive more than  
9 \$100,000. The appropriation made in this section shall only cover the portion of costs not  
10 reimbursable by insurance carriers. The commissioner of the department of health and human  
11 services shall establish the application process for such funds. The governor is authorized to draw a  
12 warrant for said sum out of any money in the treasury not otherwise appropriated.

13 II. If the expenditure is greater than the appropriation contained in this section, the  
14 commissioner of the department of health and human services may request and receive additional  
15 funding, with the prior approval of the fiscal committee of the general court and governor and  
16 council. The governor is hereby authorized to draw a warrant for said sum out of any money in the  
17 treasury not otherwise appropriated.

2019-2587s

AMENDED ANALYSIS

Replace paragraph 88 with the following:

88. Makes an appropriation to the department of health and human services for the purpose of providing due process for patients residing in emergency rooms in hospitals.

Amendment to HB 2-FN-A-LOCAL

1 Amend the bill by replacing sections 248-249 with the following:

2

3 248 School Money; Additional Aid Based on Free or Reduced Price Meals; Fiscal Capacity  
4 Disparity Aid. RSA 198:40-b and RSA 198:40-c are repealed and reenacted to read as follows:

5 198:40-b Additional Aid Based on Free or Reduced-Price Meals.

6 I. In a school district in which 48 percent or more of the ADMA is eligible to receive a free  
7 or reduced-priced meal, an additional \$350 for each pupil in the ADMA who is eligible for a free or  
8 reduced-priced meal.

9 II. In a school district in which at least 12 percent but less than 48 percent of the ADMA is  
10 eligible to receive a free or reduced-priced meal, an amount equal to \$87.50 plus \$0.0729 for each  
11 0.01 percent that its free or reduced-priced meal eligibility rate exceeds 12 percent, for each pupil in  
12 the ADMA who is eligible for a free or reduced-priced meal.

13 III. A school district in which less than 12 percent of the ADMA is eligible to receive a free  
14 or reduced-priced meal shall receive no additional aid under this section.

15 198:40-c Fiscal Capacity Disparity Aid.

16 I. In addition to aid for the cost of the opportunity for an adequate education provided  
17 under RSA 198:40-a, each biennium the commissioner shall calculate fiscal capacity disparity aid  
18 and provide that amount of aid in each year of the biennium to a municipality's school districts as  
19 follows:

20 (a) A municipality with an equalized valuation per pupil of \$350,000 or less shall  
21 receive \$1,750 per pupil in the municipality's ADMA.

22 (b) A municipality with an equalized valuation per pupil between \$350,001 and  
23 \$999,999 shall receive a grant equal to \$0.0027 for each dollar of difference between its equalized  
24 valuation per pupil and \$1,000,000, per pupil in the municipality's ADMA.

25 (c) A municipality with an equalized valuation per pupil of \$1,000,000 or more shall  
26 receive no fiscal capacity disparity aid.

27 II. Fiscal capacity disparity aid shall be distributed pursuant to RSA 198:42.

28 III. In this section, "equalized valuation per pupil" means a municipality's equalized  
29 valuation, including properties subject to taxation under RSA 82 and RSA 83-F, as determined by  
30 the department of revenue administration, that was the basis for the local tax assessment in the  
31 determination year, divided by the school district's kindergarten through grade 12 ADMA in the

**Amendment to HB 2-FN-A-LOCAL**  
**- Page 2 -**

1 determination year.

2 249 School Money; Consumer Price Index Adjustment. Amend RSA 198:40-d to read as follows:  
3 198:40-d Consumer Price Index Adjustment.

4 *I. Beginning July 1, 2017 and every biennium thereafter, the department of education shall*  
5 *adjust the cost of an adequate education under RSA 198:40-a based on the average change in the*  
6 *Consumer Price Index for All Urban Consumers, Northeast Region, using the "services less medical*  
7 *care services" special aggregate index, as published by the Bureau of Labor Statistics, United States*  
8 *Department of Labor. The average change shall be calculated using the 3 calendar years ending 18*  
9 *months before the beginning of the biennium for which the calculation is to be performed.*

10 *II. Beginning July 1, 2021 and every biennium thereafter, the department of*  
11 *education shall adjust the additional aid based on free or reduced-price meals as*  
12 *provided in RSA 198:40-b based on the average change in the Consumer Price Index for All*  
13 *Urban Consumers, Northeast Region, using the "services less medical care services"*  
14 *special aggregate index, as published by the Bureau of Labor Statistics, United States*  
15 *Department of Labor. The average change shall be calculated using the 3 calendar years*  
16 *ending 18 months before the beginning of the biennium for which the calculation is to be*  
17 *performed.*

