

MAINE STATE LEGISLATURE

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L.D. 2013

Date: 4/16/22

(Filing No. S-523)

AGRICULTURE, CONSERVATION AND FORESTRY

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

130TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT “A” to S.P. 729, L.D. 2013, “An Act Relating to Perfluoroalkyl and Polyfluoroalkyl Substances Contamination in the State”

Amend the bill by inserting after the title and 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; and

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

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's agricultural sector; and

Whereas, farmland cannot be sold while under the cloud of contamination from so-called forever chemicals, investments will not be made and consumer anxiety about the safety of local foods, whether justified or not, will only increase; and

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

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,

Amend the bill by striking out everything after the enacting clause and inserting the following:

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- 1 D. Buying and selling agricultural land found to be contaminated by PFAS:
- 2 E. Investing in equipment, facilities and infrastructure to ensure that a commercial
- 3 farm with land found to be contaminated by PFAS maintains profitability while the
- 4 commercial farm transitions to an alternative cropping system or implements
- 5 remediation strategies, technological adaptations, solar development or other
- 6 modifications to its operations in response to PFAS contamination;
- 7 F. Assisting a commercial farm with land found to be contaminated by PFAS with
- 8 developing enterprise budgets for alternative cropping systems, remediation strategies
- 9 or technological adaptations or transitioning to alternative revenue streams, including
- 10 but not limited to land use systems combining agricultural use of the land with solar
- 11 energy production;
- 12 G. Providing short-term assistance to a person whose commercial farm is found to be
- 13 contaminated by PFAS, including but not limited to income replacement and mortgage
- 14 payments;
- 15 H. Evaluating the capacity of PFAS testing and data management in the State;
- 16 I. Conducting research that supports short-term farm management decisions and
- 17 assesses future options for viable uses of agricultural land that has been contaminated
- 18 with PFAS;
- 19 J. Conducting research that quantifies the impact of PFAS on commercial farms and
- 20 agricultural communities in the State;
- 21 K. Conducting research on soil and water remediation systems and the viability of
- 22 those systems for commercial farms;
- 23 L. Conducting research on alternative cropping systems, PFAS uptake of different
- 24 crops, the use of livestock systems to mitigate exposure to and remediation of PFAS
- 25 and food safety criteria for food products;
- 26 M. Developing and implementing educational programs for landowners, including but
- 27 not limited to determining best practices for informing residents about the potential of
- 28 being near or on a site on which sludge or septage application was licensed or permitted
- 29 by the State prior to 2019, and providing information and guidance on buying or selling
- 30 agricultural lands that have had sludge or septage applied;
- 31 N. Long-term monitoring of PFAS contaminated sites and establishing a
- 32 corresponding centralized data repository;
- 33 O. Establishing food safety criteria and guidance for farm products;
- 34 P. Assisting commercial farms and others in the agricultural sector not directly affected
- 35 by PFAS contamination with marketing efforts whose branding and marketing may be
- 36 affected by public perception of PFAS contamination in the State; and
- 37 Q. Regional planning with other states and the Federal Government to protect food
- 38 supply and farmers in the State from out-of-state PFAS contamination.
- 39 **5. Administration.** The department shall administer the fund allocations in
- 40 accordance with a plan that establishes funding priorities, administration and oversight and
- 41 with the review and advice of the advisory committee. The department may contract for
- 42 professional services to carry out the purposes of this section.

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

4 7. Reports. Beginning March 1, 2023, and annually thereafter, the department shall
5 submit a report on the plan under subsection 5 and on the uses of the fund to the joint
6 standing committees of the Legislature having jurisdiction over agriculture, conservation
7 and forestry, environment and natural resources and health and human services matters.
8 The report must include information on the status of carrying out the purposes of the fund
9 as described in subsection 4, additional needs identified by the agricultural community,
10 what funds have been disbursed from the fund and for what purpose those funds were
11 disbursed. The report must include the activities of the advisory committee, including, but
12 not limited to, the number of meetings held, a summary of each meeting and
13 recommendations for legislation from the advisory committee.

