Important Notice

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May 29, 2020
No. 21A

STATE OF NEW HAMPSHIRE

Web Site Address: www.gencourt.state.nh.us

Second Year of the 166th Session of the New Hampshire General Court

SENATE CALENDAR ADDENDUM

Important Notice

Due to the COVID-19 pandemic, the General Court has suspended all legislative activities until further notice with the exception of remote public meetings, notices for which will be published in the House or Senate Calendar. During this time, the State House and Legislative Office Building will be closed to legislative members, legislative staff, and visitors.

REMOTE HEARINGS

TUESDAY, JUNE 2, 2020

HEALTH AND HUMAN SERVICES

Sen. Sherman (C), Sen. Fuller Clark (VC), Sen. Chandley, Sen. Bradley, Sen. Gray

8:00 a.m. **HB 1264,** extending the commission on the seacoast cancer cluster investigation.

8:05 a.m. Hearing on proposed Amendment #1261s, extending the commission on the seacoast cancer cluster investigation, setting the maximum contaminant levels for certain perfluorochemicals in drinking water, establishing a per and polyfluoroalkyl substances fund and programs and making an appropriation therefor, and requiring insurance coverage for PFAS and PFC blood tests., to **HB 1264,** extending the commission on the seacoast cancer cluster investigation.

8:30 a.m. **HB 578-FN,** relative to services for the developmentally disabled.

8:35 a.m. Hearing on proposed Amendment #1277s, establishing a committee to study the safety of residents and employees in long-term care facilities and relative to cost controls in long-term care., to **HB 578-FN,** relative to services for the developmentally disabled.

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. To sign-in and/or speak in support or opposition, please register in advance by using this link:

https://www.zoom.us/webinar/register/WN_O3jklOmFTaCH-v4pwOEJEw

2. To submit your testimony to the committee, please send all documents via email to

remotesenate@leg.state.nh.us

3. To listen via telephone: Dial (for higher quality, dial a number based on your current location): 1-301-715-8592, or 1-312-626-6799, or 1-929-205-6099, or 1-253-215-8782, or 1-346-248-7799, or 1-669-900-6833

4. Or iPhone one-tap: 19292056099,,97159457302# or 13017158592,,97159457302#

5. Webinar ID: 971 5945 7302

6. To view/listen to this hearing on YouTube, use this link:

https://www.youtube.com/channel/UCjBZdtrjRnQdmg-2MPMiWrA

The following email will be monitored throughout the meeting by someone who can assist with and alert the committee to any technical issues: remotesenate@leg.state.nh.us or call (603-271-3043).

EXECUTIVE SESSION MAY FOLLOW

THURSDAY, JUNE 4, 2020

ELECTION LAW AND MUNICIPAL AFFAIRS

Sen. Levesque (C), Sen. Sherman (VC), Sen. Morgan, Sen. Birdsell, Sen. Gray

1:00 p.m. **HB 1672-FN,** allowing voters to vote by absentee ballot.

1:05 p.m. Hearing on proposed Amendment #1281s, to **HB 1672-FN**, allowing voters to vote by absentee ballot.

Committee members will receive secure Zoom invitations via email.

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4. Or iPhone one-tap: 13017158592,,91170107529# or 13126266799,,91170107529#

5. Webinar ID: 911 7010 7529

6. To view/listen to this hearing on YouTube, use this link:

https://www.youtube.com/channel/UCjBZdtrjRnQdmg-2MPMiWrA

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EXECUTIVE SESSION MAY FOLLOW

HEALTH AND HUMAN SERVICES

Sen. Sherman (C), Sen. Fuller Clark (VC), Sen. Chandley, Sen. Bradley, Sen. Gray

8:00 a.m. **HB 1623-FN,** relative to telemedicine and substance use disorder.

8:05 a.m. Hearing on proposed Amendment #1286s, relative to telemedicine., to **HB 1623-FN,** relative to telemedicine and substance use disorder.

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. To sign-in and/or speak in support or opposition, please register in advance by using this link:

https://www.zoom.us/webinar/register/WN_My1hryTkS52unCldLbpOwA

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4. Or iPhone one-tap: 13017158592,,91175168535# or 13126266799,,91175168535#

5. Webinar ID: 911 7516 8535

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EXECUTIVE SESSION MAY FOLLOW

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AMENDMENTS

Sen. Fuller Clark, Dist 21
May 29, 2020
2020-1277s
01/08

Amendment to HB 578-FN

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

AN ACT establishing a committee to study the safety of residents and employees in long-term care facilities and relative to cost controls in long-term care.

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

1 Committee Established. There is established a committee to study the safety of residents and employees in long-term care facilities.

2 Membership and Compensation.

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

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

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

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

3 Duties. The committee shall study the safety, including risk of suicide, of residents and employees in long-term care facilities. The committee may solicit information from any person or entity the committee deems relevant to its study.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2020.

6 Hospitals and Sanitaria; Consumer Choice. Amend RSA 151-E:4, I to read as follows:

I. A person who has been determined to be Medicaid eligible for nursing facility services in accordance with RSA 151-E:3 shall have the right to receive nursing facility services; however, the person shall be offered and may choose to receive services in a less restrictive setting if such services are available[~~ and do not result in costs to the state and counties in excess of the limitations set forth in RSA 151-E:11, II~~]. Such choice shall be offered in accordance with state laws and federal regulations. The person shall have the right to have his or her individual support plan developed through a person-centered planning process regardless of age, disability, or residential setting. The department shall take into consideration the family and community supports available to the person, the family's desire and ability to care for the person, and shall ensure that all consideration and support is offered to the family to maintain the person in home and community-based care. Nothing in this section is intended to require the provision of financial assistance or supports by a family member.

7 Long-Term Care; Program Management and Cost Controls. Amend RSA 151-E:11, II to read as follows:

II. [~~For the fiscal year beginning July 1, 2003, and each fiscal year thereafter the average annual cost for the provision of services to persons in the mid-level of care shall not exceed 60 percent of the average annual cost for the provision of services in a nursing facility. The average annual cost for the provision of services in~~

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~~home-based care shall not exceed 50 percent of the average annual cost for the provision of services to persons in a nursing facility. No person whose costs would be in excess of 80 percent of the average annual cost for the provision of services to a person in a nursing facility shall be approved for home-based or mid-level services without the prior approval of the commissioner of health and human services. The prior approval shall include a comparison of the mid-level or home-based care costs of the person with the costs of a facility qualified to provide any specialized services necessary for the proper care and treatment of the individual.~~] The department shall provide a report annually no later than January 1 on the utilization of non-nursing home services to the county-state finance commission and the legislative fiscal committee. The department may report to the county-state finance commission and the legislative fiscal committee more frequently if new information is provided by the Centers for Medicare and Medicaid Services.

8 Long-Term Care; Program Management and Cost Controls. Amend RSA 151-E:11, IV to read as follows:

IV. Pursuant to RSA 541-A, the commissioner of the department of health and human services, with prior reporting to the oversight committee on health and human services, shall adopt by rule[~~:~~

~~(a)~~] methodologies for determining the cost and average annual cost of home-based care, mid-level care, and intermediate, skilled, or specialized nursing facility care, including:

[~~(1)~~] ***(a)*** Bases for the methodologies;

[~~(2)~~] ***(b)*** Identification of services considered in determining costs;

[~~(3)~~] ***(c)*** Average annual costs based on the annual average number of recipients in the setting;

[~~(4)~~] ***(d)*** The requirement that nursing facility care include both the initial Medicaid rate and supplemental rates paid through the Medicaid Quality Incentive Program; and

[~~(5)~~] ***(e)*** The requirement that the nursing facility will include the cost for transitional case management.

[~~(b) A process to identify persons in home-based or mid-level care whose costs are expected to exceed 80 percent of the average annual cost for the provision of services to a person in a nursing facility.~~

~~(c) A standard of review and process for prior approval by the commissioner, in accordance with paragraph II of this section, for the cases identified through the process in subparagraph (b).~~]

9 Effective Date.

I. Sections 6-8 of this act shall take effect January 1, 2021.

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

2020-1277s

AMENDED ANALYSIS

This bill establishes a committee to study the safety of residents and employees in long-term care facilities.

This bill also clarifies the cost controls for long-term care services.

Sen. Sherman, Dist 24
Sen. Bradley, Dist 3
May 27, 2020
2020-1261s
01/10

Amendment to HB 1264

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

AN ACT extending the commission on the seacoast cancer cluster investigation, setting the maximum contaminant levels for certain perfluorochemicals in drinking water, establishing a per and polyfluoroalkyl substances fund and programs and making an appropriation therefor, and requiring insurance coverage for PFAS and PFC blood tests.

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Amend the bill by replacing all after section 2 with the following:

3 Perfluorochemicals; Drinking Water. RSA 485:16-e is repealed and reenacted to read as follows:

485:16-e Perfluorochemicals.

I. The maximum contaminant levels for the following shall be:

(a) Perfluorooctanoic acid (PFOA): 12 parts per trillion.

(b) Perfluoroctanesulfonic acid (PFOS): 15 parts per trillion.

(c) Perfluorohexanesulfonic acid (PFHxS): 18 parts per trillion.

(d) Perfluorononanoic acid (PFNA): 11 parts per trillion.

II. By November 1, 2020, and at least annually thereafter, the commissioner of the department of environmental services shall report to the speaker of the house of representatives and the president of the senate, the chairperson of the house committee on science, technology, and energy, the chairperson of the senate committee on energy and natural resources, the chairperson of the joint legislative committee on administrative rules, and the governor, with a recommendation regarding the adjustment of the maximum contaminant levels set in paragraph I.

III. The commissioner of the department of environmental services may adopt maximum contaminant levels different than those set forth in paragraph I if, accounting for an adequate margin of safety to protect human health at all life stages, including but not limited to pre-natal development, the commissioner determines the maximum contaminant levels in paragraph I need adjustment for the protection of human health.