18 250 Determination of Adequate Education Grants. Amend RSA 198:41, I(b) to read as follows:

19 (b) Subtract the amount of the education tax warrant to be issued by the commissioner  
20 of revenue administration for such municipality reported pursuant to RSA 76:8 for the next tax  
21 year[-] ; *and*

22 (c) *Add the municipality's additional aid for free or reduced-price meals*  
23 *pursuant to RSA 198:40-b and fiscal capacity disparity aid pursuant to RSA 198:40-c.*

24 251 Determination of Education Grants. Amend RSA 198:41, IV(d) to read as follows:

25 (d) For fiscal year 2017 and each fiscal year thereafter, the department of education  
26 shall distribute a total education grant to each municipality in an amount equal to the total  
27 education grant for the fiscal year in which the grant is calculated plus a percentage of the  
28 municipality's fiscal year 2012 stabilization grant, if any, distributed to the municipality; the  
29 percentage shall be 96 percent for fiscal year 2017, ~~and shall be reduced by 4 percent of the amount~~  
30 ~~of the 2012 education grant for~~ *92 percent for fiscal year 2018, 88 percent for fiscal year 2019,*  
31 *and 100 percent for fiscal year 2020 and* each fiscal year thereafter. No stabilization grant shall  
32 be distributed to any municipality for any fiscal year in which the municipality's education property  
33 tax revenue collected pursuant to RSA 76 exceeds the total cost of an adequate education or to any  
34 municipality for any fiscal year in which the municipality's ADMA is zero.

35 Effective Date. Sections 248-250 of this act shall take effect July 1, 2020.

Amendment to HB 2-FN-A-LOCAL

1 Amend the bill by inserting after section 433 the following:

2

3 434 Seasonal Workers; Exempt from Work Search Requirements for Unemployment. RSA 282-  
4 A:31, I(d)(4) is repealed and reenacted to read as follows:

5 (4) If availability is limited to part-time work, the claim for unemployment benefits  
6 is based on wages earned in part-time work; and

7 (5) If the individual furnishes evidence satisfactory to the commissioner that such  
8 individual has a definite date for returning to work which is within 11 weeks of the last day of  
9 work, such person shall be exempt from the work search requirements in subparagraph (d).

10 435 Committee Established.

11 I. There is established a committee to study criminal background checks for school bus  
12 drivers and the establishment of a statewide certification program for school bus drivers.

13 II. The members of the committee shall be as follows:

14 (a) One member of the senate, appointed by the president of the senate.

15 (b) Three members of the house of representatives, appointed by the speaker of the  
16 house of representatives.

17 III. Members of the committee shall receive mileage at the legislative rate when attending  
18 to the duties of the committee.

19 IV. The committee shall study criminal background checks for school bus drivers and  
20 recommend legislation to establish a statewide certification program for school bus drivers based  
21 upon the recommendations of the department of safety.

22 V. The members of the study committee shall elect a chairperson from among the members.  
23 The first meeting of the committee shall be called by the senate member. The first meeting of the  
24 committee shall be held within 45 days of the effective date of this section. Four members of the  
25 committee shall constitute a quorum.

26 VI. The committee shall report its findings and any recommendations for proposed  
27 legislation to the president of the senate, the speaker of the house of representatives, the senate  
28 clerk, the house clerk, the governor, and the state library on or before November 1, 2019.

29 436 Contingency. If SB 62 of the 2019 regular legislative session becomes law, then sections  
30 434-435 of this act shall take effect one minute after the effective date of SB 62.

31 437 Effective Date. Sections 434-435 of this act shall take effect as provided in section 436 of  
32 this act.

2019-2599s

AMENDED ANALYSIS

172. Exempts certain seasonal workers who are temporarily laid off from the requirement to search for work to qualify for unemployment compensation and establishes a commission to study school bus driver background checks.

