

Bill as Introduced

HB 1264 - AS AMENDED BY THE HOUSE

19Feb2020... 0191h

2020 SESSION

20-2641
01/04**HOUSE BILL 1264**

AN ACT extending the commission on the seacoast cancer cluster investigation.

SPONSORS: Rep. Meuse, Rock. 29; Rep. Cushing, Rock. 21; Rep. Le, Rock. 31; Rep. McBeath, Rock. 26; Rep. Altschiller, Rock. 19; Sen. Sherman, Dist 24; Rep. Bushway, Rock. 21

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill extends the commission on the seacoast cancer cluster investigation.

Explanation: Matter added to current law appears in ***bold italics***.Matter removed from current law appears ~~[in brackets and struckthrough.]~~

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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01/04

STATE OF NEW HAMPSHIRE*In the Year of Our Lord Two Thousand Twenty*

AN ACT extending the commission on the seacoast cancer cluster investigation.

Be it Enacted by the Senate and House of Representatives in General Court convened:

- 1 Extending the Commission on the Seacoast Cancer Investigation. Amend RSA 126-A:74, V to read as follows:
V. The commission shall make 2 interim reports, one on or before November 1, ~~[2017]~~ **2020**, and one on or before ~~[November 1, 2018]~~ **June 30, 2021**, and issue a final report on its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, the oversight committee on health and human services, and the state library on or before June 30, ~~[2020]~~ **2022**.
- 2 Commission on the Seacoast Cancer Cluster Investigation; Repeal Date Extended. Amend 2017, 197:5, I to read as follows:
 - I. Section 3 of this act shall take effect June 30, ~~[2020]~~ **2022**.
- 3 Effective Date. This act shall take effect upon its passage.

HB 1264 - AS AMENDED BY THE SENATE

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HOUSE BILL

1264

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, requiring insurance coverage for PFAS and PFC blood tests, and expanding the statute governing ambient groundwater quality standards.

SPONSORS: Rep. Meuse, Rock. 29; Rep. Cushing, Rock. 21; Rep. Le, Rock. 31; Rep. McBeath, Rock. 26; Rep. Altschiller, Rock. 19; Sen. Sherman, Dist 24; Rep. Bushway, Rock. 21

COMMITTEE: Health, Human Services and Elderly Affairs

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 polyfluoroalkyl 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.

VII. Expands the statute governing ambient groundwater quality standards to include state maximum contaminant levels established in law.

Explanation: Matter added to current law appears in **bold italics**.
Matter removed from current law appears [~~in brackets and struck through~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 1264 - AS AMENDED BY THE SENATE

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty

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, requiring insurance coverage for PFAS and PFC blood tests, and expanding the statute governing ambient groundwater quality standards.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Extending the Commission on the Seacoast Cancer Investigation. Amend RSA 126-A:74, V to
2 read as follows:

3 V. The commission shall make 2 interim reports, one on or before November 1, [~~2017~~] **2020**,
4 and one on or before [~~November 1, 2018~~] **June 30, 2021**, and issue a final report on its findings and
5 any recommendations for proposed legislation to the speaker of the house of representatives, the
6 president of the senate, the house clerk, the senate clerk, the governor, the oversight committee on
7 health and human services, and the state library on or before June 30, [~~2020~~] **2022**.

8 2 Commission on the Seacoast Cancer Cluster Investigation; Repeal Date Extended. Amend
9 2017, 197:5, I to read as follows:

10 I. Section 3 of this act shall take effect June 30, [~~2020~~] **2022**.

11 3 Perfluorochemicals; Drinking Water. RSA 485:16-e is repealed and reenacted to read as
12 follows:

13 485:16-e Perfluorochemicals.

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

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

16 (b) Perfluorooctanesulfonic acid (PFOS): 15 parts per trillion.

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

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

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

25 III. The commissioner of the department of environmental services may adopt maximum
26 contaminant levels different than those set forth in paragraph I if, accounting for an adequate

1 margin of safety to protect human health at all life stages, including but not limited to pre-natal
2 development, the commissioner determines the maximum contaminant levels in paragraph I need
3 adjustment for the protection of human health.

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

6 CHAPTER 485-H

7 PER AND POLYFLUOROALKYL SUBSTANCES (PFAS)

8 FUND AND PROGRAMS

9 485-H:1 Purpose Statement. Communities across the state have been impacted by per and
10 polyfluoroalkyl substances (PFAS) contamination, largely through no fault of their own. The cost of
11 remediating this contamination for many communities would result in dramatically higher water
12 and sewer rates for end users. The existence of these man-made chemicals, some of which are
13 occurring at unhealthy levels in New Hampshire's drinking water, require a strategy to protect,
14 preserve, and enhance the water that New Hampshire citizens and environment rely upon.

15 485-H:2 Definitions. In this chapter:

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

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

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

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

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

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

24 485-H:3 Implementation of Drinking Water Protection Program. The department shall provide
25 low interest loans to community water systems and non-profit, non-transient public water systems
26 whose testing of untreated source water shows confirmed exceedance of the state maximum
27 contaminant level for PFAS, for remediation efforts begun after September 30, 2019.

28 I. Projects shall only be financed after the applicant demonstrates that the proposed plan for
29 remediation is the most cost-effective solution, as reviewed and approved by the department. The
30 applicant shall provide evidence in the application for funding that there are no no-cost or low-cost
31 efforts such as blending of source water or shutting down an impacted source that would result in
32 the system meeting applicable state maximum contaminant level with no unreasonable adverse
33 effects. The applicant shall also show that there is no responsible party identified by the department
34 or that the responsible party, potentially including the applicant, has provided their appropriate
35 share of the funding for the proposed project.

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

1 485-H:4 Implementation of Groundwater, Surface Water and Aquatic Life Protection. The
2 department shall provide low interest loans to publicly-owned and non-profit wastewater and/or
3 wastewater residual treatment or storage facilities that are required to treat effluent and residuals
4 to achieve PFAS standards prior to discharge or disposal.

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

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

14 485-H:5 Loan Principal Forgiveness Based Upon Need.

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

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

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

24 485-H:6 Contingent Reimbursement.

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

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

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

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

8 485-H:7 Drinking Water and Groundwater Trust Fund Exception. Notwithstanding any law to
9 the contrary, any funds deposited into the drinking water and groundwater trust fund established in
10 RSA 6-D:1 as a result of this chapter may be transferred to the department to be used for funding
11 PFAS remediation projects, including those at wastewater treatment facilities, at the discretion of
12 the fund's advisory commission.

13 485-H:8 Duties of the Department.

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

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

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

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

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

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

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

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

35 485-H:9 Rules. The department shall adopt rules, under RSA 541-A, relative to administering
36 PFAS remediation loan programs for eligible projects necessary to meet state PFAS standards.

1 485-H:10 PFAS Remediation Loan Fund Established. There is hereby established in the
2 department the PFAS remediation loan fund which shall be maintained by the state treasurer in
3 distinct and separate custody from all other funds, notwithstanding RSA 6:12. The state treasurer
4 may invest the fund in accordance with RSA 6:8. Any earnings on fund moneys shall be added to the
5 fund. All moneys in the fund shall be non-lapsing and shall be continually appropriated to the
6 department. The PFAS remediation loan fund shall be used to fund loans and reimbursements in
7 accordance with this chapter. Funds from any bond proceeds, grants, loan repayments, legislative
8 appropriations, donations, and other funds shall be credited to this fund.

9 5 New Subparagraph; PFAS Remediation Loan Fund. Amend RSA 6:12, I(b) by inserting after
10 subparagraph (358) the following new subparagraph:

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

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

22 7 New Section; Authority to Issue Bonds; General Fund. Amend RSA 6 by inserting after
23 section 13-d the following new section:

24 6:13-e Authority to Borrow; Certain Environmental Projects.

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

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

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

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

16 8 Municipal Immunity for Compliance with Best Practices; Pollutant Liability Standard.
 17 Amend RSA 507-B:9, I to read as follows:

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

27 9 New Section; Accident and Health Insurance; Coverage for Perfluoroalkyls (PFAS) and
 28 Perfluorinated Compound (PFC) Blood Testing; Individual. Amend RSA 415 by inserting after
 29 section 6-x the following new section:

30 415:6-y Coverage for Perfluoroalkyls (PFAS) and Perfluorinated Compound (PFC) Blood
 31 Testing. Each insurer that issues or renews any individual policy of accident or health insurance
 32 providing benefits for medical or hospital expenses, shall provide to certificate holders of such
 33 insurance, who are residents of this state, coverage for perfluoroalkyls (PFAS) and perfluorinated
 34 compound (PFC) blood testing. Benefits provided under this section shall not be subject to any
 35 greater co-payment, deductible, or coinsurance than any other similar benefits provided by the
 36 insurer.

1 10 New Section; Accident and Health Insurance; Coverage for Perfluoroalkyls (PFAS) and
 2 Perfluorinated Compounds (PFCS) Blood Testing; Group. Amend RSA 415 by inserting after section
 3 18-bb the following new section:

4 415:18-cc Coverage for Perfluoroalkyls (PFAS) and Perfluorinated Compounds (PFCS) Blood
 5 Testing. Each insurer that issues or renews any policy of group or blanket accident or health
 6 insurance providing benefits for medical or hospital expenses, shall provide to certificate holders of
 7 such insurance, who are residents of this state, coverage for coverage for perfluoroalkyls (PFAS) and
 8 perfluorinated compounds (PFCS) blood testing. Benefits provided under this section shall not be
 9 subject to any greater co-payment, deductible, or coinsurance than any other similar benefits
 10 provided by the insurer.

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

12 420-A:2 Applicable Statutes. Every health service corporation shall be governed by this chapter
 13 and the relevant provisions of RSA 161-H, and shall be exempt from this title except for the
 14 provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415-A, RSA 415-F, RSA 415:6,
 15 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,
 16 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,
 17 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
 18 415:18-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,
 19 RSA 415:18-bb, *RSA 415:18-cc*, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable
 20 provisions of title XXXVII wherein such corporations are specifically included. Every health service
 21 corporation and its agents shall be subject to the fees prescribed for health service corporations
 22 under RSA 400-A:29, VII.

23 12 Health Services Corporations; Applicable Statutes; Effective January 2021. Amend RSA 420-
 24 A:2 to read as follows:

25 420-A:2 Applicable Statutes. Every health service corporation shall be governed by this chapter
 26 and the relevant provisions of RSA 161-H, and shall be exempt from this title except for the
 27 provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415-A, RSA 415-F, RSA 415:6,
 28 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,
 29 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,
 30 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
 31 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-z, RSA 415:18-aa, RSA 415:18-bb, *RSA 415:18-*
 32 *cc*, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable provisions of title XXXVII
 33 wherein such corporations are specifically included. Every health service corporation and its agents
 34 shall be subject to the fees prescribed for health service corporations under RSA 400-A:29, VII.

35 13 Health Maintenance Organizations; Statutory Construction. Amend RSA 420-B:20, III to
 36 read as follows:

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1 III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415:6-g,
2 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
3 415:6-x, *RSA 415:6-y*, RSA 415:18, VII-a, RSA 415:18, XVI and XVII, RSA 415:18-i, RSA 415:18-j,
4 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
5 415:18-z, RSA 415:18-aa, RSA 415:18-bb, *RSA 415:18-cc*, RSA 415-A, RSA 415-F, RSA 420-G, and
6 RSA 420-J shall apply to health maintenance organizations.

7 14 Health Maintenance Organizations; Statutory Construction; Effective January 1, 2021.
8 Amend RSA 420-B:20, III to read as follows:

9 III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415:6-g,
10 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*
11 *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,
12 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
13 415:18-bb, *RSA 415:18-cc*, RSA 415-A, RSA 415-F, RSA 420-G, and RSA 420-J shall apply to health
14 maintenance organizations.

15 15 Ambient Groundwater Quality Standards. Amend RSA 485-C:6, I to read as follows:

16 I. The commissioner shall establish and adopt ambient groundwater quality standards for
17 regulated contaminants which adversely affect human health or the environment. Ambient
18 groundwater standards shall apply to all regulated contaminants which result from human
19 operations or activities, but do not apply to naturally occurring contaminants. Where state
20 maximum contaminant levels have been adopted under RSA 485:3, I(b), *or established in law*,
21 ambient groundwater quality standards shall be equivalent to such standards. Where federal
22 maximum contaminant level or health advisories have been promulgated under the Federal Safe
23 Drinking Water Act or rules relevant to such act, ambient groundwater quality standards shall be no
24 less stringent than such standards. The commissioner may adopt standards more stringent than
25 federal maximum contaminant levels or health advisories if, accounting for an adequate margin of
26 safety to protect human health at all life stages, including but not limited to pre-natal development,
27 the commissioner determines federal standards are insufficient for protection of human health.
28 Where such standards are established based upon health advisories that address cancer risks, the
29 ambient groundwater quality standards shall be equivalent to that exposure which causes a lifetime
30 exposure risk of one cancer in 1,000,000 exposed population. Where no federal or state maximum
31 contaminant level or health advisory has been issued, the commissioner may adopt ambient
32 groundwater quality standards on a basis which provides for an adequate margin of safety to protect
33 human health and safety.

34 16 Effective Date.

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

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

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

HB 1264- FISCAL NOTE
AS AMENDED BY THE SENATE (AMENDMENT #2020-1432s)

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, requiring insurance coverage for PFAS and PFC blood tests, and expanding the statute governing ambient groundwater quality standards.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$50,000,000	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<i>Funding Source:</i>	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other PFAS Remediation Loan Fund			

COUNTY:

Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

LOCAL:

Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

Sections 1-2 extending the commission on the seacoast cancer cluster investigation:

These sections extend the repeal date for this commission and will not have an impact on state, county or local revenues and expenditures.

Sections 3 and 15 setting the maximum contaminant levels for certain perfluorochemicals in drinking water:

These sections set maximum contaminant limits (MCLs) for four perfluorochemicals (PFAS) in drinking water. The bill requires the Department of Environmental Services to report annually to various legislative committees if the MCLs should change in order to protect human health.

The MCLs are the same as the levels the Department determined to be protective of human health in June 2019. Current laws and administrative rules require all community and non-community, non-transient public water systems to routinely test for, and comply with the MCLs. In addition, establishing an MCL in statute creates an equivalent Ambient Groundwater Quality Standard (AGQS) which is the basis for waste site remediation of groundwater and for permits to discharge certain wastewater onto or into the ground. The Department assumes the entities required to comply with these MCLs (non-transient public water systems) and AGQSs (groundwater permit holders and owners of contaminated properties) have not all sampled for the four PFAS compounds. Accordingly, it is impossible to determine what the actual costs will be to state, county and local entities. While sampling of public water systems has not been completed, the Department can provide a range of potential costs for public water system treatment. These estimates were developed to accompany the recent MCL rulemaking for these compounds. That methodology assumed 9% of sources of public water would need to be treated, estimated an associated water volume and then looked at a range of potential costs using data available from systems that are currently treating. The result was a cost estimate for initial water treatment ranging from \$65 million to \$142.8 million, and ongoing annual operating and maintenance costs ranging from \$6.9 million to \$13.4 million. The Department believes that is a conservative (or high) estimate because it assumed all systems would use treatment versus blending or abandoning wells with high levels of these PFAS. Additional sampling since the Fall indicates that the occurrence of contamination may be less than 9%. In addition, landfills, contaminated sites and groundwater discharge sites must comply with the AGQS. The cost to those sites for compliance is also indeterminable, but the Department has published information on the potential costs for such facilities based on limited sampling. This information is posted on the Department's Website at:

<https://www4.des.state.nh.us/nh-pfas-investigation/wp-content/uploads/Summary-of-Comments-Responses-with-Attachments.pdf>

Based on the assumptions and analysis in the report, the following ranges of potential cost were derived:

Type of Facility	Initial Corrective Action Costs	Annual Operating Costs
Active Hazardous Waste Sites	\$2.3 to \$4.4 million	\$980k to \$1.8 million
Municipal Landfills	\$935k to \$1.75 million	\$465k to \$770k
Groundwater Discharge Permit Sites	\$5 million	\$849k to \$1.6 million

Sections 4-8 establishing the per and polyfluoroalkyl substances (PFAS) fund, a low interest loan program for certain water and waste water systems affected by PFAS contamination, and making an appropriation to the department of environmental services for the remediation of PFAS contamination:

These sections of the bill establish a PFAS remediation loan program and PFAS fund administered by the Department of Environmental Services. The program would consist of low interest loans with need based principal forgiveness and contingent reimbursement. The loans would be available to community water systems and non-profit, non-transient, non-community water systems for the cost of complying with state per- and polyfluoroalkyl substances (PFAS) standards. Publicly owned and non-profit wastewater and wastewater residual treatment and storage facilities would also be eligible for loans for the cost of required treatment of effluent and residuals to achieve state PFAS standards prior to discharge or disposal. The bill also makes a non-lapsing capital appropriation of \$50,000,000 to the Department for expenditures associated with implementation of the program and authorizes the Treasurer to borrow up to \$50,000,000. Lastly, the bill grants immunity to governmental units and public employees for PFAS contamination issues inadvertently resulting from activities that otherwise complied with best practices. The Department indicates, although the initial appropriation is defined, the amount available for the fund is unknown. The demand for loans cannot be determined at this time because sufficient testing for levels of PFAS has yet to be completed and the revised State PFAS standards are not currently in effect. While sampling of public water systems has not been completed and costs are indeterminable, the Department can provide a range of potential costs for public water system treatment that were developed to accompany the recent Maximum Contaminant Level (MCL) rulemaking for these compounds. The methodology used assumed 9% of sources of public water would need to be treated, estimated an associated water volume and then looked at a range of potential costs using data available from systems that are currently being treated. This resulted in a cost estimate for treatment ranging from \$65 million - \$142.8 million. The Department believes this to be a very conservative, or high, estimate because it assumes all systems would use treatment versus blending or abandoning wells with high levels of PFAS. Additional sampling since the Fall of 2019 indicates that occurrence may be less than 9%. In addition, landfills, contaminated sites and groundwater discharge sites must comply with the AGQS. The cost to those sites for compliance is also indeterminable, but the Department has published information on the potential costs for such facilities based on limited sampling. (See the cost information above under sections 3 and 15)

The Department's precise personnel needs for administering the programs in the long term are indeterminable as the eventual need and ultimate funding have not been determined. However, based on an estimate of the administrative workload increase required to implement the program within the scope of the proposed appropriation, it is anticipated that 3 new positions would be necessary to successfully implement these efforts. While not stated in the bill, the Department assumes the PFAS Loan Remediation Fund would also pay for the administrative costs, including the additional positions required to immediately establish and administer the program.

The bill provides a nonlapsing capital appropriation in the amount of \$50,000,000 to the Department of Environmental and authorizes the Treasurer to borrow up to \$50,000,000 to fund the appropriation. Payment of principal and interest on the borrowing shall be paid from the General Fund, however any borrowing shall be paid at or prior to maturity from any available funds from lawsuits against PFAS manufacturers after reimbursement to the Department of Justice for legal costs and transfer of a portion of revenue to the Revenue Stabilization Reserve Account in accordance with RSA 7:6-e.

