

Committee: Agriculture, Conservation and Forestry  
LA: KSN  
File Name: G:\COMMITTEES\ACF\Amendments\130th 2nd\264002.docx  
LR (item)#: 264002  
New Title?: N  
Add Emergency?: Y  
Date: March 18, 2022

**COMMITTEE AMENDMENT TO LD 2013. AN ACT RELATING TO PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES CONTAMINATION IN THE STATE**

Amend the bill by inserting before the enacting clause the following:

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the contamination of soil and water in the State from perfluoroalkyl and polyfluoroalkyl substances, or PFAS, poses a significant threat to the environment of the State and to the health of its citizens;

**Whereas,** the full extent of PFAS contamination in the State is not presently known but is anticipated to widespread and to require a significant expenditure of resources to identify and remediate;

**Whereas,** all of the State's farm economy is being harmed by PFAS either directly or indirectly and the longer it takes to complete soil, water and food testing, the more uncertainty and turmoil will be felt across all of Maine agriculture. Farmland cannot be sold while under the cloud of forever contamination, investments will not be made, and consumer anxiety about the safety of local foods, whether justified or not, will only increase;

**Whereas,** all Maine agriculture is being affected and will be under a cloud until all possible PFAS contamination sites are identified and tested and food production is moved away from contaminated soil and water;

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore

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

**Sec. 1. 5 MRSA §12004-I, sub-§2-H is enacted to read:**

**2-H.**

<u>Agriculture</u>	<u>Advisory Committee on the Fund To Address PFAS Contamination</u>	<u>Expenses Only</u>	<u>7 MRSA §320-L</u>
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Amend the bill in section 2 as follows:

Sec. 2. 7 MRSA c. 10-D is enacted to read:

## CHAPTER 10-D

### FUND TO ADDRESS PFAS CONTAMINATION

#### §320-K. Fund To Address PFAS Contamination

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

A. "Advisory committee" means the Advisory Committee on the Fund To Address PFAS Contamination in section 320-L.

B. "Agricultural enterprise" means a person or business located in this State and engaged in the commercial growing or harvesting of plants; raising of animals; growing or obtaining plant or animal by-products; or further processing, storing, packing or marketing a raw product derived from plants, animals or plant or animal by-products with the intent that the product be sold or otherwise disposed of to generate income.

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

C-1. "Commercial farm" means a farm that produces any farm product with the intent that the farm product be sold or otherwise disposed of to generate income.

D. "Biosolids" has the same meaning as in section 742, subsection 1-A.

D. "Farm product" has the same meaning as in section 52, subsection 3-A.

E. "Fund" means the Fund To Address PFAS Contamination under subsection 2.

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

**2. Fund established.** The Fund To Address PFAS Contamination is established within the office of the commissioner in the department as a nonlapsing fund account for the purposes specified in this chapter.

**3. Sources of the fund.** The fund is funded from funds accepted by the commissioner or allocated or appropriated by the Legislature, including funds stipulated for deposit in the fund as part of the terms of settlement of legal actions relating to PFAS contamination against corporations, partnerships or individuals.

**4. Purposes.** Allocations from the fund may be made as determined by the department upon recommendation of the advisory committee and for the following purposes:

A. Monitoring the health of a person, and members of that person's household, whose agricultural land is found to be contaminated by PFAS;

A-1. Providing medical care to a person found to have blood levels of PFAS greater than the general population or health effects associated with exposure to PFAS;

B. Relocating a person commercial farm when the whose agricultural land of the farm is found to be contaminated by PFAS;

C. Buying and selling agricultural land found to be contaminated by PFAS;

D. Investing in equipment, facilities and infrastructure to ensure that an agricultural enterprise a commercial farm with land found to be contaminated by PFAS maintains profitability while the agricultural enterprise commercial farm transitions to a new an alternative cropping system, remediation strategies, technological adaptations, solar development or other modifications to its operations in response to PFAS contamination;

E. Assisting an agricultural enterprise a commercial farm with land found to be contaminated by PFAS with developing enterprise budgets for alternative cropping systems, remediation strategies, technological adaptations or transitioning to alternative agricultural enterprise revenue streams, including but not limited to land use systems combining agricultural use of the land with solar energy production;