UNAPPROVED

**PREPARED FOR REPRESENTATIVE WALLNER AND SENATOR D'ALLESANDRO**

<b>HB 1 &amp; 2 - COMMITTEE OF CONFERENCE</b>				
<b>CHANGE PROPOSAL</b>				
<b>SAVINGS/(COST)</b>				
	<b>General</b>	<b>ETF</b>	<b>Combined</b>	<b>Description</b>
<b><u>REVENUE</u></b>				
Base Estimates/Business Tax Conformity	\$ 15.9	\$ (0.8)	\$ 15.1	Amendment 2510h Adopted, Surplus Statement Adjusted
<b><u>HB 1</u></b>				
MMIS Operating Costs (05-95-47-4700-8009)	\$ 6.0	\$ -	\$ 6.0	Reduce HB 1 appropriation by \$6M, and allow DHHS to transfer funds with Fiscal Committee approval.
APTD Grants (05-95-45-4500-6174)	\$ 0.6	\$ -	\$ 0.6	Reduce to House Level.
<b><u>HB 2</u></b>				
Section 233 - Children's Inpatient Psychiatric Facility	\$ 6.5	\$ -	\$ 6.5	Amend Section 233 appropriation to \$5,000,000 for operating costs.
Section 250 - Charter School Aid	\$ -	\$ 2.5	\$ 2.5	Deletes Section 250
Sections 304-306 - FRM Fund	\$ 1.5	\$ -	\$ 1.5	Delete Sections 304-306
Section 345 - Sunny Day Fund	\$ 2.0	\$ -	\$ 2.0	Amend Section 345 transfer to \$1,000,000
Section 370 - Tilton State Highway Project	\$ 2.1	\$ -	\$ 2.1	Delete Section 370
Section 372 - Trooper Reallocation	\$ 0.6	\$ -	\$ 0.6	Amend Section 372 appropriation to \$1,500,000
Section 400 - DRF Beds	\$ 0.6	\$ -	\$ 0.6	Amendment 2541s Adopted
NEW - Education Trust Fund	\$ (43.3)	\$ 43.3	\$ -	Appropriate \$43.3M of General Funds in FY 2019 to the Education Trust Fund.
			\$ -	
<b><u>RAINY DAY FUND</u></b>				
FY21 Rainy Day Fund Transfer	\$ 7.5	\$ -	\$ 7.5	FY21 Rainy Day Fund transfer will decrease by \$7.5M based on the actions above.
<b>NET COMBINED GF/ETF CHANGE</b>	<b>\$ 0.0</b>	<b>\$ 45.0</b>	<b>\$ 45.0</b>	

LBA						
06/19/19						
<b>HB 1 Amendment</b>						
<b>Representative Wallner &amp; Senator D'Allesandro</b>						
Department:	DHHS					
Accounting Unit:	05-95-47-470010-8009 (Medicaid Management Information System)					
Compare Page #:	1158					
	<b>FY 2020</b>			<b>FY 2021</b>		
<b>Expenditure Class</b>	<b>Senate Passed</b>	<b>Change</b>	<b>Revised Budget</b>	<b>Senate Passed</b>	<b>Change</b>	<b>Revised Budget</b>
020 CURRENT EXPENSES	170,000	-	170,000	170,000	-	170,000
041 AUDIT FUND SET ASIDE	17,092	-	17,092	17,092	-	17,092
102 CONTRACTS FOR PROGRAM SERVIC	31,676,096	600,042	32,276,138	33,159,579	(13,146,744)	20,012,835
<b>TOTAL</b>	<b>31,863,188</b>	<b>600,042</b>	<b>32,463,230</b>	<b>33,346,671</b>	<b>(13,146,744)</b>	<b>20,199,927</b>
<b>Source of Funds</b>						
GENERAL FUND	9,004,024	286,816	9,290,840	9,374,895	(6,284,055)	3,090,840
000 - FEDERAL FUNDS	22,859,164	313,226	23,172,390	23,971,776	(6,862,689)	17,109,087
<b>TOTAL</b>	<b>31,863,188</b>	<b>600,042</b>	<b>32,463,230</b>	<b>33,346,671</b>	<b>(13,146,744)</b>	<b>20,199,927</b>
*Add a footnote to read as follows: "The funds appropriated in this accounting unit shall not lapse until June 30, 2021. For the biennium ending June 30, 2021, with prior approval of the Fiscal Committee of the General Court, the Department is authorized to transfer up to \$6,000,000 of general funds into this accounting unit."						