The amortization schedule used by the Treasury Department to estimate expenditures uses a fixed rate coupon rate of 5%, a 20-year repayment term and assumes 60% of the principal is paid in the first 10 years and 40% in the remaining 10 years. Assuming the bonds would be issued in the Fall, the following payments would be made:

	FY 2021	FY 2022	FY 2023
State Expenditures	\$1,250,000	\$5,425,000	\$5,275,000

Total interest on the borrowing, if paid as scheduled, would be \$23.75 million.

Sections 9-14 requiring insurance coverage for PFAS and PFC blood tests:

These sections require insurance coverage for perfluoroalkyls (PFAS) and per fluorinated compound (PFC) blood testing. The Insurance Department assumes this bill would be subject to federal law which requires the cost for such mandated coverage on policies purchased through the insurance exchange to be borne by the State. This expansion of coverage may put inflationary pressure on claim costs, premiums and/or benefit designs, and may impact premium tax revenue.

The Department of Health and Human Services indicates there would be no fiscal impact to the Medicaid program because the bill would apply to commercial insurance carriers and not the Medicaid program. The Medicaid program currently covers perfluoroalkyls (PFAS) and per fluorinated compound (PFC) blood testing.

AGENCIES CONTACTED:

Departments of Environmental Services, Insurance, Health and Human Services and Treasury

HB 1264 - FINAL VERSION

19Feb2020... 0191h
06/16/2020 1432s

2020 SESSION

20-2641
01/04

HOUSE BILL **1264**

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, requiring insurance coverage for PFAS and PFC blood tests, and expanding the statute governing ambient groundwater quality standards.

SPONSORS: Rep. Meuse, Rock. 29; Rep. Cushing, Rock. 21; Rep. Le, Rock. 31; Rep. McBeath, Rock. 26; Rep. Altschiller, Rock. 19; Sen. Sherman, Dist 24; Rep. Bushway, Rock. 21

COMMITTEE: Health, Human Services and Elderly Affairs

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 polyfluoroalkyl 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.

VII. Expands the statute governing ambient groundwater quality standards to include state maximum contaminant levels established in law.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty

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, requiring insurance coverage for PFAS and PFC blood tests, and expanding the statute governing ambient groundwater quality standards.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Extending the Commission on the Seacoast Cancer Investigation. Amend RSA 126-A:74, V to
2 read as follows:

3 V. The commission shall make 2 interim reports, one on or before November 1, [2017] **2020**,
4 and one on or before [~~November 1, 2018~~] **June 30, 2021**, and issue a final report on its findings and
5 any recommendations for proposed legislation to the speaker of the house of representatives, the
6 president of the senate, the house clerk, the senate clerk, the governor, the oversight committee on
7 health and human services, and the state library on or before June 30, [2020] **2022**.

8 2 Commission on the Seacoast Cancer Cluster Investigation; Repeal Date Extended. Amend
9 2017, 197:5, I to read as follows:

10 I. Section 3 of this act shall take effect June 30, [2020] **2022**.

11 3 Perfluorochemicals; Drinking Water. RSA 485:16-e is repealed and reenacted to read as
12 follows:

13 485:16-e Perfluorochemicals.

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

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

16 (b) Perfluorooctanesulfonic acid (PFOS): 15 parts per trillion.

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

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

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

25 III. The commissioner of the department of environmental services may adopt maximum
26 contaminant levels different than those set forth in paragraph I if, accounting for an adequate

1 margin of safety to protect human health at all life stages, including but not limited to prenatal
2 development, the commissioner determines the maximum contaminant levels in paragraph I need
3 adjustment for the protection of human health.

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

6 CHAPTER 485-H

7 PER AND POLYFLUOROALKYL SUBSTANCES (PFAS)

8 FUND AND PROGRAMS

9 485-H:1 Purpose Statement. Communities across the state have been impacted by per and
10 polyfluoroalkyl substances (PFAS) contamination, largely through no fault of their own. The cost of
11 remediating this contamination for many communities would result in dramatically higher water
12 and sewer rates for end users. The existence of these man-made chemicals, some of which are
13 occurring at unhealthy levels in New Hampshire's drinking water, require a strategy to protect,
14 preserve, and enhance the water that New Hampshire citizens and environment rely upon.

15 485-H:2 Definitions. In this chapter:

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

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

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

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

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

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

24 485-H:3 Implementation of Drinking Water Protection Program. The department shall provide
25 low interest loans to community water systems and non-profit, non-transient public water systems
26 whose testing of untreated source water shows confirmed exceedance of the state maximum
27 contaminant level for PFAS, for remediation efforts begun after September 30, 2019.

28 I. Projects shall only be financed after the applicant demonstrates that the proposed plan for
29 remediation is the most cost-effective solution, as reviewed and approved by the department. The
30 applicant shall provide evidence in the application for funding that there are no no-cost or low-cost
31 efforts such as blending of source water or shutting down an impacted source that would result in
32 the system meeting applicable state maximum contaminant level with no unreasonable adverse
33 effects. The applicant shall also show that there is no responsible party identified by the department
34 or that the responsible party, potentially including the applicant, has provided their appropriate
35 share of the funding for the proposed project.

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

1 485-H:4 Implementation of Groundwater, Surface Water and Aquatic Life Protection. The
2 department shall provide low interest loans to publicly-owned and non-profit wastewater and/or
3 wastewater residual treatment or storage facilities that are required to treat effluent and residuals
4 to achieve PFAS standards prior to discharge or disposal.

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

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

14 485-H:5 Loan Principal Forgiveness Based Upon Need.

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

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

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

24 485-H:6 Contingent Reimbursement.

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

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

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

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

8 485-H:7 Drinking Water and Groundwater Trust Fund Exception. Notwithstanding any law to
9 the contrary, any funds deposited into the drinking water and groundwater trust fund established in
10 RSA 6-D:1 as a result of this chapter may be transferred to the department to be used for funding
11 PFAS remediation projects, including those at wastewater treatment facilities, at the discretion of
12 the fund's advisory commission.

13 485-H:8 Duties of the Department.

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

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

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

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

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

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

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

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

35 485-H:9 Rules. The department shall adopt rules, under RSA 541-A, relative to administering
36 PFAS remediation loan programs for eligible projects necessary to meet state PFAS standards.

1 485-H:10 PFAS Remediation Loan Fund Established. There is hereby established in the
2 department the PFAS remediation loan fund which shall be maintained by the state treasurer in
3 distinct and separate custody from all other funds, notwithstanding RSA 6:12. The state treasurer
4 may invest the fund in accordance with RSA 6:8. Any earnings on fund moneys shall be added to the
5 fund. All moneys in the fund shall be non-lapsing and shall be continually appropriated to the
6 department. The PFAS remediation loan fund shall be used to fund loans and reimbursements in
7 accordance with this chapter. Funds from any bond proceeds, grants, loan repayments, legislative
8 appropriations, donations, and other funds shall be credited to this fund.

9 5 New Subparagraph; PFAS Remediation Loan Fund. Amend RSA 6:12, I(b) by inserting after
10 subparagraph (358) the following new subparagraph:

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

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

22 7 New Section; Authority to Issue Bonds; General Fund. Amend RSA 6 by inserting after
23 section 13-d the following new section:

24 6:13-e Authority to Borrow; Certain Environmental Projects.

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

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

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

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

16 8 Municipal Immunity for Compliance with Best Practices; Pollutant Liability Standard.
 17 Amend RSA 507-B:9, I to read as follows:

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

27 9 New Section; Accident and Health Insurance; Coverage for Perfluoroalkyls (PFAS) and
 28 Perfluorinated Compound (PFC) Blood Testing; Individual. Amend RSA 415 by inserting after
 29 section 6-x the following new section:

30 415:6-y Coverage for Perfluoroalkyls (PFAS) and Perfluorinated Compound (PFC) Blood
 31 Testing. Each insurer that issues or renews any individual policy of accident or health insurance
 32 providing benefits for medical or hospital expenses, shall provide to certificate holders of such
 33 insurance, who are residents of this state, coverage for perfluoroalkyls (PFAS) and perfluorinated
 34 compound (PFC) blood testing. Benefits provided under this section shall not be subject to any
 35 greater co-payment, deductible, or coinsurance than any other similar benefits provided by the
 36 insurer.

1 10 New Section; Accident and Health Insurance; Coverage for Perfluoroalkyls (PFAS) and
 2 Perfluorinated Compounds (PFCS) Blood Testing; Group. Amend RSA 415 by inserting after section
 3 18-bb the following new section:

4 415:18-cc Coverage for Perfluoroalkyls (PFAS) and Perfluorinated Compounds (PFCS) Blood
 5 Testing. Each insurer that issues or renews any policy of group or blanket accident or health
 6 insurance providing benefits for medical or hospital expenses, shall provide to certificate holders of
 7 such insurance, who are residents of this state, coverage for coverage for perfluoroalkyls (PFAS) and
 8 perfluorinated compounds (PFCS) blood testing. Benefits provided under this section shall not be
 9 subject to any greater co-payment, deductible, or coinsurance than any other similar benefits
 10 provided by the insurer.

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

12 420-A:2 Applicable Statutes. Every health service corporation shall be governed by this chapter
 13 and the relevant provisions of RSA 161-H, and shall be exempt from this title except for the
 14 provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415-A, RSA 415-F, RSA 415:6,
 15 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,
 16 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,
 17 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
 18 415:18-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,
 19 RSA 415:18-bb, *RSA 415:18-cc*, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable
 20 provisions of title XXXVII wherein such corporations are specifically included. Every health service
 21 corporation and its agents shall be subject to the fees prescribed for health service corporations
 22 under RSA 400-A:29, VII.

23 12 Health Services Corporations; Applicable Statutes; Effective January 1, 2021. Amend RSA
 24 420-A:2 to read as follows:

25 420-A:2 Applicable Statutes. Every health service corporation shall be governed by this chapter
 26 and the relevant provisions of RSA 161-H, and shall be exempt from this title except for the
 27 provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415-A, RSA 415-F, RSA 415:6,
 28 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,
 29 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,
 30 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
 31 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-z, RSA 415:18-aa, RSA 415:18-bb, *RSA 415:18-*
 32 *cc*, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable provisions of title XXXVII
 33 wherein such corporations are specifically included. Every health service corporation and its agents
 34 shall be subject to the fees prescribed for health service corporations under RSA 400-A:29, VII.

35 13 Health Maintenance Organizations; Statutory Construction. Amend RSA 420-B:20, III to
 36 read as follows:

1 III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415:6-g,
 2 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
 3 415:6-x, **RSA 415:6-y**, RSA 415:18, VII-a, RSA 415:18, XVI and XVII, RSA 415:18-i, RSA 415:18-j,
 4 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
 5 415:18-z, RSA 415:18-aa, RSA 415:18-bb, **RSA 415:18-cc**, RSA 415-A, RSA 415-F, RSA 420-G, and
 6 RSA 420-J shall apply to health maintenance organizations.

7 14 Health Maintenance Organizations; Statutory Construction; Effective January 1, 2021.
 8 Amend RSA 420-B:20, III to read as follows:

9 III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415:6-g,
 10 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**
 11 **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,
 12 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
 13 415:18-bb, **RSA 415:18-cc**, RSA 415-A, RSA 415-F, RSA 420-G, and RSA 420-J shall apply to health
 14 maintenance organizations.

15 15 Ambient Groundwater Quality Standards. Amend RSA 485-C:6, I to read as follows:

16 I. The commissioner shall establish and adopt ambient groundwater quality standards for
 17 regulated contaminants which adversely affect human health or the environment. Ambient
 18 groundwater standards shall apply to all regulated contaminants which result from human
 19 operations or activities, but do not apply to naturally occurring contaminants. Where state
 20 maximum contaminant levels have been adopted under RSA 485:3, I(b), **or established in law**,
 21 ambient groundwater quality standards shall be equivalent to such standards. Where federal
 22 maximum contaminant level or health advisories have been promulgated under the Federal Safe
 23 Drinking Water Act or rules relevant to such act, ambient groundwater quality standards shall be no
 24 less stringent than such standards. The commissioner may adopt standards more stringent than
 25 federal maximum contaminant levels or health advisories if, accounting for an adequate margin of
 26 safety to protect human health at all life stages, including but not limited to pre-natal development,
 27 the commissioner determines federal standards are insufficient for protection of human health.
 28 Where such standards are established based upon health advisories that address cancer risks, the
 29 ambient groundwater quality standards shall be equivalent to that exposure which causes a lifetime
 30 exposure risk of one cancer in 1,000,000 exposed population. Where no federal or state maximum
 31 contaminant level or health advisory has been issued, the commissioner may adopt ambient
 32 groundwater quality standards on a basis which provides for an adequate margin of safety to protect
 33 human health and safety.

34 16 Effective Date.

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

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

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

HB 1264- FISCAL NOTE
AS AMENDED BY THE SENATE (AMENDMENT #2020-1432s)

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, requiring insurance coverage for PFAS and PFC blood tests, and expanding the statute governing ambient groundwater quality standards.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$50,000,000	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<i>Funding Source:</i>	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - PFAS Remediation Loan Fund			

COUNTY:

Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

LOCAL:

Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

Sections 1-2 extending the commission on the seacoast cancer cluster investigation:

These sections extend the repeal date for this commission and will not have an impact on state, county or local revenues and expenditures.

Sections 3 and 15 setting the maximum contaminant levels for certain perfluorochemicals in drinking water:

These sections set maximum contaminant limits (MCLs) for four perfluorochemicals (PFAS) in drinking water. The bill requires the Department of Environmental Services to report annually to various legislative committees if the MCLs should change in order to protect human health. The MCLs are the same as the levels the Department determined to be protective of human

health in June 2019. Current laws and administrative rules require all community and non-community, non-transient public water systems to routinely test for, and comply with the MCLs. In addition, establishing an MCL in statute creates an equivalent Ambient Groundwater Quality Standard (AGQS) which is the basis for waste site remediation of groundwater and for permits to discharge certain wastewater onto or into the ground. The Department assumes the entities required to comply with these MCLs (non-transient public water systems) and AGQSs (groundwater permit holders and owners of contaminated properties) have not all sampled for the four PFAS compounds. Accordingly, it is impossible to determine what the actual costs will be to state, county and local entities. While sampling of public water systems has not been completed, the Department can provide a range of potential costs for public water system treatment. These estimates were developed to accompany the recent MCL rulemaking for these compounds. That methodology assumed 9% of sources of public water would need to be treated, estimated an associated water volume and then looked at a range of potential costs using data available from systems that are currently treating. The result was a cost estimate for initial water treatment ranging from \$65 million to \$142.8 million, and ongoing annual operating and maintenance costs ranging from \$6.9 million to \$13.4 million. The Department believes that is a conservative (or high) estimate because it assumed all systems would use treatment versus blending or abandoning wells with high levels of these PFAS. Additional sampling since the Fall indicates that the occurrence of contamination may be less than 9%. In addition, landfills, contaminated sites and groundwater discharge sites must comply with the AGQS. The cost to those sites for compliance is also indeterminable, but the Department has published information on the potential costs for such facilities based on limited sampling. This information is posted on the Department's Website at:

<https://www4.des.state.nh.us/nh-pfas-investigation/wp-content/uploads/Summary-of-Comments-Responses-with-Attachments.pdf>

Based on the assumptions and analysis in the report, the following ranges of potential cost were derived:

Type of Facility	Initial Corrective Action Costs	Annual Operating Costs
Active Hazardous Waste Sites	\$2.3 to \$4.4 million	\$980k to \$1.8 million
Municipal Landfills	\$935k to \$1.75 million	\$465k to \$770k
Groundwater Discharge Permit Sites	\$5 million	\$849k to \$1.6 million

Sections 4-8 establishing the per and polyfluoroalkly substances (PFAS) fund, a low interest loan program for certain water and waste water systems affected by PFAS contamination, and making an appropriation to the department of environmental services for the remediation of PFAS contamination:

These sections of the bill establish a PFAS remediation loan program and PFAS fund administered by the Department of Environmental Services. The program would consist of low

interest loans with need based principal forgiveness and contingent reimbursement. The loans would be available to community water systems and non-profit, non-transient, non-community water systems for the cost of complying with state per- and polyfluoroalkyl substances (PFAS) standards. Publicly owned and non-profit wastewater and wastewater residual treatment and storage facilities would also be eligible for loans for the cost of required treatment of effluent and residuals to achieve state PFAS standards prior to discharge or disposal. The bill also makes a non-lapsing capital appropriation of \$50,000,000 to the Department for expenditures associated with implementation of the program and authorizes the Treasurer to borrow up to \$50,000,000. Lastly, the bill grants immunity to governmental units and public employees for PFAS contamination issues inadvertently resulting from activities that otherwise complied with best practices. The Department indicates, although the initial appropriation is defined, the amount available for the fund is unknown. The demand for loans cannot be determined at this time because sufficient testing for levels of PFAS has yet to be completed and the revised State PFAS standards are not currently in effect. While sampling of public water systems has not been completed and costs are indeterminable, the Department can provide a range of potential costs for public water system treatment that were developed to accompany the recent Maximum Contaminant Level (MCL) rulemaking for these compounds. The methodology used assumed 9% of sources of public water would need to be treated, estimated an associated water volume and then looked at a range of potential costs using data available from systems that are currently being treated. This resulted in a cost estimate for treatment ranging from \$65 million - \$142.8 million. The Department believes this to be a very conservative, or high, estimate because it assumes all systems would use treatment versus blending or abandoning wells with high levels of PFAS. Additional sampling since the Fall of 2019 indicates that occurrence may be less than 9%. In addition, landfills, contaminated sites and groundwater discharge sites must comply with the AGQS. The cost to those sites for compliance is also indeterminable, but the Department has published information on the potential costs for such facilities based on limited sampling. **(See the cost information above under sections 3 and 15)**

The Department's precise personnel needs for administering the programs in the long term are indeterminable as the eventual need and ultimate funding have not been determined. However, based on an estimate of the administrative workload increase required to implement the program within the scope of the proposed appropriation, it is anticipated that 3 new positions would be necessary to successfully implement these efforts. While not stated in the bill, the Department assumes the PFAS Loan Remediation Fund would also pay for the administrative costs, including the additional positions required to immediately establish and administer the program.

The bill provides a nonlapsing capital appropriation in the amount of \$50,000,000 to the Department of Environmental and authorizes the Treasurer to borrow up to \$50,000,000 to fund

the appropriation. Payment of principal and interest on the borrowing shall be paid from the General Fund, however any borrowing shall be paid at or prior to maturity from any available funds from lawsuits against PFAS manufacturers after reimbursement to the Department of Justice for legal costs and transfer of a portion of revenue to the Revenue Stabilization Reserve Account in accordance with RSA 7:6-e.

The amortization schedule used by the Treasury Department to estimate expenditures uses a fixed rate coupon rate of 5%, a 20-year repayment term and assumes 60% of the principal is paid in the first 10 years and 40% in the remaining 10 years. Assuming the bonds would be issued in the Fall, the following payments would be made:

	FY 2021	FY 2022	FY 2023
State Expenditures	\$1,250,000	\$5,425,000	\$5,275,000

Total interest on the borrowing, if paid as scheduled, would be \$23.75 million.

Sections 9-14 requiring insurance coverage for PFAS and PFC blood tests:

These sections require insurance coverage for perfluoroalkyls (PFAS) and per fluorinated compound (PFC) blood testing. The Insurance Department assumes this bill would be subject to federal law which requires the cost for such mandated coverage on policies purchased through the insurance exchange to be borne by the State. This expansion of coverage may put inflationary pressure on claim costs, premiums and/or benefit designs, and may impact premium tax revenue.

