



**STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR**

CHRISTOPHER T. SUNUNU
Governor

July 17, 2020

Governor's Veto Message Regarding House Bill 1166

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on July 17th, 2020, I have vetoed House Bill 1166.

This legislation contains three major problems that would result in drastic consequences for New Hampshire. These problems prompted three different state agencies, the Department of Employment Security, the Department of Labor and the Department of Insurance to raise strong concerns with this bill. Ultimately, this legislation would undermine the state's effort to recover from the pandemic and would significantly harm employers by subjecting them to higher unemployment taxes if this bill were to become law.

First, the bill contains several provisions that are blatant violations of federal law. Under this legislation, any individual filing for unemployment in New Hampshire for a COVID-19 related reason would no longer qualify for the current federal \$600 supplemental weekly payment and any additional extensions of enhanced unemployment benefits. This payment is currently scheduled to continue through the end of this month, but may be extended by future federal legislation.

Additionally, this legislation would make New Hampshire the only state in the nation to be ineligible for Federal unemployment funding from the Pandemic Unemployment Assistance (PUA) program under the CARES Act. Currently, Granite Staters who are temporarily unemployed as a result of COVID-19 are paid federal benefits through the CARES Act. By making all of these people eligible under state law, New Hampshire citizens would lose federal eligibility.

House Bill 1166 would also permanently waive eligibility requirements for people filing for a COVID-19 reason. USDOL warned states against doing this in written program guidance. Taking these types of actions would cause New Hampshire to be out of compliance with federal law. The consequences are that New Hampshire will lose over \$30 million in federal funding.

Were this not enough, the bill seeks to waive requirements for individuals to repay benefits they should not have received and were at fault in creating. This too would be a violation of federal requirements. This could result in putting that state at higher risk of fraud and abuse. Combined, the results of these changes in benefits would have to be paid for by New Hampshire employers, all of whom are themselves working to recover from COVID-19 at the

cost of over \$200 million per year. That is a huge new tax increase, particularly on small businesses, for all the wrong reasons.

According to the Commissioner of Insurance, another major problem with this legislation is that it contains provisions that could lead to potential insurance abuse. The legislation will expose New Hampshire premium payers to unscrupulous out-of-state health care providers who will take advantage of the requirement for New Hampshire companies to pay their provider fees, regardless of how excessive. This is similar to some of the abuses the state saw in worker compensation before the state modified those provisions in law in 2015. This bill takes us backwards.

Finally, the introduction of Family Medical Leave Act (FMLA) coverage to the State's small employers would add costs and constraints to those operations where and when they are least needed and at a time when our state's small businesses are often fighting a battle for survival. It should also be noted that the FMLA provides federal protections that fall outside the bounds of state authority, which would confound enforcement and regulatory efforts. Additionally, the exceptions offered to such employer obligations are unclear, which would make administration of this burdensome to all.

To be frank, this a terribly written and poorly thought out bill that puts New Hampshire citizens at risk by violating federal requirements. Our job is to open doors of opportunity in times of need, not cut off federal support when families are struggling.

For the reasons stated above, I have vetoed House Bill 1166.

Respectfully submitted,



Christopher T. Sununu
Governor