F. Providing short-term assistance to a person whose agricultural land commercial farm is found to be contaminated by PFAS, including but not limited to income replacement and mortgage payments;

G. Conducting research that informs the development of infrastructure to increase PFAS testing capacity statewide, such as establishing state testing laboratories, and data management Evaluating the capacity of PFAS testing and data management in the State;

H. Conducting research that supports short-term farm management decisions and assesses future options for viable uses of agricultural land that has been contaminated with PFAS;

I. Conducting research that quantifies the impact of PFAS on the State's agricultural enterprises commercial farms and agricultural communities in the State;

J. Conducting research on soil and water remediation systems and the viability of those systems for commercial farmers;

K. Assessing current uses of PFAS;

K. Conducting research on alternative cropping systems, PFAS uptake of different crops, livestock systems to mitigate exposure to PFAS or remediate it, and research on food safety criteria for food products;

L. Funding for eEducational programs for landowners, including but not limited to determining best practices for informing residents about the potential of being near or on a biosolids application site on which sludge or septage application was licensed or permitted by the State prior to 2019, and providing information and guidance on buying or selling agricultural lands that have had biosolids sludge or septage applied; and

M. Long-term monitoring of contaminated sites and establishing a corresponding centralized data repository;

N. Establishing food safety criteria and guidance for farm products;

O. Assisting commercial farmers and others in the agricultural sector not directly affected by PFAS contamination with marketing efforts whose branding and marketing may be affected by public perception of PFAS contamination in the State; and

P. Regional planning with other states and the federal government to protect food supply and farmers in the State from out-of-state PFAS contamination.

**5. Administration.** The department shall administer the fund allocations in accordance with a plan that establishes funding priorities, administration and oversight and with the review and advice of the advisory committee. The department may contract for professional services to carry out the purposes of this section.

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

**7. Report.** Beginning March 1, 2023, and annually thereafter, the department shall submit a report on the plan under subsection 5 and on the uses of the fund to the joint standing committees having jurisdiction over agriculture, conservation and forestry; environment and natural resources; and health and human services. The report must include an update on the status of meeting the purposes of the fund in subsection 4, additional needs identified by the agricultural community, what funds have been disbursed and to what purpose. The report must include the functional status of the advisory committee, including, but not limited to, the number of meetings held, a summary of each meeting and recommendations for legislation from the advisory committee.

### **§320-L. Advisory Committee on the Fund To Address PFAS Contamination**

The Advisory Committee on the Fund To Address PFAS Contamination is established pursuant to Title 5, section 12004-I, subsection 2-H to make recommendations to the department regarding administration of the fund. In order to develop recommendations for the department, the advisory committee may form working groups that include and seek input from subject matter experts from the public and private sectors to deliberate issues relating to the purposes of the fund, including but not limited to health monitoring, short-term financial aid for farmers, research priorities, solar siting, long-term environmental monitoring and land acquisition.

**1. Membership.** The advisory committee consists of:

A. The commissioner or the commissioner's designee;

B. The Commissioner of Environmental Protection or the commissioner's designee;

~~B-1. The Commissioner of Health and Human Services or the commissioner's designee;~~

C. The dean of the Maine Agricultural and Forest Experiment Station at the University of Maine, College of Natural Sciences, Forestry, and Agriculture or the dean of the University of Maine Cooperative Extension, appointed by the President of the University of Maine;

~~D. The Attorney General or the Attorney General's designee;~~

~~D. One member of the public representing the financial sector and with expertise in agricultural finance and lending, appointed by the commissioner;~~

~~E. Two Five~~ Five members of the public representing the agricultural sector, appointed by the commissioner; and

~~F. One member of a soil and water conservation district as defined in Title 12, section 3, subsection 2, appointed by the commissioner.~~

F. One member of the public with expertise in public health, appointed by the commissioner.

The 7 members of the public appointed by the commissioner shall serve on the committee for terms of 3 years each, on a staggered-term basis to prevent the terms of more than 2 public members expiring in any one year.

