

Bill as Introduced

HB 235 - AS AMENDED BY THE HOUSE

7Apr2021... 0580h

2021 SESSION

21-0222
08/06

HOUSE BILL

235

AN ACT addressing impacts to other water users from new sources of water for community water systems.

SPONSORS: Rep. M. Pearson, Rock. 34; Rep. Guthrie, Rock. 13; Rep. Green, Rock. 13; Rep. Welch, Rock. 13; Rep. Hobson, Rock. 35; Rep. Weyler, Rock. 13; Rep. Salloway, Straf. 5; Sen. Birdsell, Dist 19

COMMITTEE: Resources, Recreation and Development

AMENDED ANALYSIS

This bill requires the department of environmental services to adopt rules concerning small groundwater withdrawals from new sources of water.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT addressing impacts to other water users from new sources of water for community water systems.

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

1 1 New Section; Small Groundwater Withdrawals. Amend RSA 485-C by inserting after section
2 25 the following new section:

3 485-C:26 Groundwater Withdrawals Less than 57,600 Gallons Over Any 24-Hour Period for
4 Community Water Systems. The department shall adopt rules pursuant to RSA 541-A specifying
5 criteria and procedures to ensure a groundwater withdrawal less than 57,600 gallons over any 24-
6 hour period from a new source of water for a community water system as defined by RSA 485:1-a
7 and subject to RSA 485:8 does not cause an unmitigated impact to an existing private water supply
8 well in accordance with RSA 485-C:21, V-c(a) or RSA 485-C:21, V-c(c).

9 2 Effective Date. This act shall take effect 60 days after its passage.

HB 235 - AS AMENDED BY THE SENATE

7Apr2021... 0580h
05/13/2021 1333s

2021 SESSION

21-0222
08/06

HOUSE BILL **235**

AN ACT addressing impacts to other water users from new sources of water for community water systems and relative to the PFAS fund and programs.

SPONSORS: Rep. M. Pearson, Rock. 34; Rep. Guthrie, Rock. 13; Rep. Green, Rock. 13; Rep. Welch, Rock. 13; Rep. Hobson, Rock. 35; Rep. Weyler, Rock. 13; Rep. Salloway, Straf. 5; Sen. Birdsell, Dist 19

COMMITTEE: Resources, Recreation and Development

AMENDED ANALYSIS

This bill requires the department of environmental services to adopt rules concerning small groundwater withdrawals from new sources of water. The bill also clarifies the administration of the PFAS fund and program by the department of environmental services.

Explanation: Matter added to current law appears in *bold italics*.
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6 hour period from a new source of water for a community water system as defined by RSA 485:1-a
7 and subject to RSA 485:8 does not cause an unmitigated impact to an existing private water supply
8 well in accordance with RSA 485-C:21, V-c(a) or RSA 485-C:21, V-c(c).

9 2 PFAS Fund and Program; Purpose. Amend RSA 485-H:1 to read as follows:

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

18 3 PFAS Fund and Program; Definitions. Amend RSA 485-H:2, III and IV to read as follows:

19 III. "*PFAS drinking* water standard" means the maximum contaminant levels in
20 accordance with RSA 485:16-e.

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

22 4 PFAS Program; Drinking Water Protection; Groundwater. RSA 485-H:3 and 485-H:4 are
23 repealed and reenacted to read as follows:

24 485-H:3 Implementation of Drinking Water Protection Program.

25 I. The department shall provide low-interest loans to municipalities, community water
26 systems, and non-profit, non-transient non-community water systems whose testing of untreated
27 source water shows an exceedance of a PFAS drinking water standard. Such loans shall be provided
28 for the projects described below begun after September 30, 2019.

1 II. The department shall provide the loans described in paragraph I for projects needed to
2 meet a PFAS drinking water standard if the applicant demonstrates, and the department agrees,
3 that the project is the most cost-effective way to meet PFAS drinking water standards and if the
4 project meets the other provisions of this chapter and department rules adopted pursuant to this
5 chapter.

