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In Senate, January 8, 2025

**An Act to Establish the PFAS Response Program and to Modify the
Fund To Address PFAS Contamination**

Submitted by the Department of Agriculture, Conservation and Forestry pursuant to Joint Rule 204.

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator INGWERSEN of York.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 7 MRSA §320-K, sub-§4**, as enacted by PL 2021, c. 635, Pt. XX, §2, is
3 amended by enacting at the end a new blocked paragraph to read:

4 Health care information obtained by the department in the course of providing services
5 related to paragraphs A and B, including billing information, must be treated as confidential
6 pursuant to Title 22, section 1711-C. For purposes of this section, "health care information"
7 has the same meaning as in Title 22, section 1711-C, subsection 1, paragraph E.

8 **Sec. 2. 7 MRSA §320-K, sub-§5**, as enacted by PL 2021, c. 635, Pt. XX, §2, is
9 repealed and the following enacted in its place:

10 **5. Administration and authority.** The administration of the fund and the authority
11 to administer the fund is as follows.

12 A. The department shall administer the fund allocations in accordance with a plan that
13 establishes funding priorities, administration and oversight and with the review and
14 advice of the advisory committee. The department may use funds for personnel
15 services and to contract for professional services to carry out the purposes of this
16 section.

17 B. The commissioner or the commissioner's designee is authorized to sell, grant, lease,
18 transfer or otherwise convey any real or personal property acquired under subsection
19 4, paragraph D. Proceeds from the sale or lease of property and the disposal of all other
20 interests in real property including timber sales and revenue generated from solar
21 development must be deposited into the Department of Agriculture, Conservation and
22 Forestry, Office of the Commissioner program, Fund To Address PFAS
23 Contamination, Other Special Revenue Funds account.

24 **Sec. 3. 7 MRSA §320-L, sub-§2**, as enacted by PL 2021, c. 635, Pt. XX, §2, is
25 repealed and the following enacted in its place:

26 **2. Chairs.** The advisory committee shall select 2 chairs from among its members,
27 each to serve a term of 2 years. Chairs may serve consecutive terms.

28 **Sec. 4. 7 MRSA §320-L, sub-§3**, as amended by PL 2023, c. 212, §4, is further
29 amended to read:

30 **3. Proceedings of the advisory committee.** The advisory committee shall hold at
31 least 2 one public hearings meeting annually to seek input from the public on efforts to
32 meet the purposes of the fund. All proceedings of the advisory committee are public
33 proceedings within the meaning of Title 1, chapter 13, subchapter 1. Notwithstanding Title
34 1, section 403, subsection 6, all records of proceedings of the advisory committee are public
35 and subject to the requirements of Title 1, section 403, subsection 2.

36 **Sec. 5. 7 MRSA c. 10-E** is enacted to read:

37 **CHAPTER 10-E**

38 **PFAS RESPONSE PROGRAM**

39 **§341. PFAS Response Program**

1 **1. Definitions.** As used in this chapter, unless the context otherwise indicates, the
2 following terms have the following meanings.

3 A. "Agricultural land" has the same meaning as in section 32, subsection 2.

4 B. "Commercial farm" means a farm that produces any farm product with the intent
5 that the farm product be sold or otherwise disposed of to generate income.

6 C. "Farm product" means those plants and animals useful to humans and includes, but
7 is not limited to, forages and sod crops, grains and food crops, dairy products, poultry
8 and poultry products, bees, livestock and livestock products and fruits, berries,
9 vegetables, flowers, seeds, grasses, Christmas trees and other similar products.

10 D. "On-farm mitigation efforts" means activities intended to reduce the impact of
11 perfluoroalkyl and polyfluoroalkyl substances contamination on a commercial farm's
12 production of farm products.

13 E. "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" has the same meaning
14 as in Title 32, section 1732, subsection 5-A.

15 F. "Program" means the PFAS Response Program.

16 **2. Program established; purpose.** The PFAS Response Program is established to
17 effectively respond to and address PFAS contamination affecting agricultural producers in
18 the State, to assist commercial farms affected by PFAS contamination and to safeguard
19 public health. The commissioner shall develop, implement and administer the program for
20 the purpose of abating, cleaning up and mitigating threats and hazards posed by PFAS that
21 affect agricultural producers in the State and that affect the food supply; providing support
22 to affected commercial farms; supporting critical PFAS research; and allowing for the
23 department to strategically and effectively respond to PFAS concerns and issues as they
24 arise. The program may include but is not limited to:

25 A. Establishing maximum levels for PFAS in farm products in consultation with the
26 Department of Health and Human Services, Maine Center for Disease Control and
27 Prevention. When a maximum level is exceeded, the department may prohibit the
28 commercial sale of the product affected and require the PFAS-impacted agricultural
29 producer to incorporate on-farm mitigation efforts as a prerequisite for any future
30 authorization from the department to resume commercial sale of the product affected;