The Department of Health and Human Services indicates there would be no fiscal impact to the Medicaid program because the bill would apply to commercial insurance carriers and not the Medicaid program. The Medicaid program currently covers perfluoroalkyls (PFAS) and per fluorinated compound (PFC) blood testing.

AGENCIES CONTACTED:

Departments of Environmental Services, Insurance, Health and Human Services and Treasury

Amendments

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

Amendment to HB 1264

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

2

3 AN ACT extending the commission on the seacoast cancer cluster investigation, setting the
4 maximum contaminant levels for certain perfluorochemicals in drinking water,
5 establishing a per and polyfluoroalkyl substances fund and programs and making an
6 appropriation therefor, and requiring insurance coverage for PFAS and PFC blood
7 tests.
8

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

10

11 3 Perfluorochemicals; Drinking Water. RSA 485:16-e is repealed and reenacted to read as
12 follows:

13 485:16-e Perfluorochemicals.

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

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

16 (b) Perfluorooctanesulfonic acid (PFOS): 15 parts per trillion.

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

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

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

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

30 4 New Chapter; Per and Polyfluoroalkyl Substances (PFAS) Fund and Programs. Amend RSA
31 by inserting after chapter 485-G the following new chapter:

32

CHAPTER 485-H

33

PER AND POLYFLUOROALKYL SUBSTANCES (PFAS)

FUND AND PROGRAMS

1
2 485-H:1 Purpose Statement. Communities across the state have been impacted by per and
3 polyfluoroalkyl substances (PFAS) contamination, largely through no fault of their own. The cost of
4 remediating this contamination for many communities would result in dramatically higher water
5 and sewer rates for end users. The existence of these man-made chemicals, some of which are
6 occurring at unhealthy levels in New Hampshire's drinking water, require a strategy to protect,
7 preserve, and enhance the water that New Hampshire citizens and environment rely upon.

8 485-H:2 Definitions. In this chapter:

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

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

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

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

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

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

17 485-H:3 Implementation of Drinking Water Protection Program. The department shall provide
18 low interest loans to community water systems and non-profit, non-transient public water systems
19 whose testing of untreated source water shows confirmed exceedance of the state maximum
20 contaminant level for PFAS, for remediation efforts begun after September 30, 2019.

21 I. Projects shall only be financed after the applicant demonstrates that the proposed plan for
22 remediation is the most cost-effective solution, as reviewed and approved by the department. The
23 applicant shall provide evidence in the application for funding that there are no no-cost or low-cost
24 efforts such as blending of source water or shutting down an impacted source that would result in
25 the system meeting applicable state maximum contaminant level with no unreasonable adverse
26 effects. The applicant shall also show that there is no responsible party identified by the department
27 or that the responsible party, potentially including the applicant, has provided their appropriate
28 share of the funding for the proposed project.

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

31 485-H:4 Implementation of Groundwater, Surface Water and Aquatic Life Protection. The
32 department shall provide low interest loans to publicly-owned and non-profit wastewater and/or
33 wastewater residual treatment or storage facilities that are required to treat effluent and residuals
34 to achieve PFAS standards prior to discharge or disposal.

35 I. Projects shall only be financed after the applicant demonstrates that the proposed plan for
36 remediation is the most cost-effective solution, as reviewed and approved by the department. The
37 applicant shall provide evidence in the application for funding that there are no no-cost or low-cost

1 efforts that would result in the system meeting standards with no unreasonable adverse effects. The
2 applicant shall also show that there is no responsible party identified by department or that the
3 responsible party, potentially including the applicant, has provided their appropriate share of the
4 funding for the proposed project.

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

7 485-H:5 Loan Principal Forgiveness Based Upon Need.

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

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

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

17 485-H:6 Contingent Reimbursement.

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

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

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

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

Amendment to HB 1264

- Page 4 -

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

6 485-H:8 Duties of the Department.

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

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

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

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

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

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

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

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

28 485-H:9 Rules. The department shall adopt rules, under RSA 541-A, relative to administering
29 PFAS remediation loan programs for eligible projects necessary to meet state PFAS standards.

30 485-H:10 PFAS Remediation Loan Fund Established. There is hereby established in the
31 department the PFAS remediation loan fund which shall be maintained by the state treasurer in
32 distinct and separate custody from all other funds, notwithstanding RSA 6:12. The state treasurer
33 may invest the fund in accordance with RSA 6:8. Any earnings on fund moneys shall be added to the
34 fund. All moneys in the fund shall be non-lapsing and shall be continually appropriated to the
35 department. The PFAS remediation loan fund shall be used to fund loans and reimbursements in
36 accordance with this chapter. Funds from any bond proceeds, grants, loan repayments, legislative
37 appropriations, donations, and other funds shall be credited to this fund.

Amendment to HB 1264

- Page 5 -

1 5 New Subparagraph; PFAS Remediation Loan Fund. Amend RSA 6:12, I(b) by inserting after
2 subparagraph (358) the following new subparagraph:

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

5 6 Capital Appropriation; Department of Environmental Services. The sum of \$50,000,000 is
6 hereby appropriated to the department of environmental services for capital expenditures for the
7 remediation of per- and polyfluoroalkyl substances in the state's drinking water sources and waste
8 water residuals, which expenditures may include loans to public or private entities on such terms
9 and conditions as the department of environmental services shall determine. To provide funds for
10 the appropriation made in this section, the state treasurer is hereby authorized to borrow upon the
11 credit of the state not exceeding the sum of \$50,000,000 and for said purpose, may issue bonds and
12 notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-13-e.
13 Notwithstanding the provisions of RSA 9:18, the appropriation made in this section shall not lapse.

14 7 New Section; Authority to Issue Bonds; General Fund. Amend RSA 6 by inserting after
15 section 13-d the following new section:

16 6:13-e Authority to Borrow; Certain Environmental Projects.

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

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

34 III. Payment of principal and interest on the borrowing authorized under paragraph I shall
35 be paid when due from general fund revenue; provided, however, that pursuant to RSA 485-H:6, I,
36 any borrowing under paragraph I shall be paid at or prior to maturity from any available funds
37 derived from lawsuits against the manufacturers of PFAS, after reimbursement to the department of

1 justice for legal expenses related to the litigation and the transfer of funds to the revenue
2 stabilization reserve account pursuant to RSA 7:6-e.

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

7 8 Municipal Immunity for Compliance with Best Practices; Pollutant Liability Standard.
8 Amend RSA 507-B:9, I to read as follows:

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

18 9 New Section; Accident and Health Insurance; Coverage for Perfluoroalkyls (PFAS) and
19 Perfluorinated Compound (PFC) Blood Testing; Individual. Amend RSA 415 by inserting after
20 section 6-x the following new section:

21 415:6-y Coverage for Perfluoroalkyls (PFAS) and Perfluorinated Compound (PFC) Blood
22 Testing. Each insurer that issues or renews any individual policy of accident or health insurance
23 providing benefits for medical or hospital expenses, shall provide to certificate holders of such
24 insurance, who are residents of this state, coverage for perfluoroalkyls (PFAS) and perfluorinated
25 compound (PFC) blood testing. Benefits provided under this section shall not be subject to any
26 greater co-payment, deductible, or coinsurance than any other similar benefits provided by the
27 insurer.

28 10 New Section; Accident and Health Insurance; Coverage for Perfluoroalkyls (PFAS) and
29 Perfluorinated Compounds (PFCS) Blood Testing; Group. Amend RSA 415 by inserting after section
30 18-bb the following new section:

31 415:18-cc Coverage for Perfluoroalkyls (PFAS) and Perfluorinated Compounds (PFCS) Blood
32 Testing. Each insurer that issues or renews any policy of group or blanket accident or health
33 insurance providing benefits for medical or hospital expenses, shall provide to certificate holders of
34 such insurance, who are residents of this state, coverage for coverage for perfluoroalkyls (PFAS) and
35 perfluorinated compounds (PFCS) blood testing. Benefits provided under this section shall not be
36 subject to any greater co-payment, deductible, or coinsurance than any other similar benefits
37 provided by the insurer.

Amendment to HB 1264

- Page 7 -

1 11 Health Services Corporations; Applicable Statutes. Amend RSA 420-A:2 to read as follows:

2 420-A:2 Applicable Statutes. Every health service corporation shall be governed by this chapter
3 and the relevant provisions of RSA 161-H, and shall be exempt from this title except for the
4 provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415-A, RSA 415-F, RSA 415:6,
5 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,
6 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,
7 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
8 415:18-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,
9 RSA 415:18-bb, **RSA 415:18-cc**, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable
10 provisions of title XXXVII wherein such corporations are specifically included. Every health service
11 corporation and its agents shall be subject to the fees prescribed for health service corporations
12 under RSA 400-A:29, VII.

13 12 Health Services Corporations; Applicable Statutes; Effective January 2021. Amend RSA 420-
14 A:2 to read as follows:

15 420-A:2 Applicable Statutes. Every health service corporation shall be governed by this chapter
16 and the relevant provisions of RSA 161-H, and shall be exempt from this title except for the
17 provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415-A, RSA 415-F, RSA 415:6,
18 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,
19 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,
20 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
21 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-z, RSA 415:18-aa, RSA 415:18-bb, **RSA 415:18-**
22 **cc**, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable provisions of title XXXVII
23 wherein such corporations are specifically included. Every health service corporation and its agents
24 shall be subject to the fees prescribed for health service corporations under RSA 400-A:29, VII.

25 13 Health Maintenance Organizations; Statutory Construction. Amend RSA 420-B:20, III to
26 read as follows:

27 III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415:6-g,
28 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
29 415:6-x, **RSA 415:6-y**, RSA 415:18, VII-a, RSA 415:18, XVI and XVII, RSA 415:18-i, RSA 415:18-j,
30 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
31 415:18-z, RSA 415:18-aa, RSA 415:18-bb, **RSA 415:18-cc**, RSA 415-A, RSA 415-F, RSA 420-G, and
32 RSA 420-J shall apply to health maintenance organizations.

33 14 Health Maintenance Organizations; Statutory Construction; Effective January 1, 2021.
34 Amend RSA 420-B:20, III to read as follows:

35 III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415:6-g,
36 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**
37 **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,

1 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
2 415:18-bb, *RSA 415:18-cc*, RSA 415-A, RSA 415-F, RSA 420-G, and RSA 420-J shall apply to health
3 maintenance organizations.

4 15 Effective Date.

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

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

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

UNAPPROVED

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 polyfluoroalkyl 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.

UNAPPROVED

Amendment to HB 1264

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

2

3 AN ACT extending the commission on the seacoast cancer cluster investigation, setting the
4 maximum contaminant levels for certain perfluorochemicals in drinking water,
5 establishing a per and polyfluoroalkyl substances fund and programs and making an
6 appropriation therefor, and requiring insurance coverage for PFAS and PFC blood
7 tests.
8

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

10

11 3 Perfluorochemicals; Drinking Water. RSA 485:16-e is repealed and reenacted to read as
12 follows:

13 485:16-e Perfluorochemicals.

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

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

16 (b) Perfluorooctanesulfonic acid (PFOS): 15 parts per trillion.

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

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

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

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

30 4 New Chapter; Per and Polyfluoroalkyl Substances (PFAS) Fund and Programs. Amend RSA
31 by inserting after chapter 485-G the following new chapter:

32

CHAPTER 485-H

33

PER AND POLYFLUOROALKYL SUBSTANCES (PFAS)

FUND AND PROGRAMS

1
2 485-H:1 Purpose Statement. Communities across the state have been impacted by per and
3 polyfluoroalkyl substances (PFAS) contamination, largely through no fault of their own. The cost of
4 remediating this contamination for many communities would result in dramatically higher water
5 and sewer rates for end users. The existence of these man-made chemicals, some of which are
6 occurring at unhealthy levels in New Hampshire's drinking water, require a strategy to protect,
7 preserve, and enhance the water that New Hampshire citizens and environment rely upon.

8 485-H:2 Definitions. In this chapter:

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

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

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

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

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

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

17 485-H:3 Implementation of Drinking Water Protection Program. The department shall provide
18 low interest loans to community water systems and non-profit, non-transient public water systems
19 whose testing of untreated source water shows confirmed exceedance of the state maximum
20 contaminant level for PFAS, for remediation efforts begun after September 30, 2019.

21 I. Projects shall only be financed after the applicant demonstrates that the proposed plan for
22 remediation is the most cost-effective solution, as reviewed and approved by the department. The
23 applicant shall provide evidence in the application for funding that there are no no-cost or low-cost
24 efforts such as blending of source water or shutting down an impacted source that would result in
25 the system meeting applicable state maximum contaminant level with no unreasonable adverse
26 effects. The applicant shall also show that there is no responsible party identified by the department
27 or that the responsible party, potentially including the applicant, has provided their appropriate
28 share of the funding for the proposed project.

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

31 485-H:4 Implementation of Groundwater, Surface Water and Aquatic Life Protection. The
32 department shall provide low interest loans to publicly-owned and non-profit wastewater and/or
33 wastewater residual treatment or storage facilities that are required to treat effluent and residuals
34 to achieve PFAS standards prior to discharge or disposal.

35 I. Projects shall only be financed after the applicant demonstrates that the proposed plan for
36 remediation is the most cost-effective solution, as reviewed and approved by the department. The
37 applicant shall provide evidence in the application for funding that there are no no-cost or low-cost

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- Page 3 -

1 efforts that would result in the system meeting standards with no unreasonable adverse effects. The
2 applicant shall also show that there is no responsible party identified by department or that the
3 responsible party, potentially including the applicant, has provided their appropriate share of the
4 funding for the proposed project.

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

7 485-H:5 Loan Principal Forgiveness Based Upon Need.

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

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

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

17 485-H:6 Contingent Reimbursement.

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

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

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

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

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

6 485-H:8 Duties of the Department.

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

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

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

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

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

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

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

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

28 485-H:9 Rules. The department shall adopt rules, under RSA 541-A, relative to administering
29 PFAS remediation loan programs for eligible projects necessary to meet state PFAS standards.

30 485-H:10 PFAS Remediation Loan Fund Established. There is hereby established in the
31 department the PFAS remediation loan fund which shall be maintained by the state treasurer in
32 distinct and separate custody from all other funds, notwithstanding RSA 6:12. The state treasurer
33 may invest the fund in accordance with RSA 6:8. Any earnings on fund moneys shall be added to the
34 fund. All moneys in the fund shall be non-lapsing and shall be continually appropriated to the
35 department. The PFAS remediation loan fund shall be used to fund loans and reimbursements in
36 accordance with this chapter. Funds from any bond proceeds, grants, loan repayments, legislative
37 appropriations, donations, and other funds shall be credited to this fund.

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1 5 New Subparagraph; PFAS Remediation Loan Fund. Amend RSA 6:12, I(b) by inserting after
2 subparagraph (358) the following new subparagraph:

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

5 6 Capital Appropriation; Department of Environmental Services. The sum of \$50,000,000 is
6 hereby appropriated to the department of environmental services for capital expenditures for the
7 remediation of per- and polyfluoroalkyl substances in the state's drinking water sources and waste
8 water residuals, which expenditures may include loans to public or private entities on such terms
9 and conditions as the department of environmental services shall determine. To provide funds for
10 the appropriation made in this section, the state treasurer is hereby authorized to borrow upon the
11 credit of the state not exceeding the sum of \$50,000,000 and for said purpose may issue bonds and
12 notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-13-e.
13 Notwithstanding the provisions of RSA 9:18, the appropriation made in this section shall not lapse.

14 7 New Section; Authority to Issue Bonds; General Fund. Amend RSA 6 by inserting after
15 section 13-d the following new section:

16 6:13-e Authority to Borrow; Certain Environmental Projects.

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

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

34 III. Payment of principal and interest on the borrowing authorized under paragraph I shall
35 be paid when due from general fund revenue; provided, however, that pursuant to RSA 485-H:6, I,
36 any borrowing under paragraph I shall be paid at or prior to maturity from any available funds
37 derived from lawsuits against the manufacturers of PFAS, after reimbursement to the department of

1 justice for legal expenses related to the litigation and the transfer of funds to the revenue
2 stabilization reserve account pursuant to RSA 7:6-e.

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

7 8 Municipal Immunity for Compliance with Best Practices; Pollutant Liability Standard.
8 Amend RSA 507-B:9, I to read as follows:

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

18 9 New Section; Accident and Health Insurance; Coverage for Perfluoroalkyls (PFAS) and
19 Perfluorinated Compound (PFC) Blood Testing; Individual. Amend RSA 415 by inserting after
20 section 6-x the following new section:

21 415:6-y Coverage for Perfluoroalkyls (PFAS) and Perfluorinated Compound (PFC) Blood
22 Testing. Each insurer that issues or renews any individual policy of accident or health insurance
23 providing benefits for medical or hospital expenses, shall provide to certificate holders of such
24 insurance, who are residents of this state, coverage for perfluoroalkyls (PFAS) and perfluorinated
25 compound (PFC) blood testing. Benefits provided under this section shall not be subject to any
26 greater co-payment, deductible, or coinsurance than any other similar benefits provided by the
27 insurer.

28 10 New Section; Accident and Health Insurance; Coverage for Perfluoroalkyls (PFAS) and
29 Perfluorinated Compounds (PFCS) Blood Testing; Group. Amend RSA 415 by inserting after section
30 18-bb the following new section:

31 415:18-cc Coverage for Perfluoroalkyls (PFAS) and Perfluorinated Compounds (PFCS) Blood
32 Testing. Each insurer that issues or renews any policy of group or blanket accident or health
33 insurance providing benefits for medical or hospital expenses, shall provide to certificate holders of
34 such insurance, who are residents of this state, coverage for coverage for perfluoroalkyls (PFAS) and
35 perfluorinated compounds (PFCS) blood testing. Benefits provided under this section shall not be
36 subject to any greater co-payment, deductible, or coinsurance than any other similar benefits
37 provided by the insurer.

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1 11 Health Services Corporations; Applicable Statutes. Amend RSA 420-A:2 to read as follows:

2 420-A:2 Applicable Statutes. Every health service corporation shall be governed by this chapter
3 and the relevant provisions of RSA 161-H, and shall be exempt from this title except for the
4 provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415-A, RSA 415-F, RSA 415:6,
5 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,
6 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,
7 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
8 415:18-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,
9 RSA 415:18-bb, **RSA 415:18-cc**, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable
10 provisions of title XXXVII wherein such corporations are specifically included. Every health service
11 corporation and its agents shall be subject to the fees prescribed for health service corporations
12 under RSA 400-A:29, VII.

13 12 Health Services Corporations; Applicable Statutes; Effective January 2021. Amend RSA 420-
14 A:2 to read as follows:

15 420-A:2 Applicable Statutes. Every health service corporation shall be governed by this chapter
16 and the relevant provisions of RSA 161-H, and shall be exempt from this title except for the
17 provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415-A, RSA 415-F, RSA 415:6,
18 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,
19 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,
20 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
21 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-z, RSA 415:18-aa, RSA 415:18-bb, **RSA 415:18-**
22 **cc**, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable provisions of title XXXVII
23 wherein such corporations are specifically included. Every health service corporation and its agents
24 shall be subject to the fees prescribed for health service corporations under RSA 400-A:29, VII.