6 III. The department shall adopt rules, and include conditions in loan documents, to ensure
7 that the applicant has made and will make reasonable efforts to obtain and use funds from any
8 potentially liable third party prior to and after taking a loan from the PFAS loan fund, and that any
9 money received from a potentially liable third party after the loan is provided is applied to early
10 repayment of such loan to the extent reasonable. In addition, the department shall adopt rules
11 establishing criteria to ensure that an applicant shall not be eligible for loans for any project or
12 portion of a project to the extent the negligence of the applicant caused the contamination that
13 resulted in the exceedance of a PFAS drinking water standard.

14 IV. If the department forgives any part of a loan related to costs for a project for which a
15 third party might otherwise be liable, the right to recover payment from such third party shall be
16 subrogated to the department to the extent of such forgiveness. Any money recovered by the
17 department from such third party shall be deposited in the PFAS loan fund.

18 V. Loans may be made for up to the total cost of the project minus any contribution from a
19 liable or potentially liable third party or any other portion deemed ineligible under this chapter and
20 department rules.

21 485-H:4 Implementation of Groundwater, Surface Water and Aquatic Life Protection.

22 I. The department shall provide low interest loans to publicly-owned and non-profit
23 wastewater and/or wastewater residual treatment or storage facilities that are required to treat
24 effluent and residuals to achieve applicable PFAS standards prior to discharge or disposal.

25 II. The department shall provide the loans described in paragraph I if the applicant
26 demonstrates, and the department agrees, that the project is the most cost-effective way to meet
27 applicable PFAS standards and if the project meets the other provisions of this chapter and
28 department rules adopted pursuant to this chapter. The applicant shall provide evidence in the
29 application for funding that there is not a more cost-effective way to meet applicable PFAS
30 standards.

31 III. The department shall adopt rules, and include conditions in loan documents, to ensure
32 that the applicant has made reasonable efforts to obtain and use funds from any liable or potentially
33 liable third party prior to and after taking a loan from the PFAS loan fund, and that any money
34 received from a liable or potentially liable third party at a later time is applied to early repayment of
35 the loan from the PFAS loan fund to the extent reasonable. In addition, the department shall adopt
36 rules establishing criteria to ensure that an applicant shall not be eligible for loans for any project or

HB 235 - AS AMENDED BY THE SENATE

- Page 3 -

1 portion of a project to the extent the negligence of the applicant caused the contamination that
2 resulted in the exceedance of an applicable PFAS standard.

3 IV. If the department forgives any part of a loan related to costs for a project for which a
4 third party might otherwise be liable, the right to recover payment from such third party shall be
5 subrogated to the department to the extent of such forgiveness. Any money recovered by the
6 department from such third party shall be deposited in the PFAS loan fund.

7 V. Loans may be made for up to the total cost of the project minus any contribution from a
8 liable or potentially liable third party or any other portion deemed ineligible under this chapter and
9 department rules.

10 5 Loan Forgiveness. Amend RSA 485-H:5 to read as follows:

11 485-H:5 Loan Principal Forgiveness Based Upon Need.

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

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

19 III. Total loan forgiveness under this section shall not exceed \$5 million [~~for both drinking~~
20 ~~water and clean water combined~~].

21 6 PFAS Program; Rules; Loan Fund. Amend RSA 485-H:7 through 485-H:10 to read as follows:

22 485-H:7 Drinking Water and Groundwater Trust Fund Exception. Notwithstanding any law to
23 the contrary, any funds deposited into the drinking water and groundwater trust fund established in
24 RSA 6-D:1 as a result of this chapter may be transferred to the department to be used for funding
25 PFAS remediation projects, including those at wastewater treatment facilities, at the discretion of
26 the *drinking water and groundwater trust* fund's advisory commission.

27 485-H:8 Duties of the Department.

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

29 (a) Establishing and administrating the PFAS remediation loan program to assist
30 municipalities; community and non-profit, non-transient non-community water systems; and
31 publicly owned and non-profit wastewater treatment facilities with the cost of complying with [~~state~~
32 ~~maximum contaminant level for~~] *applicable PFAS standards*.