14 **§320-L. Advisory Committee on the Fund To Address PFAS Contamination**

15 The Advisory Committee on the Fund To Address PFAS Contamination is established
16 pursuant to Title 5, section 12004-I, subsection 2-H to make recommendations to the
17 department regarding administration of the fund and to report to the Legislature. In order
18 to develop recommendations for the department, the advisory committee may form
19 working groups that include and seek input from subject matter experts from the public and
20 private sectors to deliberate issues relating to the purposes of the fund as described in
21 section 320-K, subsection 4, including, but not limited to, health monitoring, short-term
22 financial aid for farmers, research priorities, solar siting, long-term environmental
23 monitoring and land acquisition.

24 1. Membership. The advisory committee consists of:

25 A. The commissioner or the commissioner's designee;

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

27 C. The Commissioner of Health and Human Services or the commissioner's designee;

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

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

34 F. Five members of the public representing the agricultural sector, appointed by the
35 commissioner; and

36 G. One member of the public with expertise in public health, appointed by the
37 commissioner.

38 The 7 members of the public appointed by the commissioner serve on the advisory
39 committee for terms of 3 years. Members may be appointed for consecutive terms.

40 2. Reports. The advisory committee shall hold at least 2 public hearings annually to
41 seek input from the public on efforts to meet the purposes of the fund. All proceedings of
42 the advisory committee are public proceedings within the meaning of Title 1, chapter 13,

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

6 **Sec. 3. Initial plan priorities; programs.** The Department of Agriculture,
7 Conservation and Forestry, referred to in the section as "the department," shall develop and
8 implement an initial plan that prioritizes funding and implementation of the following
9 programs consistent with the purposes in the Maine Revised Statutes, Title 7, section
10 320-K, subsection 4. The department shall seek public comment on a draft proposal before
11 final adoption of the plan. For the purposes of this section, "PFAS," "commercial farm"
12 and "agricultural land" have the same meanings as in Title 7, section 320-K, subsection 1.

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

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

25 3. The department may establish, in coordination with the Department of Health and
26 Human Services, Maine Center for Disease Control and Prevention, a PFAS medical
27 monitoring and blood levels of PFAS testing program for persons whose drinking water or
28 agricultural land is found to be contaminated by PFAS. If the department establishes a
29 program under this subsection, the department may not require a person to show a present
30 injury or disease to qualify for the program.

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

39 B. The department may develop criteria for funding medical monitoring and health
40 care for persons found to have blood levels of PFAS greater than the general population
41 and when it is medically relevant to undergo periodic medical examination and health
42 care.

43 **Sec. 4. Long-term plan for the administration of the funds.** In implementing
44 the Fund To Address PFAS Contamination, under the Maine Revised Statutes, Title 7,

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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 hearings and receiving public comments;
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 and 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 time frame for the implementation 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. 5. 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.

Sec. 6. 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 Revenue Funds account for the purposes as provided under the Maine Revised Statutes, Title 7, section 320-K, subsection 4.

Sec. 7. Advisory committee; initial terms. Notwithstanding the Maine Revised Statutes, Title 7, section 320-L, subsection 1, the Commissioner of Agriculture, Conservation and Forestry shall appoint initial public members to the Advisory Committee on the Fund To Address PFAS Contamination as follows: 2 members of the public for

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COMMITTEE AMENDMENT "A" to S.P. 729, L.D. 2013 (S-523)

1 2-year terms, 3 members of the public for 3-year terms and 2 members of the public for
2 4-year terms.

3 **Sec. 8. Appropriations and allocations.** The following appropriations and
4 allocations are made.

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

6 **Office of the Commissioner 0401**

7 Initiative: Provides allocation for one Public Service Manager III position and one Public
8 Service Coordinator I position and associated All Other costs.

9	OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
10	POSITIONS - LEGISLATIVE COUNT	2.000	2.000
11	Personal Services	\$41,175	\$257,038
12	All Other	\$4,472	\$1,776,148
13			
14	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$45,647</u>	<u>\$2,033,186</u>

15 **Office of the Commissioner 0401**

16 Initiative: Provides funding for initiatives to administer the Fund To Address PFAS
17 Contamination and to address perfluoroalkyl and polyfluoroalkyl substances, or PFAS,
18 contamination on agricultural land in the State.