**2. Report.** The committee shall hold at least 2 public hearings annually to seek input from the public on efforts to meet the purposes of the fund. All proceedings of the advisory committee are public within the meaning of Title 1, chapter 13, subchapter 1. Notwithstanding Title 1, section 403, subsection

6, all records of proceedings of the advisory committee are public and subject to the requirements of Title 1, section 403, subsection 2. The committee shall report to the Legislature annually, beginning March 1, 2023 on the input from subject matter experts under subsection 1 and members of the public on issues relating to the purposes and the use of the fund.

Amend the bill by inserting after section 2 the following:

**Sec. 2-A. Initial plan priorities; programs.** The Department of Agriculture, Conservation and Forestry shall develop and implement an initial plan that prioritizes funding and implementation of the following programs consistent with the purposes in Title 7, section 320-K, subsection 4. The department shall seek public comment on a draft proposal before final adoption of the plan.

1. The department shall establish a program as soon as practicable to provide short-term assistance to a person whose commercial farm is found to be contaminated by PFAS that may include income replacement and mortgage payments.

2. The department may establish a program to fund long-term assistance for commercial farms with agricultural land that is found to be contaminated by PFAS. The program must address a range of alternative strategies including assisting farmers with investing in equipment, facilities and infrastructure to maintain profitability during a transition to alternative cropping systems, remediation strategies, technological adaptations, solar development or other modifications to its operations; purchasing agricultural land found to be contaminated by PFAS; assisting farmers with renegotiating mortgages and lines of credit; direct purchasing of contaminated land and assisting farmers whose land is found to be contaminated by PFAS with purchasing of alternative land.

3. The department may establish, in coordination with the Maine Center for Disease Control and Prevention, a PFAS medical monitoring and blood PFAS level testing program for persons whose drinking water or agricultural land is found to be contaminated by PFAS. If the department establishes a program under this section, the department may not require a person to show a present injury or disease to qualify for the program.

A. In accordance with rules adopted by the department under Title 7, section 320-K, subsection 6, the program may include payment by the department for annual blood PFAS-level testing and related services and diagnostic evaluations for an affected person who does not have sufficient health coverage for PFAS testing and related services. The program must allow the drawing of blood for the testing in a health care provider's office or by another laboratory. The program must allow a blood sample taken by a health care provider or laboratory to test for blood PFAS levels to be sent to a facility approved by the Department of Health and Human Services.

B. The department may develop criteria for funding medical monitoring and healthcare for persons found to have blood level exposure to PFAS at a rate greater than the general population; where it is medically relevant to undergo periodic medical examination and healthcare.

**Sec. 2-B. Long-term plan for the administration of the funds.** In implementing, Title 7, section 320-K, the Department of Agriculture, Conservation and Forestry shall, with the advice of the Advisory Committee on the Fund to Address PFAS Contamination:

1. Review examples in other state, federal and international jurisdictions of compensatory, research or public health monitoring program parameters;

2. Consult with experts and participants in similar programs;

3. Consult with stakeholders affected by PFAS contamination by holding public hearing and receiving public comment;

4. Develop methods for determining parameters of the fund components, including, but not limited to, determining financial assistance offerings, evaluating agricultural land valuation, establishing research priorities and assessing research proposals, establishing the need for and scope of long-term health monitoring and land monitoring, and offer recommendations to alter the fund components;

5. Develop processes and criteria to be used to determine funding awards;

6. Create a timeframe for the establishment of the fund and for the consideration of applications for fund programs and issuance of payments, including, but not limited to, land appraisals and income tax statements;

7. Recommend changes to the administration of the fund and corresponding programs to the Legislature, if necessary;

8. Establish rules in accordance with Title 7, section 320-K, subsection 6 to ensure that applicants for fund programs are able to participate in the process;

9. Assess where and how the fund would be best housed and operated within State government in the future; and

10. Take into consideration recommendations, including suggested legislation, of the advisory committee.

**Sec. 3. Advisory Committee to consider findings and recommendations.** By March 1, 2023, the Advisory Committee on the Fund To Address PFAS Contamination established in the Maine Revised Statutes, Title 7, section 320-L shall consider the Department of Agriculture, Conservation and Forestry February 4, 2022 report "Findings and Recommendations for a PFAS Study Plan Supporting L.D. 558" when developing advisory committee recommendations, including but not limited to funding for research, regarding administration of the Fund To Address PFAS Contamination.