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

35 (c) Awarding loan funds to projects that meet *the provisions of this chapter*
36 *including* the following criteria:

1 (1) The project is or was necessary to comply with a ~~[state-mandated]~~ **PFAS**
 2 **drinking water standard or other applicable** PFAS standard and the applicant for funding is a
 3 municipality, a community water system, or a non-profit, non-transient public water system, or a
 4 publicly-owned or non-profit wastewater and/or wastewater residual treatment or storage facility.

5 (2) The applicant has demonstrated, to the satisfaction of the department, that ~~[low~~
 6 ~~or no cost solutions are neither viable nor effective]~~ **the project is the most cost-effective way to**
 7 **meet PFAS drinking water standards and other applicable PFAS standards.**

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

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

15 485-H:9 Rules. The department shall adopt rules, under RSA 541-A, relative to administering
 16 ~~[PFAS remediation loan programs for eligible projects necessary to meet state PFAS standards]~~ **this**
 17 **chapter.**

18 485-H:10 PFAS Remediation Loan Fund Established. There is hereby established in the
 19 department the PFAS remediation loan fund which shall be maintained by the state treasurer in
 20 distinct and separate custody from all other funds, notwithstanding RSA 6:12. The state treasurer
 21 may invest the **PFAS remediation loan** fund in accordance with RSA 6:8. Any earnings on fund
 22 moneys shall be added to the **PFAS remediation loan** fund. All moneys in the **PFAS remediation**
 23 **loan** fund shall be non-lapsing and shall be continually appropriated to the department. The PFAS
 24 remediation loan fund shall be used to fund loans and reimbursements in accordance with this
 25 chapter. Funds from any bond proceeds, grants, loan repayments, legislative appropriations,
 26 donations, and other funds **related to the PFAS remediation loan fund** shall be credited to ~~[this]~~
 27 **the PFAS remediation loan** fund.

28 7 Drinking Water and Groundwater Trust Fund. Amend RSA 485-F:3, III to read as follows:

29 III. Costs paid from the drinking water and groundwater trust fund for the action described
 30 in paragraph I(a) and recovered by the state under RSA 147-B:10, shall be deposited to the trust
 31 fund. In addition, upon payment from the trust fund for any costs for which a third party would
 32 otherwise be liable, the right to recover payment from such third party shall be assumed by the
 33 drinking water and groundwater advisory commission to the extent of payment made from the trust
 34 fund. **Except as provided in RSA 485-H:6**, any money so recovered shall be repaid to the trust
 35 fund. No party shall receive multiple compensation for the same injury, and any such compensation
 36 shall be repaid to the trust fund.

37 8 Effective Date.

HB 235 - AS AMENDED BY THE SENATE

- Page 5 -

- 1 I. Section 1 of this act shall take effect 60 days after its passage.
- 2 II. The remainder of this act shall take effect upon its passage.

HB 235- FISCAL NOTE
AS AMENDED BY THE SENATE (AMENDMENT #2021-1333s)

AN ACT addressing impacts to other water users from new sources of water for community water systems and relative to the PFAS fund and programs.

FISCAL IMPACT: State County Local None

LOCAL:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Revenue	\$0	Indeterminable	Indeterminable	Indeterminable
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This bill requires the Department of Environmental services to adopt rules concerning small groundwater withdrawals from new sources of water. The bill also clarifies the administration of the PFAS fund and program by the Department of Environmental Services.

The Department of Environmental Services states the bill, as amended by the Senate, would make municipalities that do not already own a community water system eligible for the low interest loan program currently available to community water systems and non-profit, non-transient non-community water systems impacted by PFAS contamination. The amendment also makes other clarifications to RSA 485-F and 485-H. The Department indicates the bill would have no fiscal impact on the state or county governments. It could impact local governments by making loans and potential loan forgiveness available to certain municipalities. The fiscal impact on local governments is indeterminable because it is not known how many local governments that would be newly eligible and apply to the loan program.

AGENCIES CONTACTED:

Department of Environmental Services

CHAPTER 222
HB 235 - FINAL VERSION

7Apr2021... 0580h
24Jun2021... 1997CofC

2021 SESSION

21-0222
08/06

HOUSE BILL **235**

AN ACT addressing impacts to other water users from new sources of water for community water systems.