4 New Chapter; Per and Polyfluoroalkyl Substances (PFAS) Fund and Programs. Amend RSA by inserting after chapter 485-G the following new chapter:

CHAPTER 485-H
PER AND POLYFLUOROALKYL SUBSTANCES (PFAS)
FUND AND PROGRAMS

485-H:1 Purpose Statement. Communities across the state have been impacted by per and polyfluoroalkyl substances (PFAS) contamination, largely through no fault of their own. The cost of remediating this contamination for many communities would result in dramatically higher water and sewer rates for end users. The existence of these man-made chemicals, some of which are occurring at unhealthy levels in New Hampshire's drinking water, require a strategy to protect, preserve, and enhance the water that New Hampshire citizens and environment rely upon.

485-H:2 Definitions. In this chapter:

I. "Community water system" means "community water system" as defined in RSA 485:1-a.

II. "Department" means the department of environmental services.

III. "Drinking water standard" means the maximum contaminant levels in accordance with RSA 485:16-e.

IV. "Fund" means the PFAS remediation loan fund established in RSA 485-H:10.

V. "Non-transient non-community water system" means "non-transient non-community water system as defined in RSA 485:1-a.

VI. "Wastewater residuals" means septage, sludge, or biosolids.

485-H:3 Implementation of Drinking Water Protection Program. The department shall provide low interest loans to community water systems and non-profit, non-transient public water systems whose testing of untreated source water shows confirmed exceedance of the state maximum contaminant level for PFAS, for remediation efforts begun after September 30, 2019.

I. Projects shall only be financed after the applicant demonstrates that the proposed plan for remediation is the most cost-effective solution, as reviewed and approved by the department. The applicant shall

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provide evidence in the application for funding that there are no no-cost or low-cost efforts such as blending of source water or shutting down an impacted source that would result in the system meeting applicable state maximum contaminant level with no unreasonable adverse effects. The applicant shall also show that there is no responsible party identified by the department or that the responsible party, potentially including the applicant, has provided their appropriate share of the funding for the proposed project.

II. Loans may be made for up to the total cost of the project, after any responsible party's contribution, addressing the contamination.

485-H:4 Implementation of Groundwater, Surface Water and Aquatic Life Protection. The department shall provide low interest loans to publicly-owned and non-profit wastewater and/or wastewater residual treatment or storage facilities that are required to treat effluent and residuals to achieve PFAS standards prior to discharge or disposal.

I. Projects shall only be financed after the applicant demonstrates that the proposed plan for remediation is the most cost-effective solution, as reviewed and approved by the department. The applicant shall provide evidence in the application for funding that there are no no-cost or low-cost efforts that would result in the system meeting standards with no unreasonable adverse effects. The applicant shall also show that there is no responsible party identified by department or that the responsible party, potentially including the applicant, has provided their appropriate share of the funding for the proposed project.

II. Loans may be made for up to the total cost of the project, after any responsible party's contribution, addressing the contamination.

485-H:5 Loan Principal Forgiveness Based Upon Need.

I. The department shall forgive up to 10 percent of the loan principal to community water systems and non-profit, non-transient non-community water systems using the same qualifying standards for forgiveness used in the drinking water state revolving loan program established under RSA 486:14.

II. The department shall forgive up to 10 percent of the loan principal for publicly-owned and non-profit wastewater treatment facilities using the same qualifying standards for forgiveness used in the clean water state revolving loan program established under RSA 486:14.

III. Total loan forgiveness under this section shall not exceed $5 million for both drinking water and clean water combined.

485-H:6 Contingent Reimbursement.

I. Following the reimbursement of the department of justice for legal expenses related to relevant litigation; the transfer of funds to the revenue stabilization reserve account pursuant to RSA 7:6-e; the redemption of bonds issued or debt incurred pursuant to RSA 6:13-e, III(a); and reimbursement of the general fund for any debt principal or interest payments made to support bonds issued or debt incurred pursuant to RSA 6:13-e, III(a), any remaining funds from judgments or settlements received by the state resulting from lawsuits against the manufacturers of PFAS shall be deposited into the drinking water and groundwater trust fund established in RSA 6-D:1.

II. In addition to the loan forgiveness described in RSA 485-H:5, the department, upon certification by the state treasurer that funds from judgments or settlements have been received and used to redeem the bonds issued under RSA 6:13-e in full and the general fund has been reimbursed for all interest and principal payments charged against it to support said bond, shall grant partial loan forgiveness to the loan recipients, up to 50 percent of the loan principal.

(a) If insufficient funds are received by the state to cover 50 percent of the principal, the reimbursements shall be prorated. In no instance shall the loan reimbursement exceed 50 percent of the total loan amount, unless it received loan forgiveness under RSA 485-H:5, in which case the combined maximum shall be 60 percent.

(b) In the event a loan recipient receives compensation from a responsible party, the department shall not grant partial loan forgiveness that in combination with any compensation would exceed 100 percent of the total cost of the remediation.

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485-H:7 Drinking Water and Groundwater Trust Fund Exception. Notwithstanding any law to the contrary, any funds deposited into the drinking water and groundwater trust fund established in RSA 6-D:1 as a result of this chapter may be transferred to the department to be used for funding PFAS remediation projects, including those at wastewater treatment facilities, at the discretion of the fund's advisory commission.

485-H:8 Duties of the Department.

I. The department shall perform the following duties to the limit of available funding:

(a) Establishing and administrating the PFAS remediation loan program to assist municipalities; community and non-profit, non-transient non-community water systems; and publicly owned and non-profit wastewater treatment facilities with the cost of complying with state maximum contaminant level for PFAS.

(b) Establishing and administering a loan forgiveness program to assist disadvantaged communities with loan repayment.

(c) Awarding loan funds to projects that meet the following criteria:

(1) The project is or was necessary to comply with a state mandated PFAS standard and the applicant for funding is a municipality, a community water system, or a non-profit, non-transient public water system, or a publicly-owned or non-profit wastewater and/or wastewater residual treatment or storage facility.

(2) The applicant has demonstrated, to the satisfaction of the department, that low or no-cost solutions are neither viable nor effective.

(d) Awarding reimbursements to projects from the fund in a manner consistent with this chapter.

II. Every year beginning December 1, 2020, the department shall prepare and file a report with the general court evaluating the progress made relative to PFAS contamination, the efficiency of the program established under this chapter, and whether it continues to provide the maximum benefit to New Hampshire citizens, and providing any recommendations on potential additional tasks for which the fund could be used to address PFAS contamination.

485-H:9 Rules. The department shall adopt rules, under RSA 541-A, relative to administering PFAS remediation loan programs for eligible projects necessary to meet state PFAS standards.

485-H:10 PFAS Remediation Loan Fund Established. There is hereby established in the department the PFAS remediation loan fund which shall be maintained by the state treasurer in distinct and separate custody from all other funds, notwithstanding RSA 6:12. The state treasurer may invest the fund in accordance with RSA 6:8. Any earnings on fund moneys shall be added to the fund. All moneys in the fund shall be non-lapsing and shall be continually appropriated to the department. The PFAS remediation loan fund shall be used to fund loans and reimbursements in accordance with this chapter. Funds from any bond proceeds, grants, loan repayments, legislative appropriations, donations, and other funds shall be credited to this fund.

5 New Subparagraph; PFAS Remediation Loan Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (358) the following new subparagraph:

(359) Moneys deposited in the PFAS remediation loan fund established in RSA 485-H:10.

6 Capital Appropriation; Department of Environmental Services. The sum of $50,000,000 is hereby appropriated to the department of environmental services for capital expenditures for the remediation of per- and polyfluoroalkyl substances in the state's drinking water sources and waste water residuals, which expenditures may include loans to public or private entities on such terms and conditions as the department of environmental services shall determine. To provide funds for the appropriation made in this section, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of $50,000,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-13-e. Notwithstanding the provisions of RSA 9:18, the appropriation made in this section shall not lapse.

7 New Section; Authority to Issue Bonds; General Fund. Amend RSA 6 by inserting after section 13-d the following new section:

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6:13-e Authority to Borrow; Certain Environmental Projects.

I. The state treasurer, as may be requested from time to time by the commissioner of the department of environmental services, is hereby authorized to borrow upon the credit of the state such sums as may be authorized by law from time to time to be borrowed under this section and may issue general obligation bonds in the name and on behalf of the state of New Hampshire for such authorized purposes and amounts in accordance with the provisions of RSA 6-A. The state treasurer is hereby further authorized to borrow all or any portion of amounts authorized to be borrowed under this section either as a loan from banks or other financial institutions, within or without the state, selected by the state treasurer or under the federal program established under the Water Infrastructure Finance and Innovation Act, 33 U.S.C. chapter 52, as amended, and to enter into agreements containing appropriate covenants and conditions as the state treasurer determines to be necessary or desirable to secure favorable credit terms from said banks or other financial institutions or under said program.

II. Notwithstanding the provisions of RSA 6-A:2, the maturity date of bonds issued pursuant to this section shall be not later than 30 years from the date of issue, as determined by the state treasurer; provided, that in determining the amount of bonds maturing later than 20 years from the date of issue, the state treasurer shall take into account the expected useful life of the projects being financed, as identified by the commissioner of the department of environmental services.

III. Payment of principal and interest on the borrowing authorized under paragraph I shall be paid when due from general fund revenue; provided, however, that pursuant to RSA 485-H:6, I, any borrowing under paragraph I shall be paid at or prior to maturity from any available funds derived from lawsuits against the manufacturers of PFAS, after reimbursement to the department of justice for legal expenses related to the litigation and the transfer of funds to the revenue stabilization reserve account pursuant to RSA 7:6-e.

IV. To the extent any borrowing under paragraph I cannot be immediately redeemed or prepaid when such funds are received by the state, the funds shall be held in a nonlapsing reserve to be established by the state treasurer for the future payment of the borrowing in accordance with its redemption or prepayment provisions.