Amend the bill by striking section 4 and inserting the following:

**Sec. 4. Appropriations and allocations.** The following appropriations and allocations are made.

**AGRICULTURE, CONSERVATION AND FORESTRY, DEPARTMENT OF**

**Bureau of Agriculture 0393 Office of the Commissioner 0401**

Initiative: Establishes one Public Service Manager III position and one Public Service Coordinator I position ~~Provides one-time~~ and provides funding for initiatives to administer the fund and to address perfluoroalkyl and polyfluoroalkyl substances, or PFAS, contamination on agricultural land in the State.

<u>GENERAL FUND-OTHER SPECIAL REVENUE FUNDS</u>	2021-22	2022-23
LEG COUNT	2.0	2.0
Personal Services	\$41,175	\$257,038
All Other	\$4,472	\$99,697,315
<u>GENERAL FUND-OTHER SPECIAL REVENUE FUNDS</u>	TOTAL \$45,647	\$99,954,353

Amend the bill by inserting after section 4 the following:

**Sec. 5. Transfer to the Department of Agriculture, Conservation and Forestry, Office of the Commissioner program.** Notwithstanding any provision of law to the contrary, on or before May 1, 2022, the State Controller shall transfer \$100,000,000 from the unappropriated surplus of the General Fund to the Department of Agriculture, Conservation and Forestry, Office of the Commissioner program, Fund To Address PFAS Contamination, Other Special Funds account for the purposes as provided under Title 7, section 320-K, subsection 4.

Amend the bill by inserting after section 4 the following:

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.

### SUMMARY

The bill establishes the Fund To Address PFAS Contamination within the Department of Agriculture, Conservation and Forestry and the corresponding Advisory Committee on the Fund To Address PFAS Contamination to make recommendations to the department regarding administration of the fund. The bill authorizes the department to allocate funds upon recommendation of the advisory committee and for certain purposes, including but not limited to monitoring the health of a person, and members of that person's household, whose agricultural land is found to be contaminated by perfluoroalkyl and polyfluoroalkyl substances, or PFAS; buying and selling agricultural land found to be contaminated by PFAS; conducting research; funding for educational programs; and long-term monitoring of contaminated sites and establishing a corresponding centralized data repository.

The bill also authorizes the advisory committee to form working groups that include and seek input from subject matter experts from the public and private sectors to deliberate issues relating to the purposes of the fund, including but not limited to health monitoring, short-term financial aid for farmers, research priorities, solar siting, long-term environmental monitoring and land acquisition.

The bill provides one-time funding of \$100,000,000 to address PFAS contamination on agricultural land in the State.

The amendment provides that sources of the fund may include funds stipulated for deposit in the fund as part of the terms of settlement of legal actions relating to PFAS contamination against corporations, partnerships or individuals.

In addition to the purposes outlined in the bill, the amendment provides that allocations from the fund may be made for the following purposes:

1. Providing medical care to a person found to have blood levels of PFAS greater than the general population or health effects associated with exposure to PFAS;
2. Conducting research on alternative cropping systems, PFAS uptake of different crops, livestock systems to mitigate exposure to PFAS or remediate it and research on food safety criteria for food products;
3. Establishing food safety criteria and guidance for farm products;
4. Assisting farmers and others in the agricultural sector not directly affected by PFAS contamination with marketing efforts whose branding and marketing may be affected by public perception of PFAS contamination in the State; and
5. Regional planning with other states and the federal government to protect food supply and farmers in the State from out-of-state PFAS contamination.

The amendment requires the department to submit an annual report to the Legislature which includes the status of meeting the purposes of the fund, additional needs identified by the agricultural community, what funds have been disbursed and to what purpose and an update on the functional status of the advisory committee.

The amendment changes the composition of the advisory committee. The amendment also requires the advisory committee to hold at least two public hearing annually to seek input from the public on efforts to meet the purposes of the fund. The advisory committee is required to submit a report to the Legislature annually on input from subject matter experts and members of the public on issues relating to purposes and uses of the fund.

The amendment directs the department to develop and implement an initial plan that prioritizes funding and a long-term plan for the administration of the funds.

This amendment adds an emergency preamble and emergency clause to the bill.