SPONSORS: Rep. M. Pearson, Rock. 34; Rep. Guthrie, Rock. 13; Rep. Green, Rock. 13; Rep. Welch, Rock. 13; Rep. Hobson, Rock. 35; Rep. Weyler, Rock. 13; Rep. Salloway, Straf. 5; Sen. Birdsell, Dist 19

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1 222:1 New Section; Small Groundwater Withdrawals. Amend RSA 485-C by inserting after
2 section 25 the following new section:

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4 Community Water Systems. The department shall adopt rules pursuant to RSA 541-A specifying
5 criteria and procedures to ensure a groundwater withdrawal less than 57,600 gallons over any 24-
6 hour period from a new source of water for a community water system as defined by RSA 485:1-a
7 and subject to RSA 485:8 does not cause an unmitigated impact to an existing private water supply
8 well in accordance with RSA 485-C:21, V-c(a) or RSA 485-C:21, V-c(c).

222:2 Effective Date. This act shall take effect 60 days after its passage.

Approved: August 24, 2021
Effective Date: October 23, 2021

Amendments

Sen. Watters, Dist 4
Sen. Morse, Dist 22
April 27, 2021
2021-1218s
06/05

Amendment to HB 235

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

2

3 AN ACT addressing impacts to other water users from new sources of water for community
4 water systems and relative to the PFAS fund and programs.

5

6 Amend the bill by replacing all after section 1 with the following:

7

8 2 PFAS Fund and Program; Purpose. Amend RSA 485-H:1 to read as follows:

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

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24 systems, and non-profit, non-transient non-community water systems whose testing of untreated
25 source water shows an exceedance of a PFAS drinking water standard. Such loans shall be provided
26 for the projects described below begun after September 30, 2019.

27 II. The department shall provide the loans described in paragraph I for projects needed to
28 meet a PFAS drinking water standard if the applicant demonstrates, and the department agrees,
29 that the project is the most cost-effective way to meet PFAS drinking water standards and if the
30 project meets the other provisions of this chapter and department rules adopted pursuant to this
31 chapter.

1 III. The department shall adopt rules, and include conditions in loan documents, to ensure
2 that the applicant has made and will make reasonable efforts to obtain and use funds from any
3 potentially liable third party prior to and after taking a loan from the PFAS loan fund, and that any
4 money received from a potentially liable third party after the loan is provided is applied to early
5 repayment of such loan to the extent reasonable. In addition, the department shall adopt rules
6 establishing criteria to ensure that an applicant shall not be eligible for loans for any project or
7 portion of a project to the extent the negligence of the applicant caused the contamination that
8 resulted in the exceedance of a PFAS drinking water standard.

9 IV. If the department forgives any part of a loan related to costs for a project for which a
10 third party might otherwise be liable, the right to recover payment from such third party shall be
11 subrogated to the department to the extent of such forgiveness. Any money recovered by the
12 department from such third party shall be deposited in the PFAS loan fund.

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14 liable or potentially liable third party or any other portion deemed ineligible under this chapter and
15 department rules.

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17 I. The department shall provide low interest loans to publicly-owned and non-profit
18 wastewater and/or wastewater residual treatment or storage facilities that are required to treat
19 effluent and residuals to achieve applicable PFAS standards prior to discharge or disposal.

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21 demonstrates, and the department agrees, that the project is the most cost-effective way to meet
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24 application for funding that there is not a more cost-effective way to meet applicable PFAS
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30 the loan from the PFAS loan fund to the extent reasonable. In addition, the department shall adopt
31 rules establishing criteria to ensure that an applicant shall not be eligible for loans for any project or
32 portion of a project to the extent the negligence of the applicant caused the contamination that
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Amendment to HB 235

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20 the *drinking water and groundwater trust* fund's advisory commission.

21 485-H:8 Duties of the Department.

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23 (a) Establishing and administrating the PFAS remediation loan program to assist
24 municipalities; community and non-profit, non-transient non-community water systems; and
25 publicly owned and non-profit wastewater treatment facilities with the cost of complying with [~~state~~
26 ~~maximum contaminant level for~~] *applicable PFAS standards*.