8 Municipal Immunity for Compliance with Best Practices; Pollutant Liability Standard. Amend RSA 507-B:9, I to read as follows:

I. Notwithstanding any other provision of law, the liability of any governmental unit or public employee for any personal injury, bodily injury, or property damage caused by or resulting from pollutant incidents ***including, but not limited to, per and polyfluorochemical contamination,*** shall only be based upon a showing by a preponderance of the evidence that the acts or omissions of the governmental unit were unreasonable. The acts or omissions of a governmental unit or public employee shall be conclusively presumed to be reasonable if they are in accord with the generally prevailing state of the art, scientific knowledge, and technology available to the governmental unit at the time the acts or omissions were undertaken or made by the governmental unit or public employee.

9 New Section; Accident and Health Insurance; Coverage for Perfluoroalkyls (PFAS) and Perfluorinated Compound (PFC) Blood Testing; Individual. Amend RSA 415 by inserting after section 6-x the following new section:

415:6-y Coverage for Perfluoroalkyls (PFAS) and Perfluorinated Compound (PFC) Blood Testing. Each insurer that issues or renews any individual policy of accident or health insurance providing benefits for medical or hospital expenses, shall provide to certificate holders of such insurance, who are residents of this state, coverage for perfluoroalkyls (PFAS) and perfluorinated compound (PFC) blood testing. Benefits provided under this section shall not be subject to any greater co-payment, deductible, or coinsurance than any other similar benefits provided by the insurer.

10 New Section; Accident and Health Insurance; Coverage for Perfluoroalkyls (PFAS) and Perfluorinated Compounds (PFCS) Blood Testing; Group. Amend RSA 415 by inserting after section 18-bb the following new section:

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415:18-cc Coverage for Perfluoroalkyls (PFAS) and Perfluorinated Compounds (PFCS) Blood Testing. Each insurer that issues or renews any policy of group or blanket accident or health insurance providing benefits for medical or hospital expenses, shall provide to certificate holders of such insurance, who are residents of this state, coverage for coverage for perfluoroalkyls (PFAS) and perfluorinated compounds (PFCS) blood testing. Benefits provided under this section shall not be subject to any greater co-payment, deductible, or coinsurance than any other similar benefits provided by the insurer.

11 Health Services Corporations; Applicable Statutes. Amend RSA 420-A:2 to read as follows:

420-A:2 Applicable Statutes. Every health service corporation shall be governed by this chapter and the relevant provisions of RSA 161-H, and shall be exempt from this title except for the provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415-A, RSA 415-F, RSA 415:6, II(4), RSA 415:6-g, RSA 415:6-k, RSA 415:6-m, RSA 415:6-o, RSA 415:6-r, RSA 415:6-t, RSA 415:6-u, RSA 415:6-v, RSA 415:6-w, RSA 415:6-x, ***RSA 415:6-y,*** RSA 415:18, V, RSA 415:18, XVI and XVII, RSA 415:18, VII-a, RSA 415:18-a, RSA 415:18-i, RSA 415:18-j, RSA 415:18-o, RSA 415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-y, RSA 415:18-z, RSA 415:18-aa, RSA 415:18-bb, ***RSA 415:18-cc,*** RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable provisions of title XXXVII wherein such corporations are specifically included. Every health service corporation and its agents shall be subject to the fees prescribed for health service corporations under RSA 400-A:29, VII.

12 Health Services Corporations; Applicable Statutes; Effective January 2021. Amend RSA 420-A:2 to read as follows:

420-A:2 Applicable Statutes. Every health service corporation shall be governed by this chapter and the relevant provisions of RSA 161-H, and shall be exempt from this title except for the provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415-A, RSA 415-F, RSA 415:6, II(4), RSA 415:6-g, RSA 415:6-k, RSA 415:6-m, RSA 415:6-o, RSA 415:6-r, RSA 415:6-u, RSA 415:6-v, RSA 415:6-w, RSA 415:6-x, ***RSA 415:6-y,*** RSA 415:18, V, RSA 415:18, XVI and XVII, RSA 415:18, VII-a, RSA 415:18-a, RSA 415:18-i, RSA 415:18-j, RSA 415:18-o, RSA 415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-z, RSA 415:18-aa, RSA 415:18-bb, ***RSA 415:18-cc,*** RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable provisions of title XXXVII wherein such corporations are specifically included. Every health service corporation and its agents shall be subject to the fees prescribed for health service corporations under RSA 400-A:29, VII.

13 Health Maintenance Organizations; Statutory Construction. Amend RSA 420-B:20, III to read as follows:

III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415:6-g, RSA 415:6-m, RSA 415:6-o, RSA 415:6-r, RSA 415:6-t, RSA 415:6-u, RSA 415:6-v, RSA 415:6-w, RSA 415:6-x, ***RSA 415:6-y,*** RSA 415:18, VII-a, RSA 415:18, XVI and XVII, RSA 415:18-i, RSA 415:18-j, RSA 415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-y, RSA 415:18-z, RSA 415:18-aa, RSA 415:18-bb, ***RSA 415:18-cc,*** RSA 415-A, RSA 415-F, RSA 420-G, and RSA 420-J shall apply to health maintenance organizations.

14 Health Maintenance Organizations; Statutory Construction; Effective January 1, 2021. Amend RSA 420-B:20, III to read as follows:

III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415:6-g, RSA 415:6-m, RSA 415:6-o, RSA 415:6-r, RSA 415:6-u, RSA 415:6-v, RSA 415:6-w, RSA 415:6-x, ***RSA 415:6-y,*** RSA 415:18, VII-a, RSA 415:18, XVI and XVII, RSA 415:18-i, RSA 415:18-j, RSA 415:18-r, RSA 415:18-t, RSA 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-z, RSA 415:18-aa, RSA 415:18-bb, ***RSA 415:18-cc,*** RSA 415-A, RSA 415-F, RSA 420-G, and RSA 420-J shall apply to health maintenance organizations.

15 Effective Date.

I. Sections 12 and 14 of this act shall take effect January 1, 2021 at 12:04 p.m.

II. Sections 9, 10, 11, and 13 of this act shall take effect 60 days after its passage.

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

Due to the COVID-19 pandemic, the General Court has suspended all legislative activities until further notice with the exception of remote public meetings, notices for which will be published in the House or Senate Calendar. During this time, the State House and Legislative Office Building will be closed to legislative members, legislative staff, and visitors.

2020-1261s

AMENDED ANALYSIS

This bill:

I. Extends the commission on the seacoast cancer cluster investigation. Sets maximum contaminant limits for perfluorochemicals in drinking water.

II. Establishes the per and polyfluoroalkly substances (PFAS) fund.

III. Establishes a low interest loan program for certain water and waste water systems affected by PFAS contamination.

IV. Makes an appropriation to the department of environmental services for the remediation of PFAS contamination.

V. Allows the department of environmental services to borrow money.

VI. Requires insurance coverage for perfluoroalkyls (PFAS) and perfluorinated compound (PFC) blood testing.

Sen. Bradley, Dist 3
Sen. Kahn, Dist 10
Sen. Sherman, Dist 24
June 1, 2020
2020-1286s
01/05

Amendment to HB 1623-FN

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

AN ACT relative to telemedicine.

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

1 Medicaid Coverage of Telehealth Services. Amend RSA 167:4-d, III to read as follows:

III.(a) Coverage under this section shall include the use of telehealth or telemedicine for Medicaid-covered services provided within the scope of practice of a physician or other health care provider as a method of delivery of medical care:

(1) Which is an appropriate application of telehealth services provided by physicians and other health care providers, as determined by the department based on the Centers for Medicare and Medicaid Services regulations, and also including persons providing psychotherapeutic services as provided in He-M 426.08 and 426.09;

(2) By which telemedicine services for primary care, remote patient monitoring, and substance use disorder services shall only be covered in the event that the patient has already established care at an originating site via face-to-face in-person service; and

(3) By which an individual shall receive medical services from a physician or other health care provider who is an enrolled Medicaid provider without in-person contact with that provider.

(b) ***The Medicaid program shall provide coverage and reimbursement for health care services provided through telemedicine on the same basis as the Medicaid program provides coverage and reimbursement for health care services provided in person.***

(c) The combined amount of reimbursement that the Medicaid program allows for the compensation to the distant site and the originating site shall not be less that the total amount allowed for health care services provided in person.

(d) There shall be no restriction on eligible originating or distant sites for telehealth services. An originating site means the location of the member at the time the service is being furnished via a telecommunication system. A distant site means the location of the provider at the time the service is being furnished via a telecommunication system.

Important Notice

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(e) The Medicaid program shall provide reimbursement for all modes of telehealth, including video and audio, audio-only, or other electronic media provided by medical providers to treat all members for all medically necessary services.

(f) Medical providers below shall be allowed to perform health care services through the use of all modes of telehealth, including video and audio, audio-only, or other electronic media. Medical providers include, but are not limited to, the following:

(1) Physicians and physician assistants, governed by RSA 329 and RSA 328-D;

(2) Advanced practice nurses, governed by RSA 326-B;

(3) Midwives, governed by RSA 326-D;

(4) Psychologists, governed by RSA 329-B;

(5) Allied health professionals, governed by RSA 328-F;

(6) Dentists, governed by RSA 317-A;

(7) Mental health practitioners governed by RSA 330-A;

(8) Community mental health providers employed by community mental health programs pursuant to RSA 135-C:7;

(9) Alcohol and other drug use professionals, governed by RSA 330-C;

(10) Dietitians, governed by RSA 326-H; and

(11) Professionals certified by the national behavior analyst certification board or persons performing services under the supervision of a person certified by the national behavior analyst certification board as required by RSA 417-E:2.

(g) Nothing in this section shall be construed to prohibit the Medicaid program from providing coverage for only those services that are medically necessary and subject to all other terms and conditions of the coverage.

2 New Hampshire Telemedicine Act; Coverage for Telemedicine Services. Amend RSA 415-J:2, III to read as follows:

III. "Telemedicine," as it pertains to the delivery of health care services, means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment. Telemedicine does not include the use of [~~audio-only telephone or~~] facsimile.

3 New Hampshire Telemedicine Act; Coverage for Telemedicine Services. Amend RSA 415-J:3, III to read as follows:

III. ***An insurer offering a health plan in this state shall provide coverage and reimbursement for health care services provided through telemedicine on the same basis as the insurer provides coverage and reimbursement for health care services provided in person.***

IV. An insurer shall provide a reasonable facility fee to an originating site operated by a health care provider or a licensed health care facility if the health care provider or licensed health care facility is authorized to bill the insurer directly for health care services.