LBA						
06/19/19						
<b>HB 1 Amendment</b>						
<b>Representative Wallner &amp; Senator D'Allesandro</b>						
Department:	DHHS					
Accounting Unit:	05-95-45-450010-6174 (APTD Grants)					
Compare Page #:	1141					
	<b>FY 2020</b>			<b>FY 2021</b>		
<b>Expenditure Class</b>	<b>Senate Passed</b>	<b>Change</b>	<b>Revised Budget</b>	<b>Senate Passed</b>	<b>Change</b>	<b>Revised Budget</b>
501 PAYMENTS TO CLIENTS	9,984,044	(200,000)	9,784,044	9,532,300	(400,000)	9,132,300
<b>Source of Funds</b>						
GENERAL FUND	9,784,044	(200,000)	9,584,044	9,332,300	(400,000)	8,932,300
009 - AGENCY INCOME	200,000	-	200,000	200,000	-	200,000
<b>TOTAL</b>	<b>9,984,044</b>	<b>(200,000)</b>	<b>9,784,044</b>	<b>9,532,300</b>	<b>(400,000)</b>	<b>9,132,300</b>
<b>Explanation:</b> Reduces general funds to House-passed level.						

Amendment to HB 2-FN-A-LOCAL

1 Amend the bill by replacing section 233 with the following:

2

3 233 Appropriation; Department of Health and Human Services; Inpatient Psychiatric  
4 Treatment Facility for Children.

5 I. There is hereby appropriated the sum of \$5,000,000 for the fiscal year ending June 30,  
6 2020, which shall be nonlapsing, to the department of health and human services for the purpose of  
7 operating a psychiatric treatment facility for children who are in need of acute inpatient psychiatric  
8 treatment. The governor is authorized to draw a warrant for said sum out of any money in the  
9 treasury not otherwise appropriated.

10 II.(a) Before entering into any contractual obligation regarding the facility, the  
11 commissioner of the department of health and human services shall prepare a report which  
12 describes how the operational plan shall certify and provide for:

13 (1) Continued Joint Commission accreditation;  
14 (2) Age- and developmentally- appropriate education, recreation, and rehabilitation  
15 services; and

16 (3) Backup staffing and security services so that the capacity for response to staffing  
17 shortages and emergencies, including psychiatric emergencies of children, is no less effective and no  
18 less protective than now exists at New Hampshire hospital.

19 (b) The report shall be provided to the governor, the speaker of the house of  
20 representatives, the president of the senate, and the fiscal committee of the general court no later  
21 than 30 days before the issuance of a request for proposals or the entrance into any contractual  
22 obligation for the development of the facility.

23 (c) In addition, the commissioner shall ensure that the facility is operated consistently  
24 with the principles and requirements of RSA 135-F, regarding the system of care for children's  
25 mental health.

2019-2569s

AMENDED ANALYSIS

85. Makes an appropriation to the department of health and human services for the purpose of operating a new treatment facility for children in need of inpatient psychiatric treatment.

Rep. Wallner, Merr. 10  
June 18, 2019  
2019-2574h  
11/04

Amendment to HB 2-FN-A-LOCAL

- 1 Amend the bill by deleting section 250, relative to chartered public school funding.

UNAPPROVED

LBA						
06/19/19						
<b>HB 1 Amendment</b>						
<b>Representative Wallner</b>						
Department:	Department of Education					
Accounting Unit:	06-56-56-567010-3043 (Education Trust Fund)					
Compare Page #:	1402					
	<b>FY 2020</b>			<b>FY 2021</b>		
<b>Expenditure Class</b>	<b>Senate Passed</b>	<b>Change</b>	<b>Revised Budget</b>	<b>Senate Passed</b>	<b>Change</b>	<b>Revised Budget</b>
611 CHARTER SCHOOL TUITION	42,999,081	(1,222,727)	41,776,354	46,295,118	(1,307,515)	44,987,603
<b>TOTAL</b>	<b>42,999,081</b>	<b>(1,222,727)</b>	<b>41,776,354</b>	<b>46,295,118</b>	<b>(1,307,515)</b>	<b>44,987,603</b>
<b>Source of Funds</b>						
EDUCATION TRUST FUND	42,999,081	(1,222,727)	41,776,354	46,295,118	(1,307,515)	44,987,603
<b>TOTAL</b>	<b>42,999,081</b>	<b>(1,222,727)</b>	<b>41,776,354</b>	<b>46,295,118</b>	<b>(1,307,515)</b>	<b>44,987,603</b>
<b>Explanation:</b> Reduces appropriation for charter school grants based on HB 2 amendment 2019-2574h (deletion of section 250).						