25 13 Health Maintenance Organizations; Statutory Construction. Amend RSA 420-B:20, III to
26 read as follows:

27 III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415:6-g,
28 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
29 415:6-x, **RSA 415:6-y**, RSA 415:18, VII-a, RSA 415:18, XVI and XVII, RSA 415:18-i, RSA 415:18-j,
30 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
31 415:18-z, RSA 415:18-aa, RSA 415:18-bb, **RSA 415:18-cc**, RSA 415-A, RSA 415-F, RSA 420-G, and
32 RSA 420-J shall apply to health maintenance organizations.

33 14 Health Maintenance Organizations; Statutory Construction; Effective January 1, 2021.
34 Amend RSA 420-B:20, III to read as follows:

35 III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415:6-g,
36 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**
37 **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,

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1 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
2 415:18-bb, *RSA 415:18-cc*, RSA 415-A, RSA 415-F, RSA 420-G, and RSA 420-J shall apply to health
3 maintenance organizations.

4 15 Effective Date.

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

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

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

2020-1289s

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.

Amendment to HB 1264

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

2

3 AN ACT extending the commission on the seacoast cancer cluster investigation setting the
4 maximum contaminant levels for certain perfluorochemicals in drinking water,
5 establishing a per and polyfluoroalkyl substances fund and programs and making an
6 appropriation therefor, requiring insurance coverage for PFAS and PFC blood tests,
7 and expanding the statute governing ambient groundwater quality standards.
8

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

10

11 3 Perfluorochemicals; Drinking Water. RSA 485:16-e is repealed and reenacted to read as
12 follows:

13 485:16-e Perfluorochemicals.

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

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

16 (b) Perfluorooctanesulfonic acid (PFOS): 15 parts per trillion.

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

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

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

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

30 4 New Chapter; Per and Polyfluoroalkyl Substances (PFAS) Fund and Programs. Amend RSA
31 by inserting after chapter 485-G the following new chapter:

32

CHAPTER 485-H

33

PER AND POLYFLUOROALKYL SUBSTANCES (PFAS)

FUND AND PROGRAMS

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2 485-H:1 Purpose Statement. Communities across the state have been impacted by per and
3 polyfluoroalkyl substances (PFAS) contamination, largely through no fault of their own. The cost of
4 remediating this contamination for many communities would result in dramatically higher water
5 and sewer rates for end users. The existence of these man-made chemicals, some of which are
6 occurring at unhealthy levels in New Hampshire's drinking water, require a strategy to protect,
7 preserve, and enhance the water that New Hampshire citizens and environment rely upon.

8 485-H:2 Definitions. In this chapter:

- 9 I. "Community water system" means "community water system" as defined in RSA 485:1-a.
10 II. "Department" means the department of environmental services.
11 III. "Drinking water standard" means the maximum contaminant levels in accordance with
12 RSA 485:16-e.
13 IV. "Fund" means the PFAS remediation loan fund established in RSA 485-H:10.
14 V. "Non-transient non-community water system" means "non-transient non-community
15 water system as defined in RSA 485:1-a.
16 VI. "Wastewater residuals" means septage, sludge, or biosolids.

17 485-H:3 Implementation of Drinking Water Protection Program. The department shall provide
18 low interest loans to community water systems and non-profit, non-transient public water systems
19 whose testing of untreated source water shows confirmed exceedance of the state maximum
20 contaminant level for PFAS, for remediation efforts begun after September 30, 2019.

21 I. Projects shall only be financed after the applicant demonstrates that the proposed plan for
22 remediation is the most cost-effective solution, as reviewed and approved by the department. The
23 applicant shall provide evidence in the application for funding that there are no no-cost or low-cost
24 efforts such as blending of source water or shutting down an impacted source that would result in
25 the system meeting applicable state maximum contaminant level with no unreasonable adverse
26 effects. The applicant shall also show that there is no responsible party identified by the department
27 or that the responsible party, potentially including the applicant, has provided their appropriate
28 share of the funding for the proposed project.

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

31 485-H:4 Implementation of Groundwater, Surface Water and Aquatic Life Protection. The
32 department shall provide low interest loans to publicly-owned and non-profit wastewater and/or
33 wastewater residual treatment or storage facilities that are required to treat effluent and residuals
34 to achieve PFAS standards prior to discharge or disposal.

35 I. Projects shall only be financed after the applicant demonstrates that the proposed plan for
36 remediation is the most cost-effective solution, as reviewed and approved by the department. The
37 applicant shall provide evidence in the application for funding that there are no no-cost or low-cost

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2 applicant shall also show that there is no responsible party identified by department or that the
3 responsible party, potentially including the applicant, has provided their appropriate share of the
4 funding for the proposed project.

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6 contribution, addressing the contamination.

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9 systems and non-profit, non-transient non-community water systems using the same qualifying
10 standards for forgiveness used in the drinking water state revolving loan program established under
11 RSA 486:14.

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

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

17 485-H:6 Contingent Reimbursement.

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

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

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

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35 department shall not grant partial loan forgiveness that in combination with any compensation
36 would exceed 100 percent of the total cost of the remediation.

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5 the fund's advisory commission.

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10 publicly owned and non-profit wastewater treatment facilities with the cost of complying with state
11 maximum contaminant level for PFAS.

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

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

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16 and the applicant for funding is a municipality, a community water system, or a non-profit, non-
17 transient public water system, or a publicly-owned or non-profit wastewater and/or wastewater
18 residual treatment or storage facility.

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

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24 with the general court evaluating the progress made relative to PFAS contamination, the efficiency
25 of the program established under this chapter, and whether it continues to provide the maximum
26 benefit to New Hampshire citizens, and providing any recommendations on potential additional
27 tasks for which the fund could be used to address PFAS contamination.

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29 PFAS remediation loan programs for eligible projects necessary to meet state PFAS standards.

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33 may invest the fund in accordance with RSA 6:8. Any earnings on fund moneys shall be added to the
34 fund. All moneys in the fund shall be non-lapsing and shall be continually appropriated to the
35 department. The PFAS remediation loan fund shall be used to fund loans and reimbursements in
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8 water residuals, which expenditures may include loans to public or private entities on such terms
9 and conditions as the department of environmental services shall determine. To provide funds for
10 the appropriation made in this section, the state treasurer is hereby authorized to borrow upon the
11 credit of the state not exceeding the sum of \$50,000,000 and for said purpose, may issue bonds and
12 notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-13-e.
13 Notwithstanding the provisions of RSA 9:18, the appropriation made in this section shall not lapse.

14 7 New Section; Authority to Issue Bonds; General Fund. Amend RSA 6 by inserting after
15 section 13-d the following new section:

16 6:13-e Authority to Borrow; Certain Environmental Projects.

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

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

34 III. Payment of principal and interest on the borrowing authorized under paragraph I shall
35 be paid when due from general fund revenue; provided, however, that pursuant to RSA 485-H:6, I,
36 any borrowing under paragraph I shall be paid at or prior to maturity from any available funds
37 derived from lawsuits against the manufacturers of PFAS, after reimbursement to the department of

1 justice for legal expenses related to the litigation and the transfer of funds to the revenue
2 stabilization reserve account pursuant to RSA 7:6-e.

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

7 8 Municipal Immunity for Compliance with Best Practices; Pollutant Liability Standard.
8 Amend RSA 507-B:9, I to read as follows:

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

18 9 New Section; Accident and Health Insurance; Coverage for Perfluoroalkyls (PFAS) and
19 Perfluorinated Compound (PFC) Blood Testing; Individual. Amend RSA 415 by inserting after
20 section 6-x the following new section:

21 415:6-y Coverage for Perfluoroalkyls (PFAS) and Perfluorinated Compound (PFC) Blood
22 Testing. Each insurer that issues or renews any individual policy of accident or health insurance
23 providing benefits for medical or hospital expenses, shall provide to certificate holders of such
24 insurance, who are residents of this state, coverage for perfluoroalkyls (PFAS) and perfluorinated
25 compound (PFC) blood testing. Benefits provided under this section shall not be subject to any
26 greater co-payment, deductible, or coinsurance than any other similar benefits provided by the
27 insurer.

28 10 New Section; Accident and Health Insurance; Coverage for Perfluoroalkyls (PFAS) and
29 Perfluorinated Compounds (PFCS) Blood Testing; Group. Amend RSA 415 by inserting after section
30 18-bb the following new section:

31 415:18-cc Coverage for Perfluoroalkyls (PFAS) and Perfluorinated Compounds (PFCS) Blood
32 Testing. Each insurer that issues or renews any policy of group or blanket accident or health
33 insurance providing benefits for medical or hospital expenses, shall provide to certificate holders of
34 such insurance, who are residents of this state, coverage for coverage for perfluoroalkyls (PFAS) and
35 perfluorinated compounds (PFCS) blood testing. Benefits provided under this section shall not be
36 subject to any greater co-payment, deductible, or coinsurance than any other similar benefits
37 provided by the insurer.

Amendment to HB 1264

- Page 7 -

1 11 Health Services Corporations; Applicable Statutes. Amend RSA 420-A:2 to read as follows:
2 420-A:2 Applicable Statutes. Every health service corporation shall be governed by this chapter
3 and the relevant provisions of RSA 161-H, and shall be exempt from this title except for the
4 provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415-A, RSA 415-F, RSA 415:6,
5 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,
6 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,
7 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
8 415:18-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,
9 RSA 415:18-bb, **RSA 415:18-cc**, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable
10 provisions of title XXXVII wherein such corporations are specifically included. Every health service
11 corporation and its agents shall be subject to the fees prescribed for health service corporations
12 under RSA 400-A:29, VII.

13 12 Health Services Corporations; Applicable Statutes; Effective January 2021. Amend RSA 420-
14 A:2 to read as follows:

15 420-A:2 Applicable Statutes. Every health service corporation shall be governed by this chapter
16 and the relevant provisions of RSA 161-H, and shall be exempt from this title except for the
17 provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415-A, RSA 415-F, RSA 415:6,
18 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,
19 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,
20 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
21 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-z, RSA 415:18-aa, RSA 415:18-bb, **RSA 415:18-**
22 **cc**, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable provisions of title XXXVII
23 wherein such corporations are specifically included. Every health service corporation and its agents
24 shall be subject to the fees prescribed for health service corporations under RSA 400-A:29, VII.

25 13 Health Maintenance Organizations; Statutory Construction. Amend RSA 420-B:20, III to
26 read as follows:

27 III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415:6-g,
28 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
29 415:6-x, **RSA 415:6-y**, RSA 415:18, VII-a, RSA 415:18, XVI and XVII, RSA 415:18-i, RSA 415:18-j,
30 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
31 415:18-z, RSA 415:18-aa, RSA 415:18-bb, **RSA 415:18-cc**, RSA 415-A, RSA 415-F, RSA 420-G, and
32 RSA 420-J shall apply to health maintenance organizations.

33 14 Health Maintenance Organizations; Statutory Construction; Effective January 1, 2021.
34 Amend RSA 420-B:20, III to read as follows:

35 III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415:6-g,
36 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**
37 **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,

1 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
2 415:18-bb, **RSA 415:18-cc**, RSA 415-A, RSA 415-F, RSA 420-G, and RSA 420-J shall apply to health
3 maintenance organizations.

4 15 Ambient Groundwater Quality Standards. Amend RSA 485-C:6, I to read as follows:

5 I. The commissioner shall establish and adopt ambient groundwater quality standards for
6 regulated contaminants which adversely affect human health or the environment. Ambient
7 groundwater standards shall apply to all regulated contaminants which result from human
8 operations or activities, but do not apply to naturally occurring contaminants. Where state
9 maximum contaminant levels have been adopted under RSA 485:3, I(b), **or established in law**,
10 ambient groundwater quality standards shall be equivalent to such standards. Where federal
11 maximum contaminant level or health advisories have been promulgated under the Federal Safe
12 Drinking Water Act or rules relevant to such act, ambient groundwater quality standards shall be no
13 less stringent than such standards. The commissioner may adopt standards more stringent than
14 federal maximum contaminant levels or health advisories if, accounting for an adequate margin of
15 safety to protect human health at all life stages, including but not limited to pre-natal development,
16 the commissioner determines federal standards are insufficient for protection of human health.
17 Where such standards are established based upon health advisories that address cancer risks, the
18 ambient groundwater quality standards shall be equivalent to that exposure which causes a lifetime
19 exposure risk of one cancer in 1,000,000 exposed population. Where no federal or state maximum
20 contaminant level or health advisory has been issued, the commissioner may adopt ambient
21 groundwater quality standards on a basis which provides for an adequate margin of safety to protect
22 human health and safety.

23 16 Effective Date.

- 24 I. Sections 12 and 14 of this act shall take effect January 1, 2021 at 12:04 p.m.
25 II. Sections 9, 10, 11, and 13 of this act shall take effect 60 days after its passage.
26 III. The remainder of this act shall take effect upon its passage.

2020-1399s

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 polyfluoroalkyl 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.

VII. Expands the statute governing ambient groundwater quality standards to include state maximum contaminant levels established in law.

UNAPPROVED

Sen. Bradley, Dist 3
Sen. Sherman, Dist 24
Sen. Watters, Dist 4
June 9, 2020
2020-1404s
01/04

Amendment to HB 1264

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

2

3 AN ACT extending the commission on the seacoast cancer cluster investigation, setting the
4 maximum contaminant levels for certain perfluorochemicals in drinking water,
5 establishing a per and polyfluoroalkyl substances fund and programs and making an
6 appropriation therefor, requiring insurance coverage for PFAS and PFC blood tests,
7 and expanding the statute governing ambient groundwater quality standards.
8

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

10

11 3 Perfluorochemicals; Drinking Water. RSA 485:16-e is repealed and reenacted to read as
12 follows:

13 485:16-e Perfluorochemicals.

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

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

16 (b) Perfluorooctanesulfonic acid (PFOS): 15 parts per trillion.

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

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

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

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

30 4 New Chapter; Per and Polyfluoroalkyl Substances (PFAS) Fund and Programs. Amend RSA
31 by inserting after chapter 485-G the following new chapter:

32

CHAPTER 485-H

1 PER AND POLYFLUOROALKYL SUBSTANCES (PFAS)

2 FUND AND PROGRAMS

3 485-H:1 Purpose Statement. Communities across the state have been impacted by per and
4 polyfluoroalkyl substances (PFAS) contamination, largely through no fault of their own. The cost of
5 remediating this contamination for many communities would result in dramatically higher water
6 and sewer rates for end users. The existence of these man-made chemicals, some of which are
7 occurring at unhealthy levels in New Hampshire's drinking water, require a strategy to protect,
8 preserve, and enhance the water that New Hampshire citizens and environment rely upon.

9 485-H:2 Definitions. In this chapter:

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

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

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

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

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

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

18 485-H:3 Implementation of Drinking Water Protection Program. The department shall provide
19 low interest loans to community water systems and non-profit, non-transient public water systems
20 whose testing of untreated source water shows confirmed exceedance of the state maximum
21 contaminant level for PFAS, for remediation efforts begun after September 30, 2019.

22 I. Projects shall only be financed after the applicant demonstrates that the proposed plan for
23 remediation is the most cost-effective solution, as reviewed and approved by the department. The
24 applicant shall provide evidence in the application for funding that there are no no-cost or low-cost
25 efforts such as blending of source water or shutting down an impacted source that would result in
26 the system meeting applicable state maximum contaminant level with no unreasonable adverse
27 effects. The applicant shall also show that there is no responsible party identified by the department
28 or that the responsible party, potentially including the applicant, has provided their appropriate
29 share of the funding for the proposed project.

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

32 485-H:4 Implementation of Groundwater, Surface Water and Aquatic Life Protection. The
33 department shall provide low interest loans to publicly-owned and non-profit wastewater and/or
34 wastewater residual treatment or storage facilities that are required to treat effluent and residuals
35 to achieve PFAS standards prior to discharge or disposal.

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

Amendment to HB 1264

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1 applicant shall provide evidence in the application for funding that there are no no-cost or low-cost
2 efforts that would result in the system meeting standards with no unreasonable adverse effects. The
3 applicant shall also show that there is no responsible party identified by department or that the
4 responsible party, potentially including the applicant, has provided their appropriate share of the
5 funding for the proposed project.

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

8 485-H:5 Loan Principal Forgiveness Based Upon Need.

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

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

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

18 485-H:6 Contingent Reimbursement.

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

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

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

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

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

6 485-H:8 Duties of the Department.

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

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

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

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

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

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

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

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

28 485-H:9 Rules. The department shall adopt rules, under RSA 541-A, relative to administering
29 PFAS remediation loan programs for eligible projects necessary to meet state PFAS standards.

30 485-H:10 PFAS Remediation Loan Fund Established. There is hereby established in the
31 department the PFAS remediation loan fund which shall be maintained by the state treasurer in
32 distinct and separate custody from all other funds, notwithstanding RSA 6:12. The state treasurer
33 may invest the fund in accordance with RSA 6:8. Any earnings on fund moneys shall be added to the
34 fund. All moneys in the fund shall be non-lapsing and shall be continually appropriated to the
35 department. The PFAS remediation loan fund shall be used to fund loans and reimbursements in
36 accordance with this chapter. Funds from any bond proceeds, grants, loan repayments, legislative
37 appropriations, donations, and other funds shall be credited to this fund.

Amendment to HB 1264

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1 5 New Subparagraph; PFAS Remediation Loan Fund. Amend RSA 6:12, I(b) by inserting after
2 subparagraph (358) the following new subparagraph:

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

5 6 Capital Appropriation; Department of Environmental Services. The sum of \$50,000,000 is
6 hereby appropriated to the department of environmental services for capital expenditures for the
7 remediation of per- and polyfluoroalkyl substances in the state's drinking water sources and waste
8 water residuals, which expenditures may include loans to public or private entities on such terms
9 and conditions as the department of environmental services shall determine. To provide funds for
10 the appropriation made in this section, the state treasurer is hereby authorized to borrow upon the
11 credit of the state not exceeding the sum of \$50,000,000 and for said purpose, may issue bonds and
12 notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-13-e.
13 Notwithstanding the provisions of RSA 9:18, the appropriation made in this section shall not lapse.

14 7 New Section; Authority to Issue Bonds; General Fund. Amend RSA 6 by inserting after
15 section 13-d the following new section:

16 6:13-e Authority to Borrow; Certain Environmental Projects.

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

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

34 III. Payment of principal and interest on the borrowing authorized under paragraph I shall
35 be paid when due from general fund revenue; provided, however, that pursuant to RSA 485-H:6, I,
36 any borrowing under paragraph I shall be paid at or prior to maturity from any available funds
37 derived from lawsuits against the manufacturers of PFAS, after reimbursement to the department of

1 justice for legal expenses related to the litigation and the transfer of funds to the revenue
2 stabilization reserve account pursuant to RSA 7:6-e.