V. The combined amount of reimbursement that a health benefit plan allows for the compensation to the distant site and the originating site shall not be less than the total amount allowed for health care services provided in person.

VI. Nothing in this section shall be construed to prohibit an insurer from paying a facility fee to a provider at a distant site in addition to a fee paid to the health care provider.

VII. If an insurer excludes a health care service from its in-person reimbursable service, then comparable services shall not be reimbursable as a telemedicine service.

Due to the COVID-19 pandemic, the General Court has suspended all legislative activities until further notice with the exception of remote public meetings, notices for which will be published in the House or Senate Calendar. During this time, the State House and Legislative Office Building will be closed to legislative members, legislative staff, and visitors.

VIII. An insurer shall not impose on coverage for health care services provided through telemedicine any additional benefit plan limitations to include annual or lifetime dollar maximums on coverage, deductibles, copayments, coinsurance, benefit limitation or maximum benefits that are not equally imposed upon similar services provided in-person.

IX. Nothing in this section shall be construed to require an insurer to reimburse more for a health care service provided through telemedicine than would have been reimbursed if the health care service was provided in person.

X. There shall be no restriction on eligible originating or distant sites for telehealth services. An originating site means the location of the member at the time the service is being furnished via a telecommunication system. A distant site means the location of the provider at the time the service is being furnished via a telecommunication system.

XI. An insurer shall provide reimbursement for all modes of telehealth, including video and audio, audio-only, or other electronic media provided by medical providers to treat all members for all medically necessary services.

XII. The following medical providers shall be allowed to perform health care services through the use of all modes of telehealth, including video and audio, audio-only, or other electronic media. Medical providers include, but are not limited to:

(a) Physicians and physician assistants, under RSA 329 and RSA 328-D;

(b) Advanced practice nurses, under RSA 326-B;

(c) Midwives, under RSA 326-D;

(d) Psychologists, under RSA 329-B;

(e) Allied health professionals, under RSA 328-F;

(f) Dentists, under RSA 317-A;

(g) Mental health practitioners governed by RSA 330-A;

(h) Community mental health providers employed by community mental health programs pursuant to RSA 135-C:7;

(i) Alcohol and other drug use professionals, governed by RSA 330-C;

(j) Dietitians, governed by RSA 326-H; and

(k) Professionals certified by the national behavior analyst certification board or persons performing services under the supervision of a person certified by the national behavior analyst certification board as required by RSA 417-E:2.

XIII. Nothing in this section shall be construed to prohibit an insurer from providing coverage for only those services that are medically necessary and subject to the terms and conditions of the covered person's policy.

4 New Subdivision; Commission to Study Telehealth Services. Amend RSA 329 by inserting after section 329:1-e the following new subdivision:

Commission to Study Telehealth Services

329:1-f Commission to Study Telehealth Services

I. There is established a commission to study telehealth services.

(a) The members of the commission shall be as follows:

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

(2) Two members of the house of representatives, appointed by the speaker of the house of representatives.

Important Notice

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(3) The Medicaid director, or designee.

(4) The commissioner of the department of insurance, or designee.

(5) A member of the New Hampshire Americas Health Insurance Plans, or designee.

(6) A member of the New Hampshire Hospital Association, appointed by the association.

(7) A member of the Community Behavioral Health Association, appointed by the association.

(8) A member of the New Hampshire Medical Society, appointed by the society.

(9) A member of Bi-State Primary Care Association, appointed by the association.

(10) A member from a nonprofit social services organization representing the patient perspective, appointed by the president of the senate.

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

II.(a) The commission shall:

(1) Review available data compiled by the department of insurance requested by the commission. This data may include, but not limited to, utilization and cost of services through telehealth in New Hampshire.

(2) Review available data compiled by health care providers requested by the commission. This data may include, but not limited to, utilization, patient experience, delivery costs, and savings achieved through telehealth in New Hampshire.

(3) Review other information and material as determined by the commission.

(b) The commission may solicit input from any person or entity the commission deems relevant to its study, including data collected by an independent research contractor. This data may include review of telehealth parity in all commercial payers, NH Medicaid fee for service, and managed care plans; patient and provider access to telehealth; provider use of telehealth services; patient utilization, including chronic disease management and prevention services; quality of care delivered by telehealth; and the impact of telehealth on the cost of healthcare delivery.

III. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the senate member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Six members of the commission shall constitute a quorum.

IV. The commission shall make a report with its findings and any recommendations for proposed legislation on or before December 1, 2024 to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library.

5 Statement of Intent for Access to Medication Assisted Treatment (MAT) in Specific Settings.

I. The general court hereby recognizes that:

(a) Recent medical research indicates that substance use treatment can be safely done utilizing telemedicine (Rubin R., Using Telemedicine to Treat Opioid Use Disorder in Rural Areas. JAMA. Published online August 28, 2019); and

(b) Recent court decisions (Smith v. Aroostook County, No. 19-1340 (1st Cir. 2019)) require the increased availability of substance use treatment in correctional facilities; and

(c) Recent changes in federal law allow the registration of certain individuals to prescribe opioid drugs to be used in substance use disorder without first conducting an in person examination (21 U.S.C. section 831(h)), which registration regulations are pending.

II. Therefore, the general court hereby enacts the following legislation.

6 Medicaid Coverage of Telehealth Services. Amend RSA 167:4-d, II(c)-(e) to read as follows:

Due to the COVID-19 pandemic, the General Court has suspended all legislative activities until further notice with the exception of remote public meetings, notices for which will be published in the House or Senate Calendar. During this time, the State House and Legislative Office Building will be closed to legislative members, legislative staff, and visitors.

(c) ***"Doorways" means the statewide points of entry for the delivery of substance use services.***

(d) "Originating site" means the location of the patient, whether or not accompanied by a health care provider, at the time services are provided by a health care provider through telemedicine, including, but not limited to, a health care provider's office, a hospital, or a health care facility, or the patient's home or another nonmedical environment such as a school-based health center, a university-based health center, or the patient's workplace.

[~~(d)~~] ***(e)*** "Remote patient monitoring" means the use of electronic technology to remotely monitor a patient's health status through the collection and interpretation of clinical data while the patient remains at an originating site. Remote patient monitoring may or may not take place in real time. Remote patient monitoring shall include assessment, observation, education and virtual visits provided by all covered providers including licensed home health care providers.

[~~(e)~~]***(f)*** "Store and forward," as it pertains to telemedicine and as an exception to 42 C.F.R. section 410.78, means the use of asynchronous electronic communications between a patient at an originating site and a health care service provider at a distant site for the purpose of diagnostic and therapeutic assistance in the care of patients. This includes the forwarding and/or transfer of stored medical data from the originating site to the distant site through the use of any electronic device that records data in its own storage and forwards its data to the distant site via telecommunication for the purpose of diagnostic and therapeutic assistance.

7 Medicaid Coverage of Telehealth Services. Amend RSA 167:4-d, III(a)(2) to read as follows:

(2) By which telemedicine services for primary care, remote patient monitoring, and substance use disorder services shall only be covered in the event that the patient has already established care at an originating site via face-to-face in-person service[;]***. A provider shall not be required to establish care via face-to-face in-person service when:***

(a) The provider is a Department of Veteran Affairs (VA) practitioner or VA-contracted practitioner not required to obtain a special registration pursuant to 21 U.S.C. section 831(h);

(b) The patient is being treated by, and is physically located in a correctional facility administered by the state of New Hampshire or a New Hampshire county;

(c) The patient is being treated by, and is physically located in a doorway as defined in RSA 167:4-d, II(c);

(d) The patient is being treated by and is physically located in a state designated community mental health center pursuant to RSA 135; or

(e) The patient is being treated by, and physically located in, a hospital or clinic registered in a manner fully consistent with 21 U.S.C. section 823(f); and

8 New Paragraph; Medicaid Coverage of Telehealth Services. Amend RSA 167:4-d by inserting after paragraph IV the following new paragraph:

IV-a. With written consent of the patient receiving medication assisted treatment through telehealth services provided under this section, the health care provider shall provide notification of the patient's medication assisted treatment to the doorway, as defined in RSA 167:4-d, II(c), within the region where the patient resides.

9 Controlled Drug Act; Prohibited Acts. Amend RSA 318-B:2, XVI to read as follows:

XVI.(a)***(1)*** The prescribing of a non-opioid controlled drug classified in schedule II through IV by means of telemedicine shall be limited to prescribers as defined in RSA 329:1-d, I and RSA 326-B:2, XII(a), who are treating a patient with whom the prescriber has an in-person practitioner-patient relationship, for purposes of monitoring or follow-up care[~~, or who are treating patients at a state designated community mental health center pursuant to RSA 135-C or at a Substance Abuse and Mental Health Services Administration (SAMHSA)-certified state opioid treatment program, and shall require an initial in-person exam by a practitioner licensed to prescribe the drug.~~] ***A provider shall not be required to establish care via face-to-face in-person service when:***

Important Notice

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(A) The provider is a Department of Veteran Affairs (VA) practitioner or VA-contracted practitioner not required to obtain a special registration pursuant to 21 U.S.C. section 831(h);

(B) The patient is being treated by, and is physically located in a correctional facility administered by the state of New Hampshire or a New Hampshire county;

(C) The patient is being treated by, and is physically located in a doorway as defined in RSA 167:4-d, II(c);

(D) The patient is being treated by and is physically located in a state designated community mental health center pursuant to RSA 135; or

(E) The patient is being treated by, and physically located in, a hospital or clinic registered in a manner fully consistent with 21 U.S.C. section 823(f).

(2) Subsequent in-person exams shall be by a practitioner licensed to prescribe the drug at intervals appropriate for the patient, medical condition, and drug, but not less than annually.