Rep. Wallner, Merr. 10  
Sen. D'Allesandro, Dist 20  
June 18, 2019  
2019-2575h  
06/04

Amendment to HB 2-FN-A-LOCAL

1 Amend the bill by deleting sections 304-306, relative to moneys transferred to the FRM victims'  
2 contribution recovery fund.

3

4 Amend paragraph I of section 434 to read as follows:

5

6 I. Sections 1, 36, 37, 63, 66, 72, 73, 191, 197, 230, paragraph I of section 233, 234-236, 251,  
7 paragraph II of section 252, 254-255, 257, paragraph I of section 329, 330, 344-346, 347, 354, 357,  
8 359, 360, 367, 369-371, 372, 397, 399-401, and 430-433 of this act shall take effect June 30, 2019.

9

10 Delete paragraph VIII of section 434.

2019-2575h

AMENDED ANALYSIS

Delete paragraph 116.

Rep. Wallner, Merr. 10  
Sen. D'Allesandro, Dist 20  
June 18, 2019  
2019-2571h  
11/04

Amendment to HB 2-FN-A-LOCAL

1 Amend the bill by replacing section 345 with the following:

2

3 345 General Fund Surplus Account; Transfer to Sunny Day Fund. On June 30, 2019, the state  
4 treasurer shall transfer the sum of \$1,000,000 from the general fund surplus account to the sunny  
5 day fund established in RSA 12-O:21-a.

UNAPPROVED

Rep. Wallner, Merr. 10  
June 18, 2019  
2019-2577h  
06/04

**Amendment to HB 2-FN-A-LOCAL**

1 Amend the bill by deleting section 370, making an appropriation to the department of  
2 transportation to provide a state aid construction program match for the project named Tilton.

3

4 Amend paragraph I of section 434 to read as follows:

5

6 I. Sections 1, 36, 37, 63, 66, 72, 73, 191, 197, 230, paragraph I of section 233, 234-236, 251,  
7 paragraph II of section 252, 254-255, 257, 304-305, paragraph I of section 329, 330, 344-346, 347,  
8 354, 357, 359, 360, 367, 369, 371, 372, 397, 399-401, and 430-433 of this act shall take effect June  
9 30, 2019.

10

11

2019-2577h

**AMENDED ANALYSIS**

Delete paragraph 143.

Sen. Feltes, Dist 15  
June 14, 2019  
2019-2495s  
05/06

Amendment to HB 2-FN-A-LOCAL

1 Amend the bill by replacing section 372 with the following:

2

3 372 Department of Safety Position Reallocation; Appropriation.

4 I. The sum of \$1,450,000 is hereby appropriated, upon approval of the fiscal committee of  
5 the general court by June 30, 2020, to the department of safety for the biennium ending June 30,  
6 2021 for the purpose of funding reallocation of all sworn police troopers from the rank of  
7 probationary trooper through the rank of executive major for the last 6 months of the biennium  
8 ending June 30, 2021. The department of administrative services shall conduct an assessment  
9 review of the reallocation request and shall report its findings to the fiscal committee prior to the  
10 fiscal committee vote. Reallocated pay shall take effect January 1, 2021.

11 II. The sum of \$50,000 for the biennium ending June 30, 2021 is hereby appropriated to the  
12 department of administrative services for the purpose of retaining a consultant to assist with the  
13 assessment review conducted pursuant to paragraph I.

14 III. The governor is authorized to draw a warrant for said sums in this section out of any  
15 money in the treasury not otherwise appropriated. Such funds shall not lapse until June 30, 2021.

2019-2495s

AMENDED ANALYSIS

Replace paragraph 145 with the following:

145. Makes an appropriation to the department of safety to fund the reallocation of certain state police troopers, and makes an appropriation to the department of administrative services to fund an assessment review for such reallocation.

Rep. Wallner, Merr. 10  
Sen. D'Allesandro, Dist 20  
June 18, 2019  
2019-2579h  
11/06

Amendment to HB 2-FN-A-LOCAL

1 Amend the bill by inserting the after section 433 the following new section:

2

3 434 Appropriation; Education Trust Fund. The sum of \$43,300,000 for the fiscal year ending  
4 June 30, 2019 is hereby appropriated to the education trust fund. The governor is authorized to  
5 draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

6 Effective Date. Section 434 of this act shall take effect June 30, 2019.

AMENDED ANALYSIS

Insert:

172. Makes an appropriation to the education trust fund for the fiscal year ending June 30, 2019.