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

7 8 Municipal Immunity for Compliance with Best Practices; Pollutant Liability Standard.
8 Amend RSA 507-B:9, I to read as follows:

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

18 9 New Section; Accident and Health Insurance; Coverage for Perfluoroalkyls (PFAS) and
19 Perfluorinated Compound (PFC) Blood Testing; Individual. Amend RSA 415 by inserting after
20 section 6-x the following new section:

21 415:6-y Coverage for Perfluoroalkyls (PFAS) and Perfluorinated Compound (PFC) Blood
22 Testing. Each insurer that issues or renews any individual policy of accident or health insurance
23 providing benefits for medical or hospital expenses, shall provide to certificate holders of such
24 insurance, who are residents of this state, coverage for perfluoroalkyls (PFAS) and perfluorinated
25 compound (PFC) blood testing. Benefits provided under this section shall not be subject to any
26 greater co-payment, deductible, or coinsurance than any other similar benefits provided by the
27 insurer.

28 10 New Section; Accident and Health Insurance; Coverage for Perfluoroalkyls (PFAS) and
29 Perfluorinated Compounds (PFCS) Blood Testing; Group. Amend RSA 415 by inserting after section
30 18-bb the following new section:

31 415:18-cc Coverage for Perfluoroalkyls (PFAS) and Perfluorinated Compounds (PFCS) Blood
32 Testing. Each insurer that issues or renews any policy of group or blanket accident or health
33 insurance providing benefits for medical or hospital expenses, shall provide to certificate holders of
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35 perfluorinated compounds (PFCS) blood testing. Benefits provided under this section shall not be
36 subject to any greater co-payment, deductible, or coinsurance than any other similar benefits
37 provided by the insurer.

Amendment to HB 1264

- Page 7 -

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6 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,
7 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
8 415:18-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,
9 RSA 415:18-bb, **RSA 415:18-cc**, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable
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13 12 Health Services Corporations; Applicable Statutes; Effective January 2021. Amend RSA 420-
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15 420-A:2 Applicable Statutes. Every health service corporation shall be governed by this chapter
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17 provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415-A, RSA 415-F, RSA 415:6,
18 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,
19 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,
20 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
21 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-z, RSA 415:18-aa, RSA 415:18-bb, **RSA 415:18-**
22 **cc**, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable provisions of title XXXVII
23 wherein such corporations are specifically included. Every health service corporation and its agents
24 shall be subject to the fees prescribed for health service corporations under RSA 400-A:29, VII.

25 13 Health Maintenance Organizations; Statutory Construction. Amend RSA 420-B:20, III to
26 read as follows:

27 III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415:6-g,
28 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
29 415:6-x, **RSA 415:6-y**, RSA 415:18, VII-a, RSA 415:18, XVI and XVII, RSA 415:18-i, RSA 415:18-j,
30 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
31 415:18-z, RSA 415:18-aa, RSA 415:18-bb, **RSA 415:18-cc**, RSA 415-A, RSA 415-F, RSA 420-G, and
32 RSA 420-J shall apply to health maintenance organizations.

33 14 Health Maintenance Organizations; Statutory Construction; Effective January 1, 2021.
34 Amend RSA 420-B:20, III to read as follows:

35 III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415:6-g,
36 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**
37 **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,

1 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
2 415:18-bb, **RSA 415:18-cc**, RSA 415-A, RSA 415-F, RSA 420-G, and RSA 420-J shall apply to health
3 maintenance organizations.

4 15 Ambient Groundwater Quality Standards. Amend RSA 485-C:6, I to read as follows:

5 I. The commissioner shall establish and adopt ambient groundwater quality standards for
6 regulated contaminants which adversely affect human health or the environment. Ambient
7 groundwater standards shall apply to all regulated contaminants which result from human
8 operations or activities, but do not apply to naturally occurring contaminants. Where state
9 maximum contaminant levels have been adopted under RSA 485:3, I(b), **or established in law**,
10 ambient groundwater quality standards shall be equivalent to such standards. Where federal
11 maximum contaminant level or health advisories have been promulgated under the Federal Safe
12 Drinking Water Act or rules relevant to such act, ambient groundwater quality standards shall be no
13 less stringent than such standards. The commissioner may adopt standards more stringent than
14 federal maximum contaminant levels or health advisories if, accounting for an adequate margin of
15 safety to protect human health at all life stages, including but not limited to pre-natal development,
16 the commissioner determines federal standards are insufficient for protection of human health.
17 Where such standards are established based upon health advisories that address cancer risks, the
18 ambient groundwater quality standards shall be equivalent to that exposure which causes a lifetime
19 exposure risk of one cancer in 1,000,000 exposed population. Where no federal or state maximum
20 contaminant level or health advisory has been issued, the commissioner may adopt ambient
21 groundwater quality standards on a basis which provides for an adequate margin of safety to protect
22 human health and safety.

23 16 Effective Date.

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

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

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

2020-1404s

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.

VII. Expands the statute governing ambient groundwater quality standards to include state maximum contaminant levels established in law.

UNAPPROVED

Amendment to HB 1264

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

2

3 AN ACT extending the commission on the seacoast cancer cluster investigation, setting the
4 maximum contaminant levels for certain perfluorochemicals in drinking water,
5 establishing a per and polyfluoroalkyl substances fund and programs and making an
6 appropriation therefor, requiring insurance coverage for PFAS and PFC blood tests,
7 and expanding the statute governing ambient groundwater quality standards.
8

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

10

11 3 Perfluorochemicals; Drinking Water. RSA 485:16-e is repealed and reenacted to read as
12 follows:

13 485:16-e Perfluorochemicals.

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

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

16 (b) Perfluorooctanesulfonic acid (PFOS): 15 parts per trillion.

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

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

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

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

30 4 New Chapter; Per and Polyfluoroalkyl Substances (PFAS) Fund and Programs. Amend RSA
31 by inserting after chapter 485-G the following new chapter:

32

CHAPTER 485-H

33

PER AND POLYFLUOROALKYL SUBSTANCES (PFAS)

FUND AND PROGRAMS

1
2 485-H:1 Purpose Statement. Communities across the state have been impacted by per and
3 polyfluoroalkyl substances (PFAS) contamination, largely through no fault of their own. The cost of
4 remediating this contamination for many communities would result in dramatically higher water
5 and sewer rates for end users. The existence of these man-made chemicals, some of which are
6 occurring at unhealthy levels in New Hampshire's drinking water, require a strategy to protect,
7 preserve, and enhance the water that New Hampshire citizens and environment rely upon.

8 485-H:2 Definitions. In this chapter:

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

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

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

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

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

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

17 485-H:3 Implementation of Drinking Water Protection Program. The department shall provide
18 low interest loans to community water systems and non-profit, non-transient public water systems
19 whose testing of untreated source water shows confirmed exceedance of the state maximum
20 contaminant level for PFAS, for remediation efforts begun after September 30, 2019.

21 I. Projects shall only be financed after the applicant demonstrates that the proposed plan for
22 remediation is the most cost-effective solution, as reviewed and approved by the department. The
23 applicant shall provide evidence in the application for funding that there are no no-cost or low-cost
24 efforts such as blending of source water or shutting down an impacted source that would result in
25 the system meeting applicable state maximum contaminant level with no unreasonable adverse
26 effects. The applicant shall also show that there is no responsible party identified by the department
27 or that the responsible party, potentially including the applicant, has provided their appropriate
28 share of the funding for the proposed project.

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

31 485-H:4 Implementation of Groundwater, Surface Water and Aquatic Life Protection. The
32 department shall provide low interest loans to publicly-owned and non-profit wastewater and/or
33 wastewater residual treatment or storage facilities that are required to treat effluent and residuals
34 to achieve PFAS standards prior to discharge or disposal.

35 I. Projects shall only be financed after the applicant demonstrates that the proposed plan for
36 remediation is the most cost-effective solution, as reviewed and approved by the department. The
37 applicant shall provide evidence in the application for funding that there are no no-cost or low-cost

Amendment to HB 1264

- Page 3 -

1 efforts that would result in the system meeting standards with no unreasonable adverse effects. The
2 applicant shall also show that there is no responsible party identified by department or that the
3 responsible party, potentially including the applicant, has provided their appropriate share of the
4 funding for the proposed project.

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

7 485-H:5 Loan Principal Forgiveness Based Upon Need.

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

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

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

17 485-H:6 Contingent Reimbursement.

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

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

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

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

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

6 485-H:8 Duties of the Department.

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

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

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

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

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

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

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

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

28 485-H:9 Rules. The department shall adopt rules, under RSA 541-A, relative to administering
29 PFAS remediation loan programs for eligible projects necessary to meet state PFAS standards.

30 485-H:10 PFAS Remediation Loan Fund Established. There is hereby established in the
31 department the PFAS remediation loan fund which shall be maintained by the state treasurer in
32 distinct and separate custody from all other funds, notwithstanding RSA 6:12. The state treasurer
33 may invest the fund in accordance with RSA 6:8. Any earnings on fund moneys shall be added to the
34 fund. All moneys in the fund shall be non-lapsing and shall be continually appropriated to the
35 department. The PFAS remediation loan fund shall be used to fund loans and reimbursements in
36 accordance with this chapter. Funds from any bond proceeds, grants, loan repayments, legislative
37 appropriations, donations, and other funds shall be credited to this fund.

Amendment to HB 1264

- Page 5 -

1 5 New Subparagraph; PFAS Remediation Loan Fund. Amend RSA 6:12, I(b) by inserting after
2 subparagraph (358) the following new subparagraph:

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

5 6 Capital Appropriation; Department of Environmental Services. The sum of \$50,000,000 is
6 hereby appropriated to the department of environmental services for capital expenditures for the
7 remediation of per- and polyfluoroalkyl substances in the state's drinking water sources and waste
8 water residuals, which expenditures may include loans to public or private entities on such terms
9 and conditions as the department of environmental services shall determine. To provide funds for
10 the appropriation made in this section, the state treasurer is hereby authorized to borrow upon the
11 credit of the state not exceeding the sum of \$50,000,000 and for said purpose may issue bonds and
12 notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-13-e.
13 Notwithstanding the provisions of RSA 9:18, the appropriation made in this section shall not lapse.

14 7 New Section; Authority to Issue Bonds; General Fund. Amend RSA 6 by inserting after
15 section 13-d the following new section:

16 6:13-e Authority to Borrow; Certain Environmental Projects.

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

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

34 III. Payment of principal and interest on the borrowing authorized under paragraph I shall
35 be paid when due from general fund revenue; provided, however, that pursuant to RSA 485-H:6, I,
36 any borrowing under paragraph I shall be paid at or prior to maturity from any available funds
37 derived from lawsuits against the manufacturers of PFAS, after reimbursement to the department of

1 justice for legal expenses related to the litigation and the transfer of funds to the revenue
2 stabilization reserve account pursuant to RSA 7:6-e.

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

7 8 Municipal Immunity for Compliance with Best Practices; Pollutant Liability Standard.
8 Amend RSA 507-B:9, I to read as follows:

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

18 9 New Section; Accident and Health Insurance; Coverage for Perfluoroalkyls (PFAS) and
19 Perfluorinated Compound (PFC) Blood Testing; Individual. Amend RSA 415 by inserting after
20 section 6-x the following new section:

21 415:6-y Coverage for Perfluoroalkyls (PFAS) and Perfluorinated Compound (PFC) Blood
22 Testing. Each insurer that issues or renews any individual policy of accident or health insurance
23 providing benefits for medical or hospital expenses, shall provide to certificate holders of such
24 insurance, who are residents of this state, coverage for perfluoroalkyls (PFAS) and perfluorinated
25 compound (PFC) blood testing. Benefits provided under this section shall not be subject to any
26 greater co-payment, deductible, or coinsurance than any other similar benefits provided by the
27 insurer.

28 10 New Section; Accident and Health Insurance; Coverage for Perfluoroalkyls (PFAS) and
29 Perfluorinated Compounds (PFCS) Blood Testing; Group. Amend RSA 415 by inserting after section
30 18-bb the following new section:

31 415:18-cc Coverage for Perfluoroalkyls (PFAS) and Perfluorinated Compounds (PFCS) Blood
32 Testing. Each insurer that issues or renews any policy of group or blanket accident or health
33 insurance providing benefits for medical or hospital expenses, shall provide to certificate holders of
34 such insurance, who are residents of this state, coverage for coverage for perfluoroalkyls (PFAS) and
35 perfluorinated compounds (PFCS) blood testing. Benefits provided under this section shall not be
36 subject to any greater co-payment, deductible, or coinsurance than any other similar benefits
37 provided by the insurer.

Amendment to HB 1264

- Page 7 -

1 11 Health Services Corporations; Applicable Statutes. Amend RSA 420-A:2 to read as follows:

2 420-A:2 Applicable Statutes. Every health service corporation shall be governed by this chapter
3 and the relevant provisions of RSA 161-H, and shall be exempt from this title except for the
4 provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415-A, RSA 415-F, RSA 415:6,
5 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,
6 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,
7 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
8 415:18-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,
9 RSA 415:18-bb, **RSA 415:18-cc**, RSA 415:22, RSA 417, RSA 417-E, RSA 420-J, and all applicable
10 provisions of title XXXVII wherein such corporations are specifically included. Every health service
11 corporation and its agents shall be subject to the fees prescribed for health service corporations
12 under RSA 400-A:29, VII.

13 12 Health Services Corporations; Applicable Statutes; Effective January 2021. Amend RSA 420-
14 A:2 to read as follows:

15 420-A:2 Applicable Statutes. Every health service corporation shall be governed by this chapter
16 and the relevant provisions of RSA 161-H, and shall be exempt from this title except for the
17 provisions of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415-A, RSA 415-F, RSA 415:6,
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19 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,
20 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
21 415:18-u, RSA 415:18-v, RSA 415:18-w, RSA 415:18-z, RSA 415:18-aa, RSA 415:18-bb, **RSA 415:18-**
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23 wherein such corporations are specifically included. Every health service corporation and its agents
24 shall be subject to the fees prescribed for health service corporations under RSA 400-A:29, VII.

25 13 Health Maintenance Organizations; Statutory Construction. Amend RSA 420-B:20, III to
26 read as follows:

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28 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
29 415:6-x, **RSA 415:6-y**, RSA 415:18, VII-a, RSA 415:18, XVI and XVII, RSA 415:18-i, RSA 415:18-j,
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31 415:18-z, RSA 415:18-aa, RSA 415:18-bb, **RSA 415:18-cc**, RSA 415-A, RSA 415-F, RSA 420-G, and
32 RSA 420-J shall apply to health maintenance organizations.

33 14 Health Maintenance Organizations; Statutory Construction; Effective January 1, 2021.
34 Amend RSA 420-B:20, III to read as follows:

35 III. The requirements of RSA 400-A:39, RSA 401-B, RSA 402-C, RSA 404-F, RSA 415:6-g,
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37 **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,

1 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
2 415:18-bb, *RSA 415:18-cc*, RSA 415-A, RSA 415-F, RSA 420-G, and RSA 420-J shall apply to health
3 maintenance organizations.

4 15 Ambient Groundwater Quality Standards. Amend RSA 485-C:6, I to read as follows:

5 I. The commissioner shall establish and adopt ambient groundwater quality standards for
6 regulated contaminants which adversely affect human health or the environment. Ambient
7 groundwater standards shall apply to all regulated contaminants which result from human
8 operations or activities, but do not apply to naturally occurring contaminants. Where state
9 maximum contaminant levels have been adopted under RSA 485:3, I(b), *or established in law*,
10 ambient groundwater quality standards shall be equivalent to such standards. Where federal
11 maximum contaminant level or health advisories have been promulgated under the Federal Safe
12 Drinking Water Act or rules relevant to such act, ambient groundwater quality standards shall be no
13 less stringent than such standards. The commissioner may adopt standards more stringent than
14 federal maximum contaminant levels or health advisories if, accounting for an adequate margin of
15 safety to protect human health at all life stages, including but not limited to pre-natal development,
16 the commissioner determines federal standards are insufficient for protection of human health.
17 Where such standards are established based upon health advisories that address cancer risks, the
18 ambient groundwater quality standards shall be equivalent to that exposure which causes a lifetime
19 exposure risk of one cancer in 1,000,000 exposed population. Where no federal or state maximum
20 contaminant level or health advisory has been issued, the commissioner may adopt ambient
21 groundwater quality standards on a basis which provides for an adequate margin of safety to protect
22 human health and safety.

23 16 Effective Date.

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

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

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

2020-1432s

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 polyfluoroalkyl 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.

VII. Expands the statute governing ambient groundwater quality standards to include state maximum contaminant levels established in law.

Committee Minutes

SENATE CALENDAR NOTICE
Health and Human Services

Sen Tom Sherman, Chair
Sen Martha Fuller Clark, Vice Chair
Sen Shannon Chandley, Member
Sen Jeb Bradley, Member
Sen James Gray, Member

Date: May 29, 2020

HEARINGS

Tuesday	06/02/2020	
(Day)	(Date)	
Health and Human Services	Offsite 9999	8:00 a.m.
(Name of Committee)	(Place)	(Time)
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 to the bill, 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):
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 4. Or iPhone one-tap: 13017158592,,92293617264# or 13126266799,,92293617264#
 5. Webinar ID: 971 5945 7302

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

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EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 1264

Rep. Meuse	Rep. Cushing	Rep. Le	Rep. McBeath
Rep. Altschiller	Sen. Sherman	Rep. Bushway	

HB 1264

Rep. Meuse	Rep. Cushing	Rep. Le	Rep. McBeath
Rep. Altschiller	Sen. Sherman	Rep. Bushway	

HB 578-FN

Rep. Stringham	Rep. Ford	Rep. Desilets	
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HB 578-FN

Rep. Stringham	Rep. Ford	Rep. Desilets	
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Monica Cooper - 271-8631

Tom Sherman
 Chairman

**AMENDED
SENATE CALENDAR NOTICE
Health and Human Services**

Sen Tom Sherman, Chair
Sen Martha Fuller Clark, Vice Chair
Sen Shannon Chandley, Member
Sen Jeb Bradley, Member
Sen James Gray, Member

Date: May 29, 2020

HEARINGS

Tuesday	06/02/2020	
(Day)	(Date)	
Health and Human Services	Offsite 9999	8:00 a.m.
(Name of Committee)	(Place)	(Time)
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):
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-2MPMiWtA>

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

Sponsors:

HB 1264

Rep. Meuse

Rep. Altschiller

HB 578-FN

Rep. Stringham

Rep. Cushing

Sen. Sherman

Rep. Ford

Rep. Le

Rep. Bushway

Rep. Desilets

Rep. McBeath

Monica Cooper - 271-8631

Tom Sherman
Chairman

Senate Health and Human Services Committee
Monica Cooper - 271-8631

HB 1264, extending the commission on the seacoast cancer cluster investigation.

Hearing Date: June 2, 2020

Members of the Committee Present: Senators Sherman, Fuller Clark, Chandley, Bradley and Gray

Members of the Committee Absent : None

Bill 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.
-

Sponsors:

Rep. Meuse
Rep. McBeath
Rep. Bushway

Rep. Cushing
Rep. Altschiller

Rep. Le
Sen. Sherman

Who supports the bill: Representative David Meuse, Rockingham Dist. 29; Representative Renny Cushing, Rockingham Dist. 21; Representative Patricia Bushway, Rockingham Dist. 21; Representative Deborah Altschiller, Rockingham Dist. 19; Mindi Messmer; Marcia Garber; Kathie Kaluzynski; Cheryl Steinberg; Beverly Cotton; Shelagh Connelly; Daniel Driscoll; Kathleen Hoey

Who opposes the bill: Jason Randall, Maria Pignataro

Who is neutral on the bill: None

Summary of testimony presented:

Representative Meuse: This bill attempts to address a conflict and tragic public health problem that was present prior to COVID-19. He envisions that this problem will continue to remain even after the current pandemic subsides.