(b)***(1)*** The prescribing of an opioid controlled drug classified in schedule II through IV by means of telemedicine shall be limited to prescribers as defined in RSA 329:1-d, I and RSA 326-B:2, XII(a)[~~, who are treating patients at a SAMHSA-certified state opioid treatment program. Such prescription authority shall require an initial in-person exam by a practitioner licensed to prescribe the drug and~~]***. A provider shall not be required to establish care via face-to-face in-person service when:***

(A) The provider is a Department of Veteran Affairs (VA) practitioner or VA-contracted practitioner not required to obtain a special registration pursuant to 21 U.S.C. section 831(h);

(B) The patient is being treated by, and is physically located in a correctional facility administered by the state of New Hampshire or a New Hampshire county;

(C) The patient is being treated by, and is physically located in a Doorway as defined in RSA 167:4-d, II(c);

(D) The patient is being treated by and is physically located in a state designated community mental health center pursuant to RSA 135; or

(E) The patient is being treated by, and physically located in, a hospital or clinic registered in a manner fully consistent with 21 U.S.C. section 823(f).

(2) Subsequent in-person exams shall be by a practitioner licensed to prescribe the drug at intervals appropriate for the patient, medical condition, and opioid, but not less than annually.

(c) The prescription authority under this paragraph shall be limited to a practitioner licensed to prescribe the drug and in compliance with all federal laws, including the United States Drug Enforcement Agency registration or waiver when required. An initial face-to-face in person exam shall be required with the exception of the locations enumerated in this paragraph.

10 New Paragraph; Nurse Practice Act; Rulemaking Added. Amend RSA 326-B:9 by inserting after paragraph XII the following new paragraph:

XIII. A process for registering practitioners who have been granted a special registration to prescribe controlled substances via telemedicine pursuant to 21 U.S.C. section 831(h).

11 Physicians and Surgeons; Telemedicine. Amend RSA 329:1-d, III and IV to read as follows:

III. It shall be unlawful for any person to prescribe by means of telemedicine a controlled drug classified in schedule II through IV***, except substance use disorder (SUD) treatment as permitted in locations enumerated in paragraph IV. Methadone hydrochloride, as defined in RSA 318-B:10, VII(d)(2) shall not be included in the exemption***.

IV.(a)***(1)*** The prescribing of a non-opioid controlled drug classified in schedule II through IV by means of telemedicine shall be limited to prescribers as defined in RSA 329:1-d, I and RSA 326-B:2, XII(a), who are treating a patient with whom the prescriber has an in-person practitioner-patient relationship, for purposes

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of monitoring or follow-up care[~~, or who are treating patients at a state designated community mental health center pursuant to RSA 135-C or at a Substance Abuse and Mental Health Services Administration (SAMHSA)-certified state opioid treatment program, and shall require an initial in-person exam by a practitioner licensed to prescribe the drug~~]. ***A provider shall not be required to establish care via face-to-face in-person service when:***

(A) The provider is a Department of Veteran Affairs (VA) practitioner or VA-contracted practitioner not required to obtain a special registration pursuant to 21 U.S.C. section 831(h);

(B) The patient is being treated by, and is physically located in a correctional facility administered by the state of New Hampshire or a New Hampshire county;

(C) The patient is being treated by, and is physically located in a Doorway as defined in RSA 167:4-d, II(c);

(D) The patient is being treated by and is physically located in a state designated community mental health center pursuant to RSA 135; or

(E) The patient is being treated by, and physically located in, a hospital or clinic registered in a manner fully consistent with 21 U.S.C. section 823(f).

(2) Subsequent in-person exams shall be by a practitioner licensed to prescribe the drug at intervals appropriate for the patient, medical condition, and drug, but not less than annually.

(b)***(1)*** The prescribing of an opioid controlled drug classified in schedule II through IV by means of telemedicine shall be limited to prescribers as defined in RSA 329:1-d, I and RSA 326-B:2, XII(a)[~~, who are treating patients at a SAMHSA-certified state opioid treatment program. Such prescription authority shall require an initial in-person exam by a practitioner licensed to prescribe the drug and~~]***. A provider shall not be required to establish care via face-to-face in-person service when:***

(A) The provider is a Department of Veteran Affairs (VA) practitioner or VA-contracted practitioner not required to obtain a special registration pursuant to 21 U.S.C. section 831(h);

(B) The patient is being treated by, and is physically located in a correctional facility administered by the state of New Hampshire or a New Hampshire county;

(C) The patient is being treated by, and is physically located in a doorway as defined in RSA 167:4-d, II(c);

(D) The patient is being treated by and is physically located in a state designated community mental health center pursuant to RSA 135; or

(E) The patient is being treated by, and physically located in, a hospital or clinic registered in a manner fully consistent with 21 U.S.C. section 823(f).

(2) Subsequent in-person exams shall be by a practitioner licensed to prescribe the drug at intervals appropriate for the patient, medical condition, and opioid, but not less than annually.

(c) The prescription authority under this paragraph shall be limited to a practitioner licensed to prescribe the drug and in compliance with all federal laws, including the United States Drug Enforcement Agency registration or waiver when required. An initial face-to-face in person exam shall be required with the exception of the locations enumerated in this paragraph.

12 New Section; Telemedicine and Telehealth Services. Amend RSA 310-A by inserting after section 1-e the following new section:

310-A:1-f Telemedicine and Telehealth Services.

I. "Telemedicine" means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment.

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II. "Telehealth" means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment.

III. Individuals licensed, certified, or registered pursuant to RSA 137-F; RSA 151-A; RSA 315; RSA 316-A; RSA 317-A; RSA 326-D; RSA 326-H; RSA 327; RSA 328-E; RSA 328-F; RSA 328-G; RSA 329-B; RSA 330-A; RSA 330-C; RSA 327-A; RSA 329; RSA 326-B; RSA 318; RSA 328-I; RSA 328-J may provide services through telemedicine or telehealth, provided the services rendered are authorized by scope of practice. Nothing in this provision shall be construed to expand the scope of practice for individuals regulated under this chapter.

IV. Notwithstanding any provision of law to the contrary, an out-of-state healthcare professional providing services by means of telemedicine or telehealth shall be required to be licensed, certified, or registered by the appropriate licensing board within the division of health professions. This paragraph shall not apply to out-of-state physicians who provide consultation services pursuant to RSA 329:21, II.

V. An individual providing services by means of telemedicine or telehealth directly to a patient shall:

(a) Use the same standard of care as used in an in-person encounter;

(b) Maintain a medical record; and

(c) Subject to the patient's consent, forward the medical record to the patient's primary care or treating provider, if appropriate.

VI. Under this section, Medicaid coverage for telehealth services shall comply with the provisions of 42 C.F.R. section 410.78 and RSA 167:4-d.

13 New Paragraph; Physicians and Surgeons; Rulemaking. Amend RSA 329:9 by inserting after paragraph XX the following new paragraph:

XXI. A process for registering practitioners who have been granted a special registration to prescribe controlled substances via telemedicine pursuant to 21 U.S.C. section 831(h).

14 Physicians and Surgeons. Amend RSA 329:1-d, I to read as follows:

I. "Telemedicine" means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment. [~~"Telemedicine" shall not include the use of audio-only telephone or facsimile.~~]

15 Nurse Practice Act. Amend RSA 326-B:2, XII (a) to read as follows:

(a) "Telemedicine" means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment. [~~"Telemedicine" shall not include the use of audio-only telephone or facsimile.~~]

16 New Section; Hearing Care Providers. Amend RSA 137-F by inserting after section 11 the following new section:

137-F:11-a Services Provided by Telemedicine. Persons licensed by the board shall be permitted to provide services through the use of telemedicine. "Telemedicine" means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment.

17 New Section; Podiatry. Amend RSA 315 by inserting after section 6 the following new section:

315:6-a Services Provided by Telemedicine. Persons licensed by the board shall be permitted to provide services through the use of telemedicine. "Telemedicine" means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment.

18 New Section; Chiropractic Examiners. Amend RSA 316-A by inserting after section 15 the following new section:

316-A:15-a Services Provided by Telemedicine. Persons licensed by the board shall be permitted to provide services through the use of telemedicine. "Telemedicine" means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment.

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19 New Section; Midwivery. Amend RSA 326-D by inserting after section 12 the following new section:

326-D:12-a Telemedicine. A midwife certified under this chapter shall be permitted to provide services through the use of telemedicine. "Telemedicine" means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment.

20 Optometry; Definition of Telemedicine. Amend RSA 327:1, VI-a to read as follows:

VI-a. "Telemedicine" means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment. [~~"Telemedicine" shall not include the use of audio-only telephone or facsimile.~~]

21 New Section; Optometry. Amend RSA 327 by inserting after section 25-b the following new section:

327:25-c Telemedicine. Persons licensed by the board shall be permitted to provide services through the use of telemedicine.

22 New Paragraph; Naturopathic Medicine; Scope of Practice; Telemedicine. Amend RSA 328-E:4 by inserting after paragraph V the following new paragraph:

VI. Doctors of naturopathic medicine shall be permitted to provide services through the use of telemedicine. "Telemedicine" means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment.

23 New Section; Allied Health Professionals; Telemedicine. Amend RSA 328-F by inserting after section 11-a the following new section:

328-F:11-b Telemedicine. Persons licensed by governing boards under this chapter shall be permitted to provide services through the use of telemedicine. "Telemedicine" means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment.

24 New Paragraph; Acupuncture; Telemedicine. Amend RSA 328-G:10 by inserting after paragraph IV the following new paragraph:

V. Persons licensed by the board to practice acupuncture shall be permitted to provide services through the use of telemedicine. "Telemedicine" means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment.

25 Psychologists; Telemedicine. Amend RSA 329-B:16 to read as follows:

329-B:16 Electronic Practice of Psychology, Tele-Health, Telemedicine.

I. Persons licensed by the board shall be permitted to provide services through the use of telemedicine. "Telemedicine" means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment.

II. Persons licensed by the board who practice electronically shall be subject to standards of care for the practice of telemedicine and tele-health for psychology established by the board pursuant to rules adopted under RSA 541-A.