31 B. Providing testing support, including conducting initial sampling and ongoing
32 monitoring, to assist agricultural producers in understanding the extent of PFAS
33 contamination on their commercial farms. Testing may include but is not limited to
34 testing of groundwater, surface water, soil, animal tissue, animal blood and serum,
35 plant tissue, animal feed, eggs, milk, manure and compost;

36 C. Providing technical assistance to interpret test results, craft recommendations for
37 on-farm mitigation efforts to reduce the risk of PFAS contamination and implement
38 modifications to ensure the safety of farm products and ongoing farm viability;

39 D. Providing financial assistance to PFAS-impacted agricultural producers, including
40 but not limited to self-testing reimbursement, agricultural water filtration equipment
41 and maintenance costs, livestock depopulation, compensation for unmarketable
42 processed livestock, equipment and input cost coverage, clean feed support and
43 infrastructure support;

1 E. Establishing baseline criteria that agricultural producers must adhere to in order to
2 receive technical and financial assistance, which includes granting property access
3 sufficient to conduct appropriate and required PFAS investigations, cooperating with
4 program staff by providing timely and complete information regarding product types,
5 feed sources and other relevant management practices and adhering to animal welfare
6 and nutrient management recommendations.

7 An agricultural producer must have an opportunity to request a hearing before the
8 department pursuant to Title 5, chapter 375, subchapter 4 regarding the program's
9 decision to deny, cease or modify financial support based on the criteria established
10 according to this subsection. The department shall inform the agricultural producer of
11 the opportunity to request a hearing in the written communication notifying the
12 agricultural producer of the program's decision to deny, cease or modify financial
13 support; and

14 F. Undertaking or supporting research efforts necessary to advance scientific
15 understanding of PFAS and their movement and effect in agricultural systems that
16 inform on-farm management recommendations or regulatory decisions. These efforts
17 may be accomplished by department staff or state agency partners or contracted to
18 qualified 3rd parties.

19 **3. Administration.** The Bureau of Agriculture, Food and Rural Resources within the
20 department shall administer the program. The department may also partner with state
21 agencies or contract with 3rd parties to effectuate the purposes of this chapter. The program
22 is distinct from the Fund To Address PFAS Contamination established in section 320-K.
23 The program enforces maximum levels of PFAS in farm products, provides direct on-farm
24 assistance, including but not limited to testing, analysis and on-farm mitigation strategy
25 recommendations, in addition to providing specific financial support that is integral to
26 commercial farms making changes necessary to adapt to and mitigate on-farm PFAS risk.

27 **4. Rules.** The department may adopt rules to implement this chapter. Rules adopted
28 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,
29 subchapter 2-A.

30 SUMMARY

31 This bill requires the Department of Agriculture, Conservation and Forestry to establish
32 the PFAS Response Program for the purpose of abating, cleaning up and mitigating threats
33 and hazards posed by PFAS that affect agricultural producers in the State and the food
34 supply; providing support to affected commercial farms; supporting critical PFAS research;
35 and allowing for the department to strategically and effectively respond to PFAS concerns
36 and issues as they arise. The program includes establishing maximum PFAS levels in farm
37 products in consultation with the Department of Health and Human Services, Maine Center
38 for Disease Control and Prevention and, when maximum levels are being exceeded,
39 prohibiting commercial sale of the products affected. The program may provide testing
40 support and technical and financial assistance to PFAS-impacted producers while
41 establishing baseline criteria for producers to adhere to for the receipt of such assistance.
42 The program may also undertake research efforts via department staff, state agency partners
43 or contracted 3rd parties that inform on-farm management recommendations or regulatory
44 decisions. The Bureau of Agriculture, Food and Rural Resources within the department

1 must administer the program. The department may adopt routine technical rules and shall
2 report annually to the Legislature about the program's activities.

3 The bill modifies the Fund To Address PFAS Contamination by authorizing the
4 Commissioner of Agriculture, Conservation and Forestry to sell, grant, lease, transfer or
5 otherwise convey any real or personal property acquired under its existing authority to buy
6 and sell agricultural land found to be contaminated by PFAS, and to deposit the proceeds
7 of such transactions into the Fund To Address PFAS Contamination. Additionally, the bill
8 updates the requirement that the Advisory Committee on the Fund To Address PFAS
9 Contamination hold 2 hearings annually to require one public meeting annually. The bill
10 also requires that the cochairs of the advisory committee are drawn from the committee's
11 members.

12 The bill also specifies that health care information obtained by the department in the
13 course of providing access to health services under its existing authority must be treated as
14 confidential.