Since 2017, the Seacoast Cancer Cluster Commission has been looking into the occurrence of two very rare, and specific forms of cancer along the New Hampshire Seacoast. The first type is called Rhabdomyosarcoma (RMS), which is highly malignant. It has led to deaths of several children in the areas surrounding the Coakley Landfill. Most of the cases of RMS are occurring in children under the age of 18. The second type of cancer that the commission has looked at and identified a high number of pediatric cases is called Pleuropulmonary Blastoma, (PPB).

He attested that when he has attended meetings for the commission, there was a lot of information from many sources in New Hampshire and outside of state to digest.

He said that a situation like this doesn't respect legislative guidelines. As a result, the commission needs more time to do its work. This bill would extend the commission's deadline to June 2022 and require three legislative reports leading up to the final date.

Senator Sherman: He said since the cancer cluster was identified over 6 years ago it has been a major focus of his work. He formerly was chair of the Governor's Task Force on the Seacoast Cancer Cluster Investigation. When the bill moved into the house, he remained on the commission ever since. He said the amount of work that has been put in by stakeholders is immense, however, the work is far from done, therefore he asked his fellow committee members to support the passage of HB 1264.

Representative Cushing: He said as a co-sponsor to this bill, he is in support of its adoption and supports the amendment. He thanked the legislatures and stakeholders who were involved in drafting this bill.

Mindi Messmer: She said she has been a part of this investigation since the very beginning. She said they have not finished their work. She said this is a very complicated issue, the state has high rates of pediatric cancer along the Seacoast. There are also elevated levels of adult cancer in this same area which requires further investigation. Much of the commission's work thus far has been focused on a big super fund site, the Coakley Landfill. However, there are other environmental factors which could be contributing to the situation, but they haven't been able to investigate these other potential sites.

There was a house bill that was passed last year which required an action plan, and implementation of said plan by September of this year. However, she said that they are not seeing the action that needs to be taken on this super fund site by involved state agencies.

She said this bill is important to Seacoast residents as they continue to look for and address cancer contributing factors in their environment.

mec
Date Hearing Report completed: June 3, 2020

Senate Health and Human Services Committee

Monica Cooper - 271-8631

Amendment #2020-1261s, 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.

Hearing Date: June 2, 2020

Members of the Committee Present: Senators Sherman, Fuller Clark, Chandley, Bradley and Gray

Members of the Committee Absent : None

Bill 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 polyfluoroalkyl 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.
-

Sponsors:

Rep. Meuse
Rep. McBeath
Rep. Bushway

Rep. Cushing
Rep. Altschiller

Rep. Le
Sen. Sherman

Who supports the bill: Representative David Meuse, Rockingham Dist. 29; Representative Renny Cushing, Rockingham Dist. 21; Representative Patricia Bushway, Rockingham Dist. 21; Representative Deborah Altschiller, Rockingham Dist. 19; Mindi Messmer; Paul Worsowicz (Gallagher, Callahan & Gartrell); Barbara Reid; Cheryl Steinberg; Marcia Garber; Kathie Kaluzynski; Beverly Cotton; Kathleen Hoey

Who opposes the bill: David Creer (BIA NH); Sabrina Dunlap (Anthem); Teresa Rosenberger (Devine Millimet); Jason Randall (Plymouth Village Water and Sewer District); Shelagh Connelly (Resource Management Inc.); Katherine Cole (Tufts Health Freedom Plan); Peter Bragdon (Harvard Pilgrim Health Care); Marc Brown; Daniel Driscoll; Maria Pignataro

Who is neutral on the bill: None

Summary of testimony presented:

Senator Bradley:

- The establishment of the standards seen in section 3 of the amendment was a result of Governor Sununu's leadership, Senator Sherman's prior bill, and the Department of Environmental Services (DES).
- This amendment builds upon the language that was established a couple of years ago in Senator Innis' bill. Many legislatures across both aisles worked to help pass Senator Innis' bill.
- This amendment puts into law the limitations on PFOAs that were established by the Department. There is a funding mechanism to help mitigate the financial impact for end users starting in section 4 of the amendment.
- This legislation and the underlying DES rules have not set a standard for wastewater yet. Until a wastewater standard is set, there is nothing to remediate. Therefore, he believes that the 15 million bound will at least cover the first initial years of implementing the standards set forth in this legislation.
- There is hope and belief that legal action of potential responsible parties in a settlement or negotiation will assist with the costs of remediation of New Hampshire's groundwater. Line 17, pg. 3 of the amendment includes a provision on contingent reimbursement. It is envisioned that any of the loans that would go out to communities would be forgiven after the conclusion of legal action.

Senator Sherman:

- As a result of the bill that Sen. Bradley cited, and the work of Rep. Mindi Messmer and others, the Department was able to hire a toxicologist. This enabled DES to release the numbers needed to set the maximum contaminant levels (MCLs) and develop the numbers that were incorporated in SB 287. SB 287 passed the Senate in January, 24-0.
- New Jersey is adopting similar levels. He said science is telling us what we thought it would tell us—to tighten our standards.
- Regarding the concern that we are putting standards into statute, he would like to remind everyone that we already have many standards in statute.

Representative Cushing:

- SB 287 contains the MCLs. HB 1603, which is on its way to the Senate, parallels SB 287. HB 1603 attempts to put a lock box on any proceeds that come from litigation around responsible parties for PFAS. The house wanted to make sure that any of these awards would be used for remediation.
- He brought HB 1274, the safe bottled water drinking act, to the committee's attention. HB 1274 ensures that the MCLs that are established through this amendment for public drinking water are also consistent with bottled drinking water. There should be an assumption that bottled drinking water levels match tap drinking water levels.

Mindi Messmer: She is in support of the amendment. She said that it is important to make sure that when speaking about a cost benefit analysis we include the cost of public health, as it is often not included in cost analysis. New Hampshire has some of the highest rates of cancer in the country. New Hampshire has the highest rates of pediatric cancer in nation as well as bladder, breast, and esophageal cancers. New Hampshire is also number 9 for brain cancer in nation. She said that we must do whatever we can do to reduce our rates of and prevent cancer.

David Creer, Director of Public Policy at the Business & Industry Association of New Hampshire:

- He spoke against the very beginning part of the amendment. He said the MCLs were set into rules by DES last summer. They were then enjoined from enforcement due to a lawsuit because of there being an insufficient cost benefits analysis by DES. DES was unable to quantify the benefits for setting the MCLs so low.
- The BIA feels that given the current economic situation it would not be prudent to burden the business community and other entities with the high costs associated with the purposed MCLs.
- The BIA asked for the committee to allow DES to complete their cost benefit analysis quantifying health benefits and allow the lawsuit to continue.

Sabrina Dunlap, Sr. Director of Government Relations at Anthem:

- She raised concerns over sec. 9 and 10 of the amendment which would add new sections to RSA 415; requiring insurance coverage of PFAS and PFCS blood tests.
- Anthem does not feel that the blood tests have clinical value. The results cannot be used by doctors to guide treatment or make diagnoses. Anthem understands the public concerns which generated this amendment but oppose the sections of the amendment that deal with insurance coverage.

Senator Sherman: He said that Ulcerative Colitis is one of the illness identified by the C8 study as being associated with PFAS exposure. As a clinician it is critical to get a base line level with patients that have an associated link with PFAS exposure. He

asked Ms. Dunlap if not having the ability to test a patient's PFAS/PFCS levels would impede his ability to treat and assess said patient as a physician?

Sabrina Dunlap: The Department of Health and Human Services (DHHS) and the Center for Disease Control (CDC) both say these levels are quite limited and cannot be used to guide treatment decisions, pinpoint exposure, or make diagnoses. She is basing Anthem's opinion off of what information is available from CDC and DHHS.

Senator Sherman: He recommended that the committee review findings from the C8 study which supports the use of monitoring systems.

Katherine Cole, *Public Policy Director for the Tufts Health Freedom Plan:*

- They are opposed to sec. 9 and 10 of the amendment which includes coverage for PFAS and PFCS blood testing.
- They feel this amendment is mandating coverage for a test which yields results that have limited to no clinical utility. Currently there are no treatments for reducing levels of PFAS and or PFCS in the bloodstream and body. Blood testing of PFAS and or PFCS is not helpful with patient care management.
- She said that the House Health and Human Services and Elderly Affairs Committee voted ITL, 19-0 on a bill that would have mandated PFAS testing programs for pregnant women. Their reasoning for the ITL was similar to those she had listed.

Senator Sherman: He said that Hepatitis C testing is recommended for people over the age of the baby boomer generation. As a liver doctor he has seen patients come in with positive Hepatitis C test results where it is almost never known where they got the infection from. He asked if Ms. Cole was saying that the only blood tests that Tufts Health Program covers are tests that find origins of exposure?

Katherine Cole, *Public Policy Director for the Tufts Health Freedom Plan:* She said she was not making a blanket statement, but rather addressing this specific test.

Senator Sherman: He asked Ms. Cole if she knew when the DHHS guidelines were made? He said science is changing rapidly regarding PFAS, PFOS, and PFCS.

Katherine Cole, *Public Policy Director for the Tufts Health Freedom Plan:* She said she did not know when the DHHS guidelines were set.

Senator Sherman: He believed that these recommendations were set a year or two ago.

Shelagh Connelly, *President of Resource Management Inc.:*

- Resource Management Inc. has been in business for several years. They recycle bio solids throughout the state of New Hampshire.
- They have concerns over continued beneficial use of bio solids.
- They continue to support the study commission as it is an important endeavor, and they hope its work will continue. However, they do not support the amendment.

- They disagree with the Senator Sherman relative to the components in the early section of the amendment which establishes the new low limits of PFAS via statute rather than through the adoption process by DES. They believe that the component of the rule making which requires DES to do a cost benefit analysis before adopting new rules should be completed prior to legislation.
- They do not believe the legislature is doing a service to the state of New Hampshire given that DES was charged to do a process that they have not been able to complete yet.
- They do not feel that perfect science led to the setting of the purposed limits. They suggested that the legislature not adopt standards through statute, instead the legislature should look at how money can be spent on other programs for residual wastewater management.

Peter Bragdon, *Harvard Pilgrim Health Care:*

- They are opposed to sec. 9-14 of the amendment. They understand the public concern about PFAS, PFOS, and PFCS especially around the Seacoast and towns surrounding Merrimack. However, Harvard Pilgrim is concerned about mandatory coverage for a test that costs upwards of \$800 dollars which hasn't been shown to have clear benefits in the treatment of individuals.
- The Agency for Toxic Substances and Disease Registry (ATSDR) has said that PFAS blood tests can be useful when a part of a controlled population scientific study. As far as individual testing for PFAS are concerned, it is unclear that "the blood test will not provide information to pinpoint a health problem nor will it provide information for treatment. The blood test results will not predict or rule-out the development of future health problems related to a PFAS exposure."
- Harvard Pilgrim covers a wide range of treatment tests; however, they shouldn't be increasing rates to cover a mandated test that has been stated to have inconclusive usefulness.

Jason Randall, *Superintendent of Plymouth Village Water and Sewer District:*

- The amendment came to his attention regarding PFAS contamination.
- He applauded the committee for taking the issue of PFAS on as it is a challenging topic, however, there are few considerations that he wanted to point out.
- The beginning of the amendment lays out that the cost of remediation would end up with higher costs for end users. He felt that the estimated amount that would result in higher water and sewer rates of 50 million dollars needed to be reviewed.
- He said that "responsible party" needs to be defined in the amendment. He asked for the committee to clarify the part of the amendment that mentions municipal immunity.

- Regarding sec. 4 of the bill, there is no current proven or cost-effective technology to treat wastewater residuals. He asked that the state engage with economists and scientists to identify appropriate technologies. He thought that the state should study these issues further before setting limits into statute.
- He said that the ongoing maintenance of systems may outweigh the capital costs being appropriated for these systems. He felt that the long-term operation and cost of these systems should be further considered by the committee.

Senator Sherman: He asked Mr. Randall if Plymouth has a PFAS problem in their waste system?

James Randall, Superintendent of Plymouth Village Water and Sewer District: He answered Senator Sherman that it is currently his understanding that there is a problem of PFAS in Plymouth's waste system.

mec

Date Hearing Report completed: June 5, 2020

Testimony



BUSINESS & INDUSTRY ASSOCIATION
New Hampshire's Statewide
Chamber of Commerce

Testimony of David Creer
Business & Industry Association
Amendment to House Bill 1264
Senate Health and Human Services Committee
June 2, 2020

Dear Chairman and Members of the Senate Health and Human Services Committee:

My name is David Creer, director of public policy for the Business and Industry Association (BIA), New Hampshire's statewide chamber of commerce and leading business advocate. The BIA represents more than 400 members in a variety of industries. Member firms employ 93,000 people throughout the state, which represents one in seven private workforce jobs, and contribute \$4.5 billion annually to the state's economy. I am here this morning to testify in opposition to the proposed amendment 2020-1261s to HB 1264.

Amendment 1261s adds language codifying the maximum contaminant levels (MCLs) for four per- and polyfluoroalkyl substances (PFAS) which the New Hampshire Department of Environmental Services (NHDES) set in final rulemaking last summer. As you know, the MCLs cannot be enforced due to a court order which found NHDES's cost-benefit analysis inadequate to comply with the law. The case is currently under review by the New Hampshire Supreme Court.

When NHDES proposed its final MCLs last summer, it estimated the cost of compliance to be \$190 million over two years. However, the department was unable to quantify the extent of the health benefits that would come from these low standards – among the lowest in the country. In other words, NHDES was unable to tell us if the health benefits would outweigh the high costs.

Now, given the unprecedented fiscal challenges facing our state, municipalities, businesses, and families, implementing additional costly regulations without adequate justification will further hinder an already difficult economic recovery. NHDES should be required to finish a complete cost-benefit analysis, as the Superior Court has already ruled, to prevent unnecessary, and as of yet unjustified, costs.

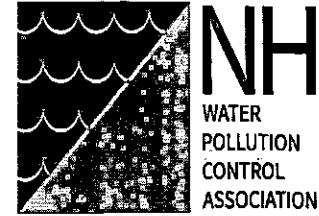
This concludes my testimony and I am happy to address any questions from the committee.

Respectfully,

David Creer

First Name	Last Name	Role	Action on HB 1264	Action on Amendment to HB 1264
Kathie	Kaluzynski	Member of the public	Support not speaking	Support not speaking
Mindi	Messmer	Member of the public (former elected)	Viewing/Listening only	Support and speaking
Marcia	Garber	Member of the public	Support not speaking	Support not speaking
Paul	Worsowicz	Lobbyist/advocate	Viewing/Listening only	Viewing/Listening only
Cindy	Rosenwald	Elected official	Viewing/Listening only	Viewing/Listening only
Jerry	Stringham	Elected official	Viewing/Listening only	Viewing/Listening only
Bob	Quinn	Lobbyist/advocate	Viewing/Listening only	Viewing/Listening only
Doug	McNutt	Lobbyist/advocate	Viewing/Listening only	Viewing/Listening only
David	Creer	Lobbyist/advocate	Viewing/Listening only	Oppose and speaking
Sabrina	Dunlap	Lobbyist/advocate	Viewing/Listening only	Oppose and speaking
Susan	Sylvester	Member of the public	Viewing/Listening only	Viewing/Listening only
Cheryl	Steinberg	Lobbyist/advocate	Support not speaking	Support not speaking
Teresa	Rosenberger	Lobbyist/advocate	Viewing/Listening only	Oppose not speaking
David	Meuse	Elected official	Support and speaking	Support and speaking
Marc	Brown	Lobbyist/advocate	Viewing/Listening only	Oppose not speaking
Adam	Sexton	Member of the public	Viewing/Listening only	Viewing/Listening only
Renny	Cushing	Elected official	Support and speaking	Support and speaking
Pat	Bushway	Elected official	Support not speaking	Support not speaking
James	Chithalen	A staff member of the Department of Safety, Employment Security, or Department of Health and Human Services	Viewing/Listening only	Viewing/Listening only
Beverly	Cotton	Member of the public	Support not speaking	Support not speaking
Jason	Randall	Member of the public	Oppose and speaking	Oppose and speaking
Shelagh	Connelly	Member of the public	Support not speaking	Oppose and speaking
Katherine	Cole	Lobbyist/advocate	Viewing/Listening only	Oppose and speaking
Deborah	Altschiller	Elected official	Support not speaking	Support not speaking
Daniel	Driscoll	Member of the public	Support not speaking	Oppose not speaking
Rick	Farr	Member of the public	Viewing/Listening only	Viewing/Listening only

Ray	Bower	Member of the public	Viewing/Listening only	Viewing/Listening only
Delores	Perrotta	Member of the public	Viewing/Listening only	Viewing/Listening only
Barbara	Reid	Lobbyist/advocate	Viewing/Listening only	Support not speaking
Sarah	Aiken	Lobbyist/advocate	Viewing/Listening only	Viewing/Listening only
Kathryn	Horgan	Lobbyist/advocate	Viewing/Listening only	Viewing/Listening only
Peter	Bragdon	Lobbyist/advocate	Viewing/Listening only	Oppose and speaking
Kathleen	Hoey	Member of the public	Support not speaking	Support not speaking
Maria	Pignataro	Member of the public	Oppose not speaking	Oppose not speaking



THE MUNICIPAL PERSPECTIVE ON PFAS

Our Objective: As owners and/or operators of public water and wastewater systems, our primary mission is to protect public health and the environment. As such, our objective is to educate the public, legislators, and the media about how proposed PFAS regulatory standards have created fiscal and operational uncertainty and market disruptions on public drinking water and wastewater systems in New Hampshire.

Our message:

- We are committed to providing water and sewer services at a level that meets our customers' expectations of quality and cost. We strive to protect consumers from demonstrable health risks and are understandably concerned about the unknown health risks associated with manmade PFAS contaminants.
- We operate in compliance with the Safe Drinking Water Act and Clean Water Act to assure that public health and environmental risks of regulated contaminants are effectively and efficiently reduced. PFAS compounds must be properly addressed with the scientific risk-based and data driven framework of the Safe Drinking Water Act and Clean Water Act.
- We understand the public's concern with PFAS. However, a scientific, risk-based and data driven process that discerns what substances are to be regulated, and at what levels, requires a significant amount of time and resources. We caution against setting any precedent of by-passing these well-established processes via fast tracked state legislative or regulatory action.
- We are not the source of these contaminants and should not be held liable for studying, investigating, testing, and treating these substances. Disposal or recycling of water and wastewater residuals such as land application of biosolids as fertilizer, is a beneficial reuse of organic material, not a potential liability. Regulated waste streams should not require specialized disposal methods or technology that is not readily available, or performance tested. It is anticipated that future PFAS disposal will become very expensive to municipal systems.