26 New Section; Mental Health Practice; Telemedicine. Amend RSA 330-A by inserting after section 15-a the following new section:

330-A:15-b Telemedicine. Persons licensed by the board shall be permitted to provide services through the use of telemedicine. "Telemedicine" means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment.

27 New Section; Alcohol and Other Drug Use Professionals; Telemedicine. Amend RSA 330-C by inserting after section 14 the following new section:

330-C:14-a Telemedicine. Persons licensed by the board shall be permitted to provide services through the use of telemedicine. "Telemedicine" means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment.

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28 New Section; Opthalmic Dispensers; Telemedicine. Amend RSA 327-A by inserting after section 12 the following new section:

327-A:12-a Telemedicine. Registered opthalmic dispensers shall be permitted to provide services through the use of telemedicine. "Telemedicine" means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment.

29 New Section; Licensed Pharmacists; Telemedicine. Amend RSA 318 by inserting after section 16-d the following new section:

318:16-e Telemedicine. Persons licensed by the board shall be permitted to provide services through the use of telemedicine. "Telemedicine" means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment.

30 New Section; Board of Registration of Medical Technicians; Telemedicine. Amend RSA 328-I by inserting after section 15 the following new section:

328-I:16 Telemedicine. Medical technicians registered by the board shall be permitted to provide services through the use of telemedicine. "Telemedicine" means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment.

31 New Section; Medical Imaging and Radiation Therapy; Telemedicine. Amend RSA 328-J by inserting after section 12 the following new section:

328-J:12-a Telemedicine. Persons licensed by the board shall be permitted to provide services through the use of telemedicine. "Telemedicine" means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment.

32 New Section; Dentists and Dentistry; Telemedicine. Amend RSA 317-A by inserting after section 7-a the following new section:

317-A:7-b Telemedicine. Persons licensed by the board shall be permitted to provide services through the use of telemedicine. "Telemedicine" means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment.

33 New Subparagraph; Medicaid to Schools for Medical Services Program; Telehealth Services Added. Amend RSA 167:3-k, III by inserting after subparagraph (b) the following new subparagraph:

(c) Include services delivered through telehealth, as defined in RSA 167:4-d.

34 New Subparagraph; Medicaid to Schools Program Established; Telehealth Services Added. Amend RSA 186-C:25, II by inserting after subparagraph (d) the following new subparagraph:

(e) Services delivered through telehealth, as defined in RSA 167:4-d.

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

2020-1286s

AMENDED ANALYSIS

This bill:

I. Ensures reimbursement parity, expands site of service, and enables all providers to provide services through telehealth for Medicaid and commercial health coverage.

II. Enables access to medication assisted treatment (MAT) in specific settings by means of telehealth services.

III. Amends the Physicians and Surgeons Practice Act to expand the definition of telemedicine.

IV. Amends the relevant practice acts to expand the definition of telemedicine.

V. Enables the use of telehealth services to deliver Medicaid reimbursed services to schools.

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Sen. Levesque, Dist 12
June 1, 2020
2020-1281s
11/08

Amendment to HB 1672-FN

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

AN ACT relative to absentee voting.

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

1 Short Title. This act shall be known as the Coronavirus Election Protection Act of 2020.

2 Purpose. In order to protect our elections and to ensure that no voter chooses between his or her health and constitutional right to vote, this act is the general court's response to COVID-19. It is in the public interest to advance public health, to protect free and fair elections, and to assist local election officials in the administration of our elections.

3 Absentee Ballots. Amend RSA 656:33 to read as follows:

656:33 Official [~~Absence, Religious Observance, and Disability~~] Absentee Ballots. Prior to any state election, the secretary of state shall prepare, in such quantity as the secretary of state may deem necessary, [~~absence, religious observance, and disability~~] absentee ballots in the same form as nearly as practicable as the official ballot to be used at said election. Said absentee ballots shall have the words "absentee ballot" printed on them and shall be similarly endorsed and printed on paper of the same color as that used for official ballots.

4 Absentee Voting. Amend RSA 657:1 to read as follows:

657:1 [~~Absence, Religious Observance, and Disability~~] Absentee Voting.

[~~I.~~] Any person who ***is*** [~~will be absent on the day of any state election from the city, town, or unincorporated place in which he or she is registered to vote or who cannot appear in public on any election day because of his or her observance of a religious commitment or who is unable to vote there in person by reason of physical disability~~] ***qualified to vote at any state election*** may vote at such elections as provided in this chapter. [~~A person who is unable to appear at any time during polling hours at his or her polling place because of an employment obligation shall be considered absent for purposes of this chapter. For the purposes of this section, the term "employment" shall include the care of children and infirm adults, with or without compensation.~~]

[~~II. When the National Weather Service has issued a winter storm warning, blizzard warning, or ice storm warning for election day applicable to the city, town, or unincorporated place:~~

~~(a) A person who otherwise would have voted in person but has concerns for his or her safety traveling in the storm, shall be considered absent for purposes of this chapter and may vote absentee on the day immediately prior to the election.~~

~~(b) A person who cares for children or infirm adults who reasonably anticipates that school, child care, or adult care will be canceled, who otherwise would have voted in person but will be deterred from voting by the need to care for children or infirm adults, shall be considered absent for purposes of this chapter and may vote absentee on the day immediately prior to the election.~~

~~(c) As required by RSA 652:20, the clerk's office shall be open to receive applications for absentee ballots, to provide voters the opportunity to complete absentee ballots, and to receive returned ballots on the day immediately prior to an election at a minimum from 3:00 p.m. to 5:00 p.m. The clerk may designate a deputy clerk or assistant to provide this service, provided the individual has taken the oath of office and has been trained in the requirements for using an absentee ballot and the procedures for issuing and receiving absentee ballots.~~

~~(d) In the event an election is postponed pursuant to RSA 669:1, the provisions of subparagraph (c) shall apply to the day before the date of the originally scheduled election and the day before the date of the postponed election.~~]

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5 Absentee Voting. Amend RSA 657:4, I to read as follows:

I. Prior to any state election, the secretary of state shall prepare the appropriate application forms for absentee ballots worded in substantially the following form. The secretary of state shall insert the names of all parties qualified as set forth in RSA 652:11 in the list of parties on the application form. The secretary of state shall prepare the application forms in such quantity as he or she deems necessary:

[~~Absence (Excluding Absence Due to Residence Outside the United States), Religious Observance, and Disability~~] ***Absentee Ballot Application***:

I hereby declare that (check one):

_____ I am a duly qualified voter who is currently registered to vote in this town/ward.

_____ I am absent from the town/city where I am domiciled and will be until after the next election, or I am unable to register in person due to a disability, and request that the forms necessary for absentee voter registration be sent to me with the absentee ballot.

[~~I will be entitled to vote by absentee ballot because (check one):~~

~~_____ I plan to be absent on the day of the election from the city, town, or unincorporated place where I am domiciled.~~

~~_____ I am requesting a ballot for the presidential primary election and I may be absent on the day of the election from the city, town, or unincorporated place where I am domiciled, but the date of the election has not been announced. I understand that I may only make such a request 14 days after the filing period for candidates has closed, and that if I will not be absent on the date of the election I am not eligible to vote by absentee ballot.~~

~~_____ I cannot appear in public on election day because of observance of a religious commitment.~~

~~_____ I am unable to vote in person due to a disability.~~

~~_____ I cannot appear at any time during polling hours at my polling place because of an employment obligation. For the purposes of this application, the term "employment shall include the care of children and infirm adults, with or without compensation.~~

~~For use only on the Monday immediately prior to the election: I cannot appear at my polling place on election day because the National Weather Service has issued a winter storm warning, blizzard warning, or ice storm warning for election day applicable to my city, town, or unincorporated place and either (check one):~~

~~_____ I am elderly or infirm or I have a physical disability, and would otherwise vote in person but I have concerns for my safety traveling in the storm.~~

~~_____ I anticipate that school, child care, or adult care will be canceled, and would otherwise vote in person but will need to care for children or infirm adults.~~]

Any person who votes or attempts to vote using an absentee ballot who is not entitled to vote by absentee ballot shall be guilty of a misdemeanor. RSA 657:24.

I am requesting an official absentee ballot for the following election (check one):

_____ Presidential Primary to be held on _____

(MM/DD/YYYY)

(The date may appear as blank when the date is not known.)

_____ State Primary to be held on_____

(MM/DD/YYYY)

_____ General Election

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For primary elections, I am a member of or I am now declaring my affiliation with the (check one):

_____ Republican Party

_____ Democratic Party

_____ (name of any party determined by the secretary of state to have achieved official status under RSA 652:11)

and am requesting a ballot for that party's primary.

Please print:

Applicant's Name: _____

(Last) (First) (Middle) (Sr., Jr., II., III)

Applicant's Voting Domicile (home address):

_____

(Street Number) (Street Name) (Apt/Unit) (City/Town) (Ward) (Zip Code)

Mail the ballot to me at this address (if different than the home address):

_____

(Street Number) (Street Name) (Apt/Unit) (City/Town) (Ward) (Zip Code)

Applicant's Phone Number : _____

Applicant's Email Address : _____

Applicant's Signature: _____

Date Signed: _____

(MM/DD/YYYY)

I attest that I assisted the applicant in executing this form because he or she has a disability.

Signature _____

Print Name _____ ***Address*** _____

~~[If your absentee ballot application or affidavit envelope has the printed name and signature of a person who assisted you with voting, your signature will not be compared to your signature on the absentee ballot affidavit to verify your identity. Otherwise, if your signatures do not appear to be made by the same person, your absentee ballot may not be counted.~~]

The applicant must sign this form to receive an absentee ballot ***unless he or she is unable to do so because of a disability, in which case he or she may be assisted by another, who shall print and sign his or her name and address on the application form***. Any person who witnesses and assists a voter with a disability in executing this form shall print and sign his or her name in the space provided on the application form. The moderator will not compare the voter's signature on the application with the signature on the absentee ballot affidavit when a person assisting the voter has signed the statement on the absentee ballot application or affidavit envelope that assistance was provided.