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

29 (c) Awarding loan funds to projects that meet *the provisions of this chapter*
30 *including* the following criteria:

31 (1) The project is or was necessary to comply with a [~~state mandated~~] *PFAS*
32 *drinking water standard or other applicable* PFAS standard and the applicant for funding is a
33 municipality, a community water system, or a non-profit, non-transient public water system, or a
34 publicly-owned or non-profit wastewater and/or wastewater residual treatment or storage facility.

35 (2) The applicant has demonstrated, to the satisfaction of the department, that [~~low~~
36 ~~er no cost solutions are neither viable nor effective~~] *the project is the most cost-effective way to*
37 *meet PFAS drinking water standards and other applicable PFAS standards*.

Amendment to HB 235

- Page 4 -

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

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

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17 remediation loan fund shall be used to fund loans and reimbursements in accordance with this
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29 shall be repaid to the trust fund.

30 8 Effective Date.

31 I. Section 1 of this act shall take effect 60 days after its passage.

32 II. The remainder of this act shall take effect upon its passage.

2021-1218s

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UNAPPROVED

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12 **chemicals called per and polyfluoroalkyl substances (PFAS).** The cost of remediating this
13 contamination for many communities would result in dramatically higher water and sewer rates for
14 end users. The existence of these man-made chemicals, some of which are occurring at unhealthy
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32 chapter.

Amendment to HB 235

- Page 2 -

1 III. The department shall adopt rules, and include conditions in loan documents, to ensure
2 that the applicant has made and will make reasonable efforts to obtain and use funds from any
3 potentially liable third party prior to and after taking a loan from the PFAS loan fund, and that any
4 money received from a potentially liable third party after the loan is provided is applied to early
5 repayment of such loan to the extent reasonable. In addition, the department shall adopt rules
6 establishing criteria to ensure that an applicant shall not be eligible for loans for any project or
7 portion of a project to the extent the negligence of the applicant caused the contamination that
8 resulted in the exceedance of a PFAS drinking water standard.

9 IV. If the department forgives any part of a loan related to costs for a project for which a
10 third party might otherwise be liable, the right to recover payment from such third party shall be
11 subrogated to the department to the extent of such forgiveness. Any money recovered by the
12 department from such third party shall be deposited in the PFAS loan fund.

13 V. Loans may be made for up to the total cost of the project minus any contribution from a
14 liable or potentially liable third party or any other portion deemed ineligible under this chapter and
15 department rules.

16 485-H:4 Implementation of Groundwater, Surface Water and Aquatic Life Protection.

17 I. The department shall provide low interest loans to publicly-owned and non-profit
18 wastewater and/or wastewater residual treatment or storage facilities that are required to treat
19 effluent and residuals to achieve applicable PFAS standards prior to discharge or disposal.

20 II. The department shall provide the loans described in paragraph I if the applicant
21 demonstrates, and the department agrees, that the project is the most cost-effective way to meet
22 applicable PFAS standards and if the project meets the other provisions of this chapter and
23 department rules adopted pursuant to this chapter. The applicant shall provide evidence in the
24 application for funding that there is not a more cost-effective way to meet applicable PFAS
25 standards.

26 III. The department shall adopt rules, and include conditions in loan documents, to ensure
27 that the applicant has made reasonable efforts to obtain and use funds from any liable or potentially
28 liable third party prior to and after taking a loan from the PFAS loan fund, and that any money
29 received from a liable or potentially liable third party at a later time is applied to early repayment of
30 the loan from the PFAS loan fund to the extent reasonable. In addition, the department shall adopt
31 rules establishing criteria to ensure that an applicant shall not be eligible for loans for any project or
32 portion of a project to the extent the negligence of the applicant caused the contamination that
33 resulted in the exceedance of an applicable PFAS standard.

34 IV. If the department forgives any part of a loan related to costs for a project for which a
35 third party might otherwise be liable, the right to recover payment from such third party shall be
36 subrogated to the department to the extent of such forgiveness. Any money recovered by the
37 department from such third party shall be deposited in the PFAS loan fund.