19	OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
20	All Other	\$0	\$97,921,167
21			
22	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$97,921,167</u>

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24 **AGRICULTURE, CONSERVATION AND**
25 **FORESTRY, DEPARTMENT OF**
26 **DEPARTMENT TOTALS**

27		2021-22	2022-23
28	OTHER SPECIAL REVENUE FUNDS	\$45,647	\$99,954,353
29			
30	DEPARTMENT TOTAL - ALL FUNDS	<u>\$45,647</u>	<u>\$99,954,353</u>

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32 Amend the bill by adding before the summary the following:

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

35 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
36 number to read consecutively.

37 **SUMMARY**

38 The amendment retains the following provisions of the bill.

39 1. It establishes the Fund To Address PFAS Contamination within the Department of
40 Agriculture, Conservation and Forestry and the corresponding Advisory Committee on the

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

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

14 3. It provides one-time funding of \$100,000,000 to address PFAS contamination on
15 agricultural land in the State.

16 The amendment makes the following changes to the bill.

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

20 2. It provides that allocations from the fund may be made for the following purposes:

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

23 B. Conducting research on alternative cropping systems, PFAS uptake of different
24 crops, the use of livestock systems to mitigate exposure to or remediation of PFAS and
25 food safety criteria for food products;

26 C. Establishing food safety criteria and guidance for farm products;

27 D. Assisting commercial farms and others in the agricultural sector not directly
28 affected by PFAS contamination with marketing efforts whose branding and marketing
29 may be affected by public perception of PFAS contamination in the State; and

30 E. Regional planning with other states and the Federal Government to protect food
31 supply and farmers in the State from out-of-state PFAS contamination.

32 3. It requires the department to submit an annual report to the Legislature that includes
33 the status of meeting the purposes of the fund, additional needs identified by the agricultural
34 community, what funds have been disbursed and for what purpose and an update on the
35 activities of the advisory committee.

36 4. It changes the composition of the advisory committee. The amendment also requires
37 the advisory committee to hold at least 2 public hearings annually to seek input from the
38 public on efforts to meet the purposes of the fund. The advisory committee is required to
39 submit a report to the Legislature annually on input from subject matter experts and
40 members of the public on issues relating to purposes and uses of the fund.

41 5. It directs the department to develop and implement an initial plan that prioritizes
42 funding and a long-term plan for the administration of the funds.

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COMMITTEE AMENDMENT "A" to S.P. 729, L.D. 2013 (S-523)

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- 6. It adds an emergency preamble and emergency clause.
- 7. It adds an appropriations and allocations section.

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



130th MAINE LEGISLATURE

LD 2013

LR 2640(02)

An Act Relating to Perfluoroalkyl and Polyfluoroalkyl Substances Contamination in the State

Fiscal Note for Bill as Amended by Committee Amendment "A(LS-523)"
 Committee: Agriculture, Conservation and Forestry
 Fiscal Note Required: Yes

Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
Net Cost (Savings)				
General Fund	\$100,000,000	\$0	\$0	\$0
Appropriations/Allocations				
Other Special Revenue Funds	\$45,647	\$99,954,353	\$2,042,683	\$2,051,991
Transfers				
General Fund	(\$100,000,000)	\$0	\$0	\$0
Other Special Revenue Funds	\$100,000,000	\$0	\$0	\$0

Fiscal Detail and Notes

This bill establishes the Fund to Address PFAS Contamination as a subaccount within the Department of Agriculture, Conservation and Forestry (ACF), Office of the Commissioner program. The bill also establishes the Advisory Committee on the Fund to Address PFAS Contamination within the ACF. The bill requires the State Controller to transfer \$100,000,000 from the unappropriated surplus of the General Fund to the PFAS fund on or before May 1, 2022. The bill includes allocations of \$45,647 in fiscal year 2021-22 and \$2,033,186 in fiscal year 2022-23 for one Public Service Manager III position, one Public Service Coordinator I position and associated costs. The bill also includes allocations of \$97,921,167 in fiscal year 2022-23 to allow for additional expenditures related to PFAS contamination and other expenditures as recommended by the advisory committee or other costs as identified by ACF.

Additional costs to the University of Maine System, the Department of Health and Human Services and the Department of Environmental Protection associated with participating on the advisory committee can be absorbed within existing budgeted resources.