6 Absentee Voting Materials. Amend the introductory paragraph of RSA 657:7 and RSA 657:7, I and II to read as follows:

657:7 [~~Absence, Religious Observance, and Disability~~] ***Absentee Voting***. Prior to any state election, the secretary of state shall prepare the following forms in such quantity as he ***or she*** deems necessary:

I. [~~Absence, religious observance, and disability~~] Absentee ballots as provided in RSA 656:33.

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II. Affidavit envelopes of sufficient size to contain the ballots on which shall be printed the following:

[~~(a) Absence from City or Town.~~] A person voting by absentee ballot [~~because of absence from the city or town in which he or she is entitled to vote~~] shall fill out and sign the following certificate:

I do hereby certify under the penalties for voting fraud set forth below that I am a voter in the city or town of _____, New Hampshire, in ward _____; [~~that I will be unable to appear at any time during polling hours at my polling place because I will be working on election day, or I am voting on the Monday immediately prior to the election, the National Weather Service has issued a winter storm warning, blizzard warning, or ice storm warning, and I am elderly or infirm, have a physical disability, or have to care for children or infirm adults, or I will be otherwise absent on election day from said city or town and will be unable to vote in person;~~] that I have carefully read (or had read to me because I am [~~blind~~] ***unable to read due to disability***) the instructions forwarded to me with the ballot herein enclosed, and that I personally marked the ballot within and sealed it in this envelope (or had assistance in marking the ballot and sealing it in this envelope because I am [~~blind~~] ***disabled***). [~~For the purposes of this certification, the term "working" shall include the care of children and infirm adults, with or without compensation.~~]

(Signature) _____

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed $2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed $5,000.

[~~(b) Absence Because of Religious Observance or Physical Disability. A person voting by absentee ballot because of religious observance or physical disability shall fill out and sign the following certificate:~~

~~I do hereby certify under the penalties for voting fraud set forth below that I am a voter in the city or town of _____, New Hampshire, in ward _____; that I will be observing a religious commitment which prevents me from voting in person or that on account of physical disability I am unable to vote in person; that I have carefully read (or had read to me because I am blind) the instructions forwarded to me with the ballot herein enclosed, and that I personally marked the ballot within and sealed it in this envelope (or had assistance in marking the ballot and sealing it in this envelope because I am blind).~~

~~(Signature)~~ _____

~~The signature on this affidavit must appear to be executed by the same person who signed the absentee ballot application. A person assisting a disabled or blind voter shall make and sign a statement on this envelope in the space provided acknowledging the assistance. The moderator will not compare the voter's signature on this affidavit with the signature on the absentee ballot application when a person assisting the voter has signed the statement on the affidavit that assistance was provided.~~

~~In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed $2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed $5,000.~~]

7 Absentee Voting. Amend the subdivision heading preceding RSA 657:12 to read as follows:

Procedure for [~~Absence, Religious Observance, and Disability and Overseas~~] ***Absentee*** Voting

8 Absentee Voting in Town Elections. Amend RSA 669:26 to read as follows:

669:26 Absentee Voting.

[~~I.~~] Every town which has adopted an official ballot system for town elections as provided in RSA 669:12 or 669:13 shall provide for absentee voting. [~~Any eligible voter who is absent from such a town on the day of a town election, or who cannot appear in public on election day because of his or her observance of a religious commitment, or who, by reason of physical disability, is unable to vote in person may vote at a town election in accordance with the provisions of this section and RSA 669:27-669:29. A~~

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~~person who is unable to appear at any time during polling hours at his or her polling place because of an employment obligation shall be considered absent for purposes of this section and RSA 669:27-669:29. For the purposes of this section, the term "employment" shall include the care of children and infirm adults, with or without compensation.~~

~~II. When the National Weather Service has issued a winter storm warning, blizzard warning, or ice storm warning for election day applicable to the town:~~

~~(a) A person who is elderly or infirm or who has a physical disability, who otherwise would have voted in person but has concerns for his or her safety traveling in the storm, shall be considered absent for purposes of this section and RSA 669:27-669:29 and may vote absentee on the Monday immediately prior to the election.~~

~~(b) A person who cares for children or infirm adults who reasonably anticipates that school, child care, or adult care will be canceled, who otherwise would have voted in person but will be deterred from voting by the need to care for children or infirm adults, shall be considered absent for purposes of this section and RSA 669:27-669:29 and may vote absentee on the Monday immediately prior to the election.~~

~~(c) As required by RSA 652:20, the clerk's office shall be open to receive applications for absentee ballots, to provide voters the opportunity to complete absentee ballots, and to receive returned ballots on the Monday immediately prior to an election at a minimum from 3:00 p.m. to 5:00 p.m. The clerk may designate a deputy clerk or assistant to provide this service, provided the individual has taken the oath of office and has been trained in the requirements for using an absentee ballot and the procedures for issuing and receiving absentee ballots.~~]

9 Election Procedure; Processing Absentee Ballots; Death of a Voter. Amend RSA 659:48 to read as follows:

659:48 Death of a Voter. If the officers charged with the duty of processing absentee ballots are cognizant of the fact that the voter has died prior to the ***time that absentee ballots are to begin being processed in accordance with RSA 659:55-a, or prior to the*** opening of the polls, they shall not open the envelope containing the absentee ballot.

10 Election Procedure; Processing Absentee Ballots. Amend RSA 659:49 to read as follows:

659:49 Processing Absentee Ballots.

I. Processing of previously received absentee ballots ***other than those partially processed in accordance with RSA 659:55-a*** shall begin at 1:00 p.m. unless a different time, that is no earlier than 2 hours after the opening of the polls, is posted and announced in accordance with paragraph II. The processing of the absentee ballots shall not unnecessarily interfere with normal voting procedures, nor shall the polls be closed at any time for the processing of such ballots during normal polling hours. Absentee ballots which are received after the start time for processing absentee ballots and prior to 5:00 p.m. on the day of the election shall be processed as soon after receipt as possible. Under no circumstances shall absentee ballots be counted prior to the closing of the polls.

II. Notwithstanding the provisions of paragraph I, upon the written challenges of 10 or more voters who are present at the polls no later than 1:00 p.m., the moderator shall postpone the processing of all absentee ballots***, other than those partially processed in accordance with RSA 659:55-a,*** until after the polls close and prior to the counting of all ballots cast in the election. The moderator, or his or her designee, shall post the time at which the processing of absentee ballots shall begin at the polling place and one other public location at least 24 hours before the polls open. In addition, when the polls open the moderator shall announce the time at which the processing of absentee ballots shall begin.

11 Election Procedure; Processing Absentee Ballots; Opening Envelope, Depositing Ballot. Amend RSA 659:52 to read as follows:

659:52 Opening Envelope; Depositing Ballot. If the absentee ballot is not challenged, the moderator shall, after announcing the name of the voter, open the envelope containing the ballot so the affidavit is not destroyed. The moderator shall then take the ballot out of the envelope without unfolding the ballot or without

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permitting the ballot to be examined, and he or she shall preserve the affidavit with the ballots cast at the election as provided in RSA 659:101. The moderator shall then have a checkmark placed beside the name of the absentee voter on the checklist and write therewith the letters "A.V." in red ink and shall [~~then deposit the ballot in the ballot box.~~] ***then, as appropriate:***

I. For absentee ballots processed on election day, deposit the ballot in the ballot box.

II. On a day that absentee ballots are processed in accordance with RSA 659:55-a, without unfolding the ballot or without permitting the ballot to be examined, place it in a container provided by the secretary of state as required by RSA 659:97. The moderator or his or her designee shall then seal such container with the sealer provided by the secretary of state. The moderator or his or her designee shall then enter in the appropriate blank space on such sealer on each container the number of absentee ballots in such container and shall endorse in the appropriate place on such sealer a certificate in the following form: "Enclosed are processed absentee ballots for the state election in the town of _____ (or in ward ____ in the city of _____) to be held on _____, 20____, Box _____ of _____, to be delivered to the polling place in accordance with RSA 659:47, and which shall be deposited in the ballot box after the polls have opened on election day," provided that absentee ballot affidavits, application forms, and any absentee ballots subject to RSA 659:53 shall be placed in a separate container provided by the secretary of state as required by RSA 659:97, and the moderator or his or her designee shall seal such container with the sealer provided by the secretary of state as required by RSA 659:97.

12 New Sections; Election Procedure; Processing Absentee Ballots; Partial Processing of Absentee Ballots Prior to an Election. Amend RSA 659 by inserting after section 55 the following new sections:

659:55-a Partial Processing of Absentee Ballots Prior to an Election.

I. The moderator, or his or her designee, may begin the processing of absentee ballots prior to the opening of the polls provided that the clerk shall post, in an appropriate place and prior to election day, notice of the time and place of the processing. Such notice shall be posted in 2 appropriate places, one of which shall be the public body's Internet website, if such exists, or shall be printed in a newspaper of general circulation in the city or town at least 48 hours, excluding Sundays and legal holidays, prior to such meeting. A copy of the notice shall be provided to the secretary of state. The partial processing of absentee ballots prior to an election shall occur on the Thursday or Friday prior to the date of the election. The moderator shall be assisted by at least 3 other election officers as defined under RSA 652:14, no more than 2 of whom shall be members of the same party. Under no circumstances shall absentee ballots be counted prior to the opening of the polls.

II. Once notice of the processing has been posted, all absentee ballots received by the end of the day preceding the posted time for the meeting shall be partially processed. Only one session for the partial processing of absentee ballots may be scheduled prior to an election.

III. Except as otherwise provided, the moderator, or his or her designee, shall adhere to the procedures detailed in RSA 659:49-b, RSA 659:50, RSA 659:51, RSA 659:52, RSA 659:53, RSA 659:54, RSA 659:54-a, RSA 666:4, and RSA 666:5.

659:55-b Preparation of Site for Processing Absentee Ballots Prior to an Election.

I. To the extent practicable, partial processing of absentee ballots shall occur at the polling location. A guardrail shall be constructed and placed so that only the checklists, absentee ballot materials, election officials, and proper supplies and conveniences are inside such rail. No person other than the election officers shall be permitted within the guardrail except by the authority of the election officers and, then, only for the purpose of keeping order and enforcing the law.