What we want:

- We want to ensure municipal customers that their investments will be used wisely to address the highest priority risks to their public water and wastewater systems, including antiquated and failing infrastructure needs. Having to meet any new standards derived from insufficient scientific data will result in fewer resources available to address other critical municipal priorities and needs.
- We want NHDES to conduct a thorough cost/benefit analysis as part of the PFAS standard setting process as required by RSA 485:3 (SB 309 from 2018), including analysis of the incremental benefits to public health that will result from adopting the proposed maximum contaminant levels (MCLs). This is critical.
- We want NHDES to provide the public with comparative risk communications relative to costs and health benefits.
- We want NHDES and the legislature to refrain from establishing PFAS standards on drinking water and soils that are lower than what was proposed by NHDES in January 2019 until there is clear and correlative scientific evidence to support such lower standards. Acceptable PFAS levels cannot be modified on an annual basis.
- We want NHDES to work closely with a municipal working group in the implementation of any new standards.
- We want federal and state legislation to phase-out PFAS products from our environment in the first place.
- We want NHDES and the legislature to clearly acknowledge that the companies that produced, distributed and discharged PFAS compounds into our air, water and soil are liable as "the responsible parties", not municipalities and other public entities, and to not place financial liability on municipalities and other public entities for testing, clean-up or treatment relative to PFAS contamination.



New Hampshire Water Pollution Control Association
53 Regional Dr Suite 1
Concord, NH 03301

June 12, 2020

Members of the NH Senate
Statehouse
Concord, NH 03301

Delivered by email

Re: **HB 1264** - PFAS Standards, Funding and Insurance Coverage

Honorable Senate Members:

I am writing on behalf of the NH Water Pollution Control Association (NHWPCA) and our 300+ members who represent all of the wastewater treatment plants throughout the State.

Based on our careful reading of this bill, including the recent amendment tacked on in the Senate (1261s), we believe that passage of HB 1264 will negatively impact New Hampshire municipalities, public water and wastewater utilities and ratepayers, and ultimately all tax payers.

This HB1264 as amended, includes a \$50 million bond that will be paid for through loans by municipal utilities to install expensive upgrades to try and meet the new proposed very low PFAS standards outlined in this bill. The hope is that future lawsuit settlements with the producers of PFAS chemicals will eventually allow for reimbursing municipalities someday. There is no guarantee, however, and the amount of funding in this bill is woefully inadequate based on NHDES estimates of need. More funding will undoubtedly be needed in several of the coming biennium.

The NHWPCA and its members are committed stewards of the environment. We will endeavor to comply with whatever standards are lawfully adopted for PFAS and all other compounds in drinking water and wastewater. That said, we concur with the rulemaking requirements of NHDES which state that a cost-benefit analysis must be completed prior to adoption of new standards. To date, NH DES has not adequately addressed the costs and benefits of the new PFAS drinking water and groundwater standards, as the NHDES was required to do by the legislature when SB 309 was adopted in 2018. Therefore it is surprising that the NH Legislature would bypass this cost-benefit analysis requirement altogether and jeopardize municipal input and due process along the way.

Thank you for considering these comments and for helping us meet our mission of protecting public health through safely managing wastewater, while maintaining rate and tax payer affordability. We respectfully request that this bill be tabled until more public input can be granted, and a full cost-benefit analysis can be completed to determine the impact to tax payers and the health benefits that can be expected.

Respectfully submitted,

Ken Conaty
President, NHWPCA
(603) 485-7000
Ken.hooksettwwastewater@gmail.com
Attachment – Municipal Perspective on PFAS Legislation

Celebrating

*53 Years
1967-2020*

Kurt Robichaud
Franklin Pierce College
Past President

Ken Conaty
Hooksett Wastewater
President

Mike Carle
Hampton Wastewater
Vice President

David Mercier
Underwood Engineers
Secretary

Mario Leclerc
Seabrook Wastewater
Treasurer

Robert Robinson
Manchester EPD
1st Director

Ryan Peebles
Clean Waters
2nd Director

Mike Theriault
Wright-Pierce Engineers
3rd Director

Aaron Costa
Keene Wastewater
1st Director-at-Large

Nate Brown
Peterborough Wastewater
2nd Director-at-Large

W. Steven Clifton
Underwood Engineers
NEWEA Director



Cooperatively promoting the environmentally sound recycling of biosolids and other residuals

June 15, 2020

Members of the New Hampshire Senate
State House
Concord, NH 03301

Re: Senate Consideration of HB 1264

Dear Honorable Senators,

I write you today on behalf of all the members of the North East Biosolids & Residuals Association to express concerns about New Hampshire House Bill 1264 to be considered by the Senate tomorrow. Although related to drinking water standards, HB 1264 would have major repercussions on the management of solids and residuals generated every day in New Hampshire from water and wastewater treatment operations.

PFAS are so widely found in the environment that many rivers and groundwater sites show levels between 2 and 20 or more parts per trillion. Thus, New Hampshire's proposed PFAS regulatory limits are quite close to background levels of PFAS. Like the drinking water standards adopted by the New Hampshire Department of Environmental Services (NHDES) in 2019, this proposed legislation does not include an analysis of the costs and benefits of setting drinking water standards at these levels. That is exactly why those standards are the subject of a lawsuit currently making its way through the New Hampshire Superior Court. Adopting these same regulatory standards in law is a bad precedent.

New Hampshire is part of a very tight market for biosolids management in the Northeast being impacted by PFAS-related legislation and now COVID-19. Such impacts include major cost increases related to biosolids management, loss of regional biosolids outlets, and increasing trucking distances to those outlets. Should HB 1264 pass, it represents a huge unfunded mandate on municipalities operating water and wastewater system that neither produce nor use these chemicals but merely receive them from the environment. As I write, these water and wastewater utilities are working proactively to reduce PFAS levels even as the science and technology continue to evolve. We know the associated \$50 million bond proposal is woefully inadequate to address the huge costs associated with the proposed PFAS drinking water standards.

We urge the New Hampshire Senate to take the time to address the unintended consequences before setting the lowest PFAS standards in the country.

Sincerely,

Janine Burke-Wells
Executive Director

Monica Cooper

From: Barbara Reid <breid@nhmunicipal.org>
Sent: Monday, June 1, 2020 2:42 PM
To: Tom Sherman; Martha FullerClark; Jeb Bradley; James Gray; Shannon Chandley; Monica Cooper
Cc: Alan Raff; Margaret Byrnes; Natch Greyes; Becky Benvenuti
Subject: HB 1264 - Amendment 2020-1261s - PFAS Standards and Funding

Dear Chairman Sherman and Members of the Senate Health and Human Services Committee,

On behalf of the New Hampshire Municipal Association (NHMA), I am providing this email in support of amendment #2020-1261s to **HB 1264** dealing with funding for compliance with state standards regarding PFAS.

Sections 4 through 8 of amendment 2020-1261s appear identical to the provisions in **SB 496**. **SB 496** is an NHMA policy bill that would provide state financial assistance toward the costs of meeting water and wastewater quality standards associated with PFAS. The bill authorizes the state treasurer to issue up to \$50 million in bonds against the credit of the state for the sole purpose of providing low-interest loans to water and wastewater systems for PFAS remediation projects. The bill also extends existing municipal immunity to per and polyfluorochemical contamination. The Senate unanimously passed **SB 496** in mid-February, then sent the bill to Senate Finance where the committee recommendation was 5-0 ought to pass in early March.

NHMA was very concerned about the passage of the PFAS standards in **SB 287** in the absence of state financial support toward compliance with those standards, and supported efforts to place both the standards and the funding into one comprehensive bill. Amendment 2020-1261s to **HB 1264** does just that, by establishing the standards in sections 1 through 3 and then providing the funding and municipal immunity in sections 4 through 8. NHMA has no position on the remaining sections of the amendment.

Thank you for consideration of the funding provisions necessary to address PFAS contamination throughout the state.

Respectfully Submitted,

Barbara T. Reid
NHMA Government Finance Advisor
25 Triangle Park Drive
Concord, NH 03301
603.230.3308
breid@nhmunicipal.org

Monica Cooper

From: John Gilbert <john.a.gilbert@comcast.net>
Sent: Monday, June 1, 2020 9:28 PM
To: Tom Sherman
Cc: Martha FullerClark; Jeb Bradley; James Gray; Shannon Chandley; Monica Cooper
Subject: HB 1264 Amendment

Senator Sherman,

It has recently come to my attention that the Senate's Health and Human Services Committee will be discussing an amendment to House Bill 1264, the subject of which is extending the Commission on the Seacoast Cancer Cluster Investigation. The amendment reportedly will include adding per- and polyfluoroalkyl substances (PFAS) maximum contaminant levels (MCLs) into statute.

I was a professional environmental engineer and consultant in New Hampshire for nearly 30 years. In the course of my career, I worked extensively in the arena of contaminated site investigation and remediation under federal Superfund and hazardous waste regulations and analogous state programs. I worked closely with both federal and state regulators in investigating contaminated sites, devising remedial strategies, and designing and implementing remedial actions. Regulatory standards for ground water remediation at contaminated sites include MCLs.

I urge you in the strongest possible terms to reject establishing MCLs for PFAS and, indeed, for any other substance, in statute. As you no doubt know, remedial standards are established based upon the best science available, which I am sure you also know changes over time. When more and better science becomes available, regulatory standards can and have changed in response to new information. Without doubt, PFAS are a major source of present concern throughout the state, something that I readily acknowledge and in no way wish to minimize. However, some of the concern stems from the lack of full information regarding human toxicity mechanisms and levels. Throughout the U.S., the uncertainties in the PFAS data have resulted in a range of regulatory standards established by various states. I have little doubt that there is a great deal of work under way to better understand the risks associated with PFAS, which will lead to refinement of the current regulatory standards. If the PFAS MCLs are established by statute, the ability to modify them appropriately, whether to make them lower or possibly higher, will be substantially hindered and will become a political decision process, rather than a process based upon science. Given the recent swings back and forth on the political spectrum and control of legislative bodies, it is not inconceivable that statutory MCLs could be established, revoked, re-established, etc. This back and forth would create a regulatory nightmare for contaminated site remediation, which typically requires a number of years, sometimes decades, to complete, by setting an inconsistent, ever-changing regulatory target.

The New Hampshire Department of Environmental Services (NHDES) has the responsibility, the technical capacity, and analytical and decision making processes to establish regulatory standards for toxic chemicals. When those processes are properly followed, sound, science-based decisions are made and codified as regulatory standards. As regulatory standards under NHDES rules, they are subject to regular reviews and modification, if and as warranted, as new scientific information becomes available. I strongly recommend that the NHDES be trusted to fulfill its statutory responsibility with regard to PFAS, as well as any other toxic substances that will be identified in future. Taking this path, will avoid politically induced

regulatory uncertainty associated with statutory MCLs that could significantly inhibit completion of important remediation projects with the attendant potential impacts on human health.

I will be happy to further discuss these matters and my views on them at your convenience.

Warm regards,

John Gilbert
9 Van Etten Drive
Greenland, NH 03840-2183
Tel. 603-219-6538

Monica Cooper

From: Dunlap, Sabrina <Sabrina.Dunlap@anthem.com>
Sent: Tuesday, June 2, 2020 10:30 AM
To: Tom Sherman; Martha FullerClark; Jeb Bradley; James Gray; Shannon Chandley; Monica Cooper
Subject: Written Testimony - Amendments to HB 1264

Dear Chairman Sherman and members of the Senate Health and Human Services Committee:

I am writing today as follow up to my testimony this morning at the hearing on amendments to HB 1264. As noted this morning, Anthem certainly understands the legitimate public concern which generated legislation mandating coverage of perfluoroalkyls (PFAS) and perfluorinated compound (PFC) blood testing. Nonetheless, we do have continuing concern with legislation that would mandate coverage for a test not directly related to therapeutic treatments and which would yield results with no present clinical utility.

Insurers, including Anthem, cover an array of laboratory testing for both screening and diagnostic purposes. The blood testing contemplated under HB 1264's amendments would generate information potentially useful for public health monitoring, but the results would not be of value in the clinical management of an individual with measurable levels. At present there are no treatments to reduce levels of PFAS/ PFC. The immediate value of individual testing would be informational, i.e., the ability to compare blood levels with the blood levels seen in the general U.S. population as reflected in the National Biomonitoring Program focusing upon PFAS and PFC, or in more local biomonitoring programs at the state level. We believe that blood tests for PFAS/PFC are of essential value when they are part of an organized scientific investigation or a health study, but they are not of use for treatment or other clinical purposes.

Just below are two links that might be helpful to your consideration of HB 1264's proposed amendments -- one from NH DHHS and the other from the CDC. Both of them note the limitations with these blood tests.

NH <https://www.dhhs.nh.gov/dphs/pfcs/blood-testing.htm>
CDC <https://www.atsdr.cdc.gov/pfas/pfas-blood-testing.html>

Thank you for the opportunity to testify this morning, and to provide additional information regarding this ongoing and challenging issue - one which certainly presents environmental challenges and raises significant public health concerns.

Best regards,
Sabrina

Anthem Blue Cross Blue Shield

Sabrina Dunlap, Sr. Director, Government Relations
1155 Elm Street, Ste 200, Manchester, NH 03101-1505
M: (603) 703-8073
sabrina.dunlap@anthem.com

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BUSINESS & INDUSTRY ASSOCIATION
New Hampshire's Statewide
Chamber of Commerce

Testimony of David Creer
Business & Industry Association
Amendment to House Bill 1264
Senate Health and Human Services Committee
June 2, 2020

Dear Chairman and Members of the Senate Health and Human Services Committee:

My name is David Creer, director of public policy for the Business and Industry Association (BIA), New Hampshire's statewide chamber of commerce and leading business advocate. The BIA represents more than 400 members in a variety of industries. Member firms employ 93,000 people throughout the state, which represents one in seven private workforce jobs, and contribute \$4.5 billion annually to the state's economy. I am here this morning to testify in opposition to the proposed amendment 2020-1261s to HB 1264.

Amendment 1261s adds language codifying the maximum contaminant levels (MCLs) for four per- and polyfluoroalkyl substances (PFAS) which the New Hampshire Department of Environmental Services (NHDES) set in final rulemaking last summer. As you know, the MCLs cannot be enforced due to a court order which found NHDES's cost-benefit analysis inadequate to comply with the law. The case is currently under review by the New Hampshire Supreme Court.

When NHDES proposed its final MCLs last summer, it estimated the cost of compliance to be \$190 million over two years. However, the department was unable to quantify the extent of the health benefits that would come from these low standards – among the lowest in the country. In other words, NHDES was unable to tell us if the health benefits would outweigh the high costs.

Now, given the unprecedented fiscal challenges facing our state, municipalities, businesses, and families, implementing additional costly regulations without adequate justification will further hinder an already difficult economic recovery. NHDES should be required to finish a complete cost-benefit analysis, as the Superior Court has already ruled, to prevent unnecessary, and as of yet unjustified, costs.

This concludes my testimony and I am happy to address any questions from the committee.

Respectfully,

David Creer



**NEW HAMPSHIRE
Amendment to HB 1264 – OPPOSE**

The American Chemistry Council (ACC) appreciates the opportunity to submit the following comments regarding the amendment to HB 1264, legislation that would establish drinking water standards (maximum contaminant levels, or MCLs) for four specific chemicals. In proposing the four standards, the amendment to HB 1264 would replace the regulatory process established by the legislature in 2018 under RSA 485:3 without reviewing the impacts on water utilities and ratepayers. These impacts are currently at issue in litigation filed in Superior Court by affected stakeholders regarding the rule imposing MCLs for the same four substances promulgated by the Department of Environmental Services (DES) in 2019. ACC opposes this attempt to presume the outcome of the litigation.

The final MCLs promulgated by DES, and included in the amendment to HB 1264, have not been subject to public review and comment and would impose a significant burden. The 2018 statute required that DES evaluate the costs associated with adopting the drinking water standards and the resulting benefits. This direction is consistent with the federal Safe Drinking Water Act which requires that MCLs be set at a level that is "economically and technically feasible" for public water systems to attain. Regarding the economic feasibility of the MCLs, DES estimated state-wide costs of compliance, but did not provide information on the costs for individual water systems or for the customers of those systems. Without these data it is not possible to determine the affordability of the MCLs.

Based on data developed by the New York State Department of Health, moreover, DES has grossly underestimated the capital and maintenance costs associated with compliance with the MCLs.¹ Since these costs will ultimately be passed onto the customers of the water systems, it is imperative that the state evaluate how these costs would impact the households served by the systems.

Margaret Gorman
Senior Director, Northeast Region
American Chemistry Council
Margaret_Gorman@americanchemistry.com

¹ Association of State Drinking Water Administrators. White, Deirdre. December 21, 2018. *New York's Drinking Water Quality Council Recommends Drinking Water MCLs for PFOA, PFOS, and 1,4-Dioxane*. Retrieved from: <https://www.asdwa.org/2018/12/21/pfas-news-new-york-mcl-recommendations-and-asdwa-website-information/>



Monica Cooper

From: Alan Raff
Sent: Tuesday, June 2, 2020 11:41 AM
To: Monica Cooper
Cc: Sonja Caldwell
Subject: Fw: 060220 HHS Public Hearing Emails: HB1264 amendment

From: Teresa R. Rosenberger <trosenberger@devinemillimet.com>
Sent: Monday, June 1, 2020 6:45 PM
To: Alan Raff <Alan.Raff@leg.state.nh.us>
Subject: HB1264 amendment

I am signing in opposition for the amendment to HB 1264 for the Nashua Chamber of Commerce.

Thank you.

Teresa

Teresa Rhodes Rosenberger
Devine Strategies, President
15 North Main Street, Suite 300
Concord, NH 03301
T: 603.410.1702
C: 603-396-6865
F: 603.226.1001
trosenberger@devinemillimet.com

Monica Cooper

From: Alan Raff
Sent: Tuesday, June 2, 2020 11:41 AM
To: Monica Cooper
Cc: Sonja Caldwell
Subject: Fw: 060220 HHS Public Hearing Emails: GMC Testimony re: proposed amendment to HB 1264

From: Mike Skelton <mikes@manchester-chamber.org>
Sent: Monday, June 1, 2020 11:00 PM
To: Alan Raff <Alan.Raff@leg.state.nh.us>
Cc: Mike Skelton <mikes@manchester-chamber.org>
Subject: GMC Testimony re: proposed amendment to HB 1264

Dear Honorable Members of the Senate Health and Human Services Committee,

I write today on behalf of the Greater Manchester Chamber (GMC), the state's largest Chamber which represents more than 800 businesses across all industry sectors. I am writing to share our concerns to the proposed amendment being considered for HB 1264.

The amendment being considered today codifies maximum containment levels for four types of PFAS substances which were developed in rulemaking by the NH Department of Environmental Services. The GMC has two primary concerns with this amendment – 1) the precedent being set by this amendment of setting MCLs for substances in statute rather than leaving to the normal agency rulemaking process is poor public policy that could lead to unintended consequences in the future and 2) given the pending legal action on this matter, it would be imprudent of the legislature to act now.

Furthermore, due to the impact of the COVID-19 pandemic, our state, cities and towns, and businesses are facing significant fiscal challenges in the months ahead. The GMC is concerned with the impact of adding additional costly regulations at a time when fiscal and economic recovery will be challenging enough on its own. Please postpone action on this matter until pending legal action is resolved and a complete cost-benefit analysis, as called for by court ruling, is available to guide policymaking on this issue.