II. Challengers appointed by a party committee or the attorney general shall be assigned by the moderator or other election officer presiding over the processing of absentee ballots prior to an election to such position as will enable the challenger to see and hear each voter's name as it is announced pursuant to RSA 666:4 and RSA 666:5.

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III. Any other person shall have a right, as safety, welfare, and rights of voters permit, to observe the partial processing of absentee ballots as provided herein, provided however, that observers may not be positioned within 4 feet of the voter checklist table.

13 Election Procedure; Preservation of Ballots and Other Election Materials; Preservation of Absentee Voting Materials and Election Day Affidavits. Amend RSA 659:101 to read as follows:

659:101 Preservation of Absentee Voting Materials and Election Day Affidavits. The absentee ballot affidavits and application forms processed by the moderator as provided in RSA 659:50 ***or RSA 659:55-a***, the absentee ballots challenged and rejected as provided in RSA 659:51 and RSA 659:53, and the qualified voter affidavits as provided in RSA 654:12 and any other documentary proof of qualifications retained by the town or city clerk, the supervisors of the checklist, or other election official shall be preserved in accordance with RSA 33-A:3-a. Qualified voter and voter registration affidavits shall be retained for the period set forth in RSA 33-A:3-a, and other materials may be destroyed after the election is settled and all appeals have expired or one year after the election, whichever is longer.

14 New Paragraph; Access to Governmental Records and Meetings; Exemptions. Amend RSA 91-A:5 by inserting after paragraph X the following new paragraph:

XI. Once a voter checklist has been marked pursuant to RSA 659:55-a, such checklist shall not be available for public inspection at any time prior to the close of the polls on election day without a court order.

15 New Section; Online Voter Registration. Amend RSA 654 by inserting after section 7-c the following new section:

654:7-d Online Voter Registration.

I. Beginning August 1, 2020, a person may register to vote by submitting an online voter registration application in accordance with this section.

II. The secretary of state shall establish a secure Internet website to permit an applicant to:

(a) Submit an online voter registration form.

(b) Submit information necessary to establish an applicant's qualifications to vote, pursuant to RSA 654:12.

(c) Swear to the oath required by RSA 654:7.

III. The secretary of state shall establish appropriate technological security measures, including use of a unique identifier for each applicant, to prevent unauthorized persons from altering a voter's registration information.

IV.(a) No person without an identification issued by the New Hampshire department of safety, division of motor vehicles shall be able to register through the online voter registration system.

(b) The department of safety, division of motor vehicles shall provide the online voter registration application system all information necessary to effectuate the provisions of this section.

(c) The online voter registration application form shall require a valid electronic mail address for the voter in order to complete the online voter registration application.

(d) The online voter registration application system shall include a disclaimer to the applicant of possible criminal liability pursuant to paragraph XI.

V.(a) The online voter registration application system shall compare the New Hampshire driver's license number or New Hampshire nondriver's picture identification number submitted pursuant to this section with information maintained by the department of safety, division of motor vehicles, to confirm that the name and date of birth on the application are consistent with the records of the department of safety, division of motor vehicles.

(b) If the applicant's name and date of birth are consistent with the records of the department of safety, division of motor vehicles, the online voter registration application system shall transmit, using the statewide centralized voter registration database maintained pursuant to RSA 654:45, the applicant's

Important Notice

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submission, including the digital signature of the applicant, to the appropriate supervisors of the checklist to add the applicant's name to the checklist. The applicant's digital signature shall satisfy the signature requirement of RSA 654:7, IV. The applicant shall be required to submit an original signature to the supervisors of the checklist prior to voting in the first election after registering online. An online registrant shall not be eligible to receive an absentee ballot until his or her original signature is on file with the supervisors of the checklist.

(c) If the applicant's name, citizenship, legal and/or physical mailing addresses, and date of birth cannot be verified by the records of the department of safety, division of motor vehicles, or the applicant indicated that he or she has not been issued a New Hampshire driver's license or New Hampshire nondriver's picture identification card, the online voter registration application system shall notify the applicant by electronic mail that his or her online voter registration was ineffective and inform the applicant of alternative methods of registration.

VI. Upon submission of a completed online voter registration application, the website shall generate an electronic confirmation that the supervisors of the checklist have received the application and shall provide instructions regarding the ability of an applicant to check the status of the application. Once the supervisors of the checklist have added the applicant to the checklist, the applicant shall be notified by electronic mail, including information about where the applicant is registered to vote.

VII. Except as otherwise provided in this section, the supervisor of elections shall process the application pursuant to RSA 654:13.

VIII. If a person submits an application pursuant to the provisions of this section after the 10th day before an election, the applicant shall not be added to the checklist until the day after the election. The supervisors of the checklist may contact such applicant, either by telephone or mail, in order to inform the applicant of the effect of the late-received application and the ability of the person to register in person on election day.

IX. The online voter registration system shall conform to nationally accepted standards for accessibility for individuals with disabilities such as section 508 of the Rehabilitation Act of 1973, section 255 of the Communications Act, and the Web Content Accessibility Guidelines of the World Wide Web Consortium to ensure equal access to voters with disabilities.

X. With the exception of the requirement that no person without an identification issued by the New Hampshire department of safety, division of motor vehicles shall be able to register, no legal distinction shall be made between online registration under this section and registration in person, by mail, or other methods provided by general law.

XI. A person using the online voter registration application system to register to vote using any name other than his or her own shall be considered to have violated RSA 659:34.

16 Centralized Voter Registration Database. Amend RSA 654:45, I to read as follows:

I. The secretary of state is authorized to plan, develop, equip, establish, site, and maintain a statewide centralized voter registration database and communications system, hereinafter referred to as the voter database, connecting users throughout the state. The voter database shall include the current information on the voter registration forms, ***including those submitted pursuant to RSA 654:7-d,*** the accepted absentee ballot applications, the voter checklists, and voter actions as recorded on the marked checklist maintained by each city, ward, and town in the state.

17 Centralized Voter Registration Database; Electronic Registration Information Center. Amend RSA 654:45, VIII(a) and (c) to read as follows:

(a) The secretary of state [~~may~~] ***shall*** enter into an agreement ***with the Electronic Registration Information Center*** to share voter information or data from the statewide centralized voter registration database ***along with voter information or data from the department of motor vehicles, other***

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state agencies, the secretary of state, and political subdivisions as necessary for the purpose of comparing duplicate voter information with other states or groups of states. ***Such agreement shall be effective no later than June 30, 2020, and the secretary of state shall ensure that New Hampshire remains in good standing with the Electronic Registration Information Center.*** The secretary of state shall only provide information that is necessary for matching duplicate voter information with other states and shall take precautions to make sure that information in the database is secure in a manner consistent with RSA 654:45, VI. The secretary of state may solicit input from the department of safety and the department of information technology and shall ensure that any information or data shared between the agencies ***is protected by security processes and protocols, and that any information or data*** that is of a confidential nature remains confidential.

(b) The secretary of state shall investigate any duplicate matches of voters resulting from any comparisons of the statewide centralized voter registration database ***and other voter information or data*** with other states. If the investigation results in the inability to confirm the eligibility of a person or persons who voted, or there is reason to believe a person or persons voted who were not eligible, the secretary of state shall forward the results to the attorney general for further investigation or prosecution.

(c) ***Upon the effective date of subparagraph (a), the secretary of state shall cease any activity or data transfer with the Kansas-based Interstate Voter Registration Crosscheck Program.***

(d) Upon completion of any investigation authorized under RSA 654:45, VIII(b), the attorney general and the secretary of state shall forward a report summarizing the results of the investigation to the speaker of the house of representatives, the president of the senate, and the chairpersons of the appropriate house and senate standing committees with jurisdiction over election law.

(e) The secretary of state shall ensure that all information in the statewide database remains secure.

(f) The secretary of state shall solicit input from the department of information technology and any other relevant departments to ensure that any information or data collected and shared pursuant to this paragraph is protected by up-to-date security processes and protocols and that any such information or data that is of a confidential nature remains confidential.

18 New Paragraph; Administration of Motor Vehicle Laws; Records and Certification. Amend RSA 260:14 by inserting after paragraph III-d the following new paragraph:

III-e. Voter information and data contained in motor vehicle records shall be provided to the secretary of state pursuant to RSA 654:45, VIII. This information and data may be further transferred or otherwise made available to programs or organizations pursuant to RSA 654:45, VII(a).

19 Absentee Ballot Request Forms; 2020 Primary and General Election. Notwithstanding any other law to the contrary, the secretary of state shall ensure that all registered voters in New Hampshire are mailed an absentee ballot request form no later than 30 days prior to both the 2020 primary election and the 2020 general election.

20 Repeal. 2016, 175:2, relative to the Interstate Voter Registration Crosscheck Program, is repealed.

21 Funding of Implementation. The department of state shall fund the implementation of sections 15 and 17 of this act with grants received pursuant to the 2018 Help America Vote Act Election Security Award and section 101 of the Help America Vote Act of 2002, Public Law 107-252.

22 Additional Appropriation; CARES Act Funding. The governor shall draw a warrant from the treasury for CARES Act sums necessary to immediately implement the provisions of this act, to the extent not already covered by Help America Vote Act moneys.

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

Important Notice

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2020-1281s

AMENDED ANALYSIS

This bill:

I. Authorizes online voter registration.

II. Allows voters to vote by absentee ballot, and permits municipalities to process, but not count, absentee ballots prior to election day.

III. Repeals the authorization of the secretary of state to enter into an agreement to share voter information and data through the Interstate Voter Registration Crosscheck Program.

IV. Requires the secretary of state to enter into an agreement with the Electronic Registration Information Center to share voter information or data from the statewide centralized voter registration database.

V. Directs the secretary of state to fund certain provisions of this bill with grants received pursuant to the 2018 Help American Vote Act election security award and section 101 of the Help American Vote Act of 2002 and directs the governor to supplement such funding with CARES Act sums as necessary.