Respectfully,

Michael Skelton

CEO

Greater Manchester Chamber



**GREATER
MANCHESTER
CHAMBER**

Michael Skelton

President & CEO

Greater Manchester Chamber

54 Hanover Street, Manchester, NH

p. (603) 792-4102 w. www.manchester-chamber.org



Monica Cooper

From: Alan Raff
Sent: Tuesday, June 2, 2020 11:41 AM
To: Monica Cooper
Cc: Sonja Caldwell
Subject: Fw: 060220 HHS Public Hearing Emails: HB 1264 - Amendment 2020-1261s - PFAS Standards and Funding

From: Tom Sherman <Tom.Sherman@leg.state.nh.us>
Sent: Monday, June 1, 2020 11:04 PM
To: Barbara Reid <breid@nhmunicipal.org>
Cc: Martha FullerClark <Martha.FullerClark@leg.state.nh.us>; Jeb Bradley <Jeb.Bradley@leg.state.nh.us>; James Gray <James.Gray@leg.state.nh.us>; Shannon Chandley <Shannon.Chandley@leg.state.nh.us>; Monica Cooper <Monica.Cooper@leg.state.nh.us>; Alan Raff <Alan.Raff@leg.state.nh.us>; Margaret Byrnes <mbyrnes@nhmunicipal.org>; Natch Greyes <ngreyes@nhmunicipal.org>; Becky Benvenuti <bvenuti@nhmunicipal.org>
Subject: Re: HB 1264 - Amendment 2020-1261s - PFAS Standards and Funding

Hi Barbara

Thank you so much for your email and support of the amendment. We will include it in the public record of the hearing.

With warm regards,
Tom

Thomas M. Sherman, MD
NH State Senator - District 24
Office: 603-271-8631
[Email: tom.sherman@leg.state.nh.us](mailto:tom.sherman@leg.state.nh.us)

On Jun 1, 2020, at 2:41 PM, Barbara Reid <breid@nhmunicipal.org> wrote:

Dear Chairman Sherman and Members of the Senate Health and Human Services Committee,

On behalf of the New Hampshire Municipal Association (NHMA), I am providing this email in support of amendment #2020-1261s to **HB 1264** dealing with funding for compliance with state standards regarding PFAS.

Sections 4 through 8 of amendment 2020-1261s appear identical to the provisions in **SB 496**. **SB 496** is an **NHMA policy bill** that would provide state financial assistance toward the costs of meeting water and wastewater quality standards associated with PFAS. The bill authorizes the state treasurer to issue up to \$50 million in bonds against the credit of the state for the sole purpose of providing low-interest loans to water and wastewater systems for PFAS remediation projects. The bill also extends existing municipal immunity to per and polyfluorochemical contamination. The Senate unanimously passed **SB**

496 in mid-February, then sent the bill to Senate Finance where the committee recommendation was 5-0 ought to pass in early March.

NHMA was very concerned about the passage of the PFAS standards in SB 287 in the absence of state financial support toward compliance with those standards, and supported efforts to place both the standards and the funding into one comprehensive bill. Amendment 2020-1261s to **HB 1264** does just that, by establishing the standards in sections 1 through 3 and then providing the funding and municipal immunity in sections 4 through 8. NHMA has no position on the remaining sections of the amendment.

Thank you for consideration of the funding provisions necessary to address PFAS contamination throughout the state.

Respectfully Submitted,

Barbara T. Reid
NHMA Government Finance Advisor
25 Triangle Park Drive
Concord, NH 03301
603.230.3308
breid@nhmunicipal.org

Monica Cooper

From: Dianne Schuett
Sent: Wednesday, June 10, 2020 4:27 PM
To: Tom Sherman; Jeb Bradley
Cc: ddoherty0845@gmail.com; Brian Seaworth
Subject: FW: PFAS Bill in NH Legislature

Hello Senators, I believe what this constituent of mine is concerned about is the material that was folded into HB 1264 last week. Could either of you let him (and me) know if his concerns were met? If not, perhaps something could be crafted in the next session that would exempt this 4 town waste facility from cause and eligible for assistance from the funding?

Thank you, Rep. Dianne Schuett, Merr. 20 (Pembroke & Chichester)

From: moore <moores@tds.net>
Sent: Tuesday, June 9, 2020 3:36 PM
To: brian.seaworth@leg.state.nh.us; Dianne.Schuett@leg.state.nh.us; David.Doherty@leg.state.nh.us
Cc: 'Richard Moore' <richardmoore748@gmail.com>
Subject: PFAS Bill in NH Legislature

Hi,

I live in Chichester and one of my volunteer activities is with the 4 Town Solid Waste Facility, BCEP, which is the Municipal Solid Waste entity for Barnstead, Chichester, Epsom, and Pittsfield created in the 1990's per RSA 53-B.

I am forwarding an article from the June 6, 2020 Concord Monitor regarding a PFAS Bill that could have significant adverse impacts on the BCEP Facility.

I request that you work with the sponsors of this Bill to amend it so that these 4 towns do not inadvertently become liable for PFAS remediation that we did not cause. The PFAS at the BCEP facility may have come from consumer products that were deposited in the old landfill sometime between the 1930's and the 1990's. BCEP did not create or initiate the PFAS products. It appears that the Bill does include a \$50M fund to help Towns and Cities pay for the remediation but it is not clear if the BCEP entity created in the 1990's per RSA 53 – B would be eligible for assistance from that fund.

As our NH Legislative Representatives can you work with the sponsors of this Bill to amend it so that these 4 towns do not inadvertently become liable for PFAS remediation that we did not cause.

Thanks!!

Richard Moore
Alternate member of BCEP from Chichester

BCEP Web Site is: <https://bcepsolidwaste.com/>

Article FROM THE JUNE 6, 2020 CONCORD MONITOR

DRINKING WATER

Bill mandating strict PFAS limits advances

New Hampshire standards would be among the strongest in the country

By ETHAN DeWITT

Monitor staff

New Hampshire could have some of the strongest limitations on per- and polyfluoroalkyl substances codified into law in the country, if a bill heading through the state Senate makes it across the finish line.

An effort by Sens. Tom Sherman and Jeb Bradley to add tough new water contamination standards into state statute got the green light of a key committee Tuesday morning.

The legislation would cement into law new standards set by New Hampshire's Department of Environmental Services last year, which set a series of state "maximum contaminant levels" for four variants of PFAS: PFOA, PFOS, PFHxS and PFNA.

"What we're finding is the science is telling us what we thought the science would tell us, and that's that we need to tighten the standards," said Sherman.

PFAS are man-made chemicals that have been linked to health conditions and even cancer. The chemicals are difficult to break down and have been detected in the water of numerous New Hampshire communities in the southeast.

But despite a bipartisan effort to move forward with the standards, they were struck down last year by Merrimack County Superior Court, after

the Plymouth Village Water and Sewer District and the company 3M sued the state to stop them.

Superior Court Judge Robert McNamara sided with the plaintiffs' concern that the rules were rushed without public comment and that not enough money had been set aside to allow towns to enact the standards.

The new bill seeks to bypass that decision, which has been appealed to the Supreme Court, by putting the standards into statute.

And it attempts to mitigate some of the costs to towns by creating a \$50 million fund to help cities and towns pay for the remediation necessary. That \$50 million would be taken out by the state as credit; senators say it could be repaid through a settlement in a federal lawsuit brought by the state against 3M over PFAS contamination.

On Tuesday, the Senate Health and Human Services Committee voted 5-0 to approve the bill, as part of a broader package relating to water legislation. The bill now moves forward to the full Senate, which is expected to convene in coming weeks.

For the Plymouth Village Water and Sewer District, the bill is an improvement over last year's department rule, Superintendent Jason Randall said Tuesday.

"I applaud the committee for taking PFAS on," Randall said. "This is a challenging topic, as you know."

But Randall said he still had qualms. He warned that the \$50 million loan fund might need to be increased in order to more fully help towns and prevent water and sewer bills from increasing for end users. The proposed allocation might not

cover the cost of treating sewer water, he said.

And he said that the bill should be clearer about the legal liabilities for municipalities, under the bill's "responsible party clause."

"Overall I think it's a step in the right direction," he said. "But we definitely need to consider all the costs and benefits of this bill."

Bradley argued that the \$50 million bond would be sufficient to "at least cover the initial few years of implementing these standards."

And he noted that the standards for chemicals in wastewater have not been set yet, so towns will not be on the hook for those costs.

The loans should be covered down the line if and when New Hampshire wins a settlement in the federal case, he added. "Much of the loans that would go out to communities hopefully would be forgiven through this process," he said.

(Ethan DeWitt can be reached at edewitt@cmonitor.com, at (603) 369-3307, or on Twitter at [@edewittNH](https://twitter.com/edewittNH).)



**GREATER
MANCHESTER
CHAMBER**



Re: HB 1264 As Amended

June 8, 2020

Dear Honorable Members of the Senate,

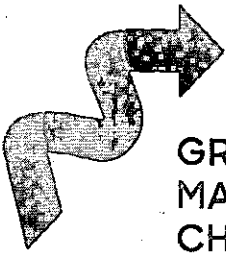
I write today on behalf of the Greater Manchester Chamber to urge you to oppose HB 1264 as amended and any legislation which includes language to codify Maximum Contaminant Levels (MCLs) proposed by the Department of Environmental Services (DES) for Polyfluoroalkyl Substances (PFAS).

The regulations established by this amendment to HB 1264 are subject to ongoing litigation and are now under review by the state Supreme Court because of the Department of Environmental Services' (DES) failure to conduct an adequate cost-benefit analysis of the proposed standards as required by law.

This is an important issue due to the significant additional costs these new regulations will create. Our state, cities, towns, businesses, and families are facing unprecedented fiscal challenges due to the impact of COVID-19. HB 1264 would put into law some of the strictest PFAS MCLs in the country and the result will be adding tremendous costs to public water systems, and wastewater, solid waste, and similar operations, which will be passed directly on to businesses and individuals. DES estimated compliance cost to be \$190 million over two years despite not quantifying any significant health benefits when compared to the already-stringent MCLs recommended by the federal Environmental Protection Agency.

From a public policy standpoint, the unresolved legal dispute is reason alone to defer any action on HB 1264, or any similar provisions seeking to codify the DES PFAS MCLs. The Municipal Association has filed a brief with the NH Supreme Court arguing DES exceeded its rulemaking authority when it failed to utilize a cost-benefit analysis before crafting the standards.

Greater Manchester Chamber
54 Hanover St. Manchester, NH 03101
p. (603) 792-4100 w. manchester-chamber.org



GREATER
MANCHESTER
CHAMBER



Given the pending legal action on this matter, it would simply be imprudent of the legislature to act now.

The enormous costs of this mandate will be shouldered by cities, towns, businesses, and families across the state while we all try to recover from the COVID-19 pandemic. We ask you to oppose HB 1264, or any language codifying PFAS MCLs, until the legislature can give appropriate consideration to this high cost, low benefit mandate and any pending litigation is resolved.

Thank you for your consideration.

Sincerely,

Michael Skelton
President & CEO

Monica Cooper

From: Jim Roche <jroche@biaofnh.com>
Sent: Friday, June 12, 2020 2:24 PM
To: Tom Sherman
Cc: David Creer
Subject: Statutory MCLs are Bad Public Policy



June 12, 2020

Dear Senator Sherman:

The Business and Industry Association (BIA), New Hampshire's statewide chamber of commerce and leading business advocate, urges you to vote against amendment 2020-1432s to House Bill 1264. This amendment contains language to codify per- and polyfluoroalkyl substances (PFAS) maximum contaminant levels (MCLs) which were finalized in rulemaking last summer by the New Hampshire Department of Environmental Services (NHDES).

Approving this amendment is bad public policy for two reasons:

1. It usurps the authority of the judicial branch which is currently considering the legal basis for these MCLs. As you know, the courts are an essential partner in our system of governance, serving to balance the actions of the executive and legislative branches.
2. The vast majority of legislators have no scientific or toxicology background, yet this amendment will set MCLs, something usually reserved for career professionals and experts at NHDES .

The MCLs in question are prevented from taking effect by a court order. The court found NHDES did not complete an adequate cost-benefit analysis as required by law. That case is on appeal at the NH Supreme Court.

When NHDES proposed final MCLs last summer, it estimated the cost of compliance to be \$190 million over two years. These costs will be paid by the citizens and businesses of New Hampshire in a time when economic recovery should be paramount. While the large costs associated with these MCLs have been established, the potential health benefits remain unclear. NHDES acknowledges it was unable to quantify the extent to which these MCLs would protect human health. The court found this one-sided calculation to be inadequate and ruled it does not comply with the law.

The importance of an adequate cost-benefit analysis cannot be overstated. Without a detailed analysis of both costs *and* benefits, it's impossible to know if the new MCLs will actually protect public health. The legal challenge to NHDES' MCLs should be allowed to run its course. Maneuvering around the legal challenge may force public water systems to spend millions of dollars on mitigation systems, underwritten by taxpayers including businesses, even if it's later determined the MCLs are lower than needed to protect public health.

Again, we ask that you vote against the amendment to this bill. A cost-benefit analysis that carefully estimates both the costs *and* benefits of implementing the PFAS MCLs, or any standard, is sound public policy. The legislature should not usurp the court's role in this instance, nor should it assume it has the scientific expertise to set MCLs.

Thank you for your consideration to our request to vote against amendment 2020-1432s to HB 1264. I'm happy to respond to any questions.

Best regards,

Jim Roche
President

Check out BIA's COVID-19 Information & Resources for Employers packed with targeted information and resources for employers and employees.

**Jim Roche
President
Business & Industry Association
New Hampshire's Statewide Chamber of Commerce
122 North Main Street
Concord, New Hampshire 03301**

**(603) 224-5388, ext. 111
jroche@BIAofNH.com
www.BIAofNH.com**

Voting Sheets

Senate Health and Human Services Committee
EXECUTIVE SESSION RECORD
2019-2020 Session

Bill # HB1264

Hearing date: 6.2.2020

Executive Session date: 6.2.2020

Motion of: #2020-1261s OTP Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Sherman, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Fuller Clark, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Chandley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Bradley	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: OTPIA Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Sherman, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Fuller Clark, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Chandley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Bradley	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Sherman, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Fuller Clark, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Chandley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Bradley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Senator Fuller Clark

Senate Health and Human Services Committee
EXECUTIVE SESSION RECORD
2019-2020 Session

Bill # HB1264

Hearing date: 6.2.2020

Executive Session date: 6.10.2020

Motion of: Reconsider Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Sherman, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Fuller Clark, Vice Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Chandley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Bradley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: OTP #2020-1404s Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Sherman, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Fuller Clark, Vice Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Chandley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Bradley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: OTPIA Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Sherman, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Fuller Clark, Vice Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Chandley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Bradley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reported out by: Sen. Fuller Clark

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Tuesday, June 2, 2020

THE COMMITTEE ON Health and Human Services

to which was referred **HB 1264**

AN ACT

extending the commission on the seacoast cancer
cluster investigation.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 1289s

Senator Martha Fuller Clark
For the Committee

Monica Cooper - 271-8631

HEALTH AND HUMAN SERVICES

HB 1264, extending the commission on the seacoast cancer cluster investigation.

Ought to Pass with Amendment, Vote 5-0.

Senator Martha Fuller Clark for the committee.

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Wednesday, June 10, 2020

THE COMMITTEE ON Health and Human Services

to which was referred **HB 1264**

AN ACT

extending the commission on the seacoast cancer
cluster investigation.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 1432s

Senator Martha Fuller Clark
For the Committee

Monica Cooper - 271-8631

HEALTH AND HUMAN SERVICES

HB 1264, extending the commission on the seacoast cancer cluster investigation.

Ought to Pass with Amendment, Vote 5-0.

Senator Martha Fuller Clark for the committee.

General Court of New Hampshire - Bill Status System

Docket of HB1264

Docket Abbreviations

Bill Title: (New Title) 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, requiring insurance coverage for PFAS and PFC blood tests, and expanding the statute governing ambient groundwater quality standards.

Official Docket of HB1264.:

Date	Body	Description
12/2/2019	H	Introduced 01/08/2020 and referred to Health, Human Services and Elderly Affairs HJ 1 P. 15
1/9/2020	H	Public Hearing: 01/22/2020 11:00 am LOB 205
1/29/2020	H	Executive Session: 02/04/2020 01:00 pm LOB 205
2/12/2020	H	Committee Report: Ought to Pass with Amendment #2020-0191h for 02/19/2020 (Vote 20-0; CC) HC 7 P. 10
2/19/2020	H	Amendment #2020-0191h : AA VV 02/19/2020 HJ 4 P. 15
2/19/2020	H	Ought to Pass with Amendment 2020-0191h: MA VV 02/19/2020 HJ 4 P. 15
3/12/2020	S	Introduced 03/11/2020 and Referred to Health and Human Services; SJ 7
5/29/2020	S	Remote Hearing : 06/02/2020, 08:00 am; SC 21
5/29/2020	S	Remote Hearing : 06/02/2020, 08:05 am, on proposed amendment #2020-1261s ; SC 21
5/29/2020	S	Committee members will receive secure Zoom invitations via email. SC 21
5/29/2020	S	Members of the public may attend using the following links: SC 21
5/29/2020	S	1. To sign-in and/or speak in support or opposition to the bill, please register in advance by using this link: https://www.zoom.us/webinar/register/WN_O3jklOmFTaCH-v4pwOEJEW SC 21
5/29/2020	S	2. To submit your testimony to the committee, please send all documents via email to remotesenate@leg.state.nh.us SC 21
5/29/2020	S	3. To listen via telephone: Dial(for higher quality, dial a number based on your current location): 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 SC 21
5/29/2020	S	(Correction to the OneTap dial in numbers) 4. Or iPhone one-tap: 19292056099,,97159457302# or 13017158592,,97159457302# SC 21A
5/29/2020	S	5. Webinar ID: 971 5945 7302 SC 21
5/29/2020	S	6. To view/listen to this hearing on YouTube, use this link: https://www.youtube.com/channel/UCjBZdtrjRnQdmg-2MPMiWrA SC 21
5/29/2020	S	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). SC 21
6/2/2020	S	Committee Report: Ought to Pass with Amendment #2020-1432s , 06/16/2020; SC 23
6/16/2020	S	Committee Amendment #2020-1432s , AA, VV; 06/16/2020; SJ 8
6/16/2020	S	Ought to Pass with Amendment 2020-1432s, RC 23Y-1N, MA; OT3rdg; 06/16/2020; SJ 8

6/30/2020	H	House Concurs with Senate Amendment (Rep. Weber): MA RC 210-116 06/30/2020
7/10/2020	S	Enrolled (In recess 06/29/2020); SJ 9
7/10/2020	H	Enrolled 06/30/2020 HJ 10

NH House	NH Senate
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Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HB 1264

Senate Committee: HHS

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

- Bill version as it came to the committee
- All Calendar Notices
- Hearing Sign-up sheet(s)
- Prepared testimony, presentations, & other submissions handed in at the public hearing
- Hearing Report
- Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

2020 - amendment # 1280s 2020 amendment # 1399s 2020 - amendment # 1432s
2020 - amendment # 1261s 2020 amendment # 1404s

- Executive Session Sheet
- Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

___ - amendment # ___ ___ - amendment # ___
___ - amendment # ___ ___ - amendment # ___

Post Floor Action: (if applicable) {Clerk's Office}

- Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):
- Enrolled Bill Amendment(s)
- Governor's Veto Message

All available versions of the bill: {Clerk's Office}

as amended by the senate ___ as amended by the house
 final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Menica Cooper
Committee Aide

7-23-2020
Date

Senate Clerk's Office 