1 V. Loans may be made for up to the total cost of the project minus any contribution from a
2 liable or potentially liable third party or any other portion deemed ineligible under this chapter and
3 department rules.

4 5 Loan Forgiveness. Amend RSA 485-H:5 to read as follows:

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

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

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

13 III. Total loan forgiveness under this section shall not exceed \$5 million [~~for both drinking~~
14 ~~water and clean water combined~~].

15 6 PFAS Program; Rules; Loan Fund. Amend RSA 485-H:7 through 485-H:10 to read as follows:

16 485-H:7 Drinking Water and Groundwater Trust Fund Exception. Notwithstanding any law to
17 the contrary, any funds deposited into the drinking water and groundwater trust fund established in
18 RSA 6-D:1 as a result of this chapter may be transferred to the department to be used for funding
19 PFAS remediation projects, including those at wastewater treatment facilities, at the discretion of
20 the *drinking water and groundwater trust* fund's advisory commission.

21 485-H:8 Duties of the Department.

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

23 (a) Establishing and administrating the PFAS remediation loan program to assist
24 municipalities; community and non-profit, non-transient non-community water systems; and
25 publicly owned and non-profit wastewater treatment facilities with the cost of complying with [~~state~~
26 ~~maximum contaminant level for~~] *applicable PFAS standards*.

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

29 (c) Awarding loan funds to projects that meet *the provisions of this chapter*
30 *including* the following criteria:

31 (1) The project is or was necessary to comply with a [~~state-mandated~~] *PFAS*
32 *drinking water standard or other applicable* PFAS standard and the applicant for funding is a
33 municipality, a community water system, or a non-profit, non-transient public water system, or a
34 publicly-owned or non-profit wastewater and/or wastewater residual treatment or storage facility.

35 (2) The applicant has demonstrated, to the satisfaction of the department, that [~~low~~
36 ~~or no cost solutions are neither viable nor effective~~] *the project is the most cost-effective way to*
37 *meet PFAS drinking water standards and other applicable PFAS standards*.

Amendment to HB 235

- Page 4 -

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

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

8 485-H:9 Rules. The department shall adopt rules, under RSA 541-A, relative to administering
9 ~~[PFAS remediation loan programs for eligible projects necessary to meet state PFAS standards]~~ **this**
10 **chapter.**

11 485-H:10 PFAS Remediation Loan Fund Established. There is hereby established in the
12 department the PFAS remediation loan fund which shall be maintained by the state treasurer in
13 distinct and separate custody from all other funds, notwithstanding RSA 6:12. The state treasurer
14 may invest the **PFAS remediation loan** fund in accordance with RSA 6:8. Any earnings on fund
15 moneys shall be added to the **PFAS remediation loan** fund. All moneys in the **PFAS remediation**
16 **loan** fund shall be non-lapsing and shall be continually appropriated to the department. The PFAS
17 remediation loan fund shall be used to fund loans and reimbursements in accordance with this
18 chapter. Funds from any bond proceeds, grants, loan repayments, legislative appropriations,
19 donations, and other funds **related to the PFAS remediation loan fund** shall be credited to ~~[this]~~
20 **the PFAS remediation loan** fund.

21 7 Drinking Water and Groundwater Trust Fund. Amend RSA 485-F:3, III to read as follows:

22 III. Costs paid from the drinking water and groundwater trust fund for the action described
23 in paragraph I(a) and recovered by the state under RSA 147-B:10, shall be deposited to the trust
24 fund. In addition, upon payment from the trust fund for any costs for which a third party would
25 otherwise be liable, the right to recover payment from such third party shall be assumed by the
26 drinking water and groundwater advisory commission to the extent of payment made from the trust
27 fund. **Except as provided in RSA 485-H:6**, any money so recovered shall be repaid to the trust
28 fund. No party shall receive multiple compensation for the same injury, and any such compensation
29 shall be repaid to the trust fund.

30 8 Effective Date.

31 I. Section 1 of this act shall take effect 60 days after its passage.

32 II. The remainder of this act shall take effect upon its passage.

Amendment to HB 235

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2021-1333s

AMENDED ANALYSIS

This bill requires the department of environmental services to adopt rules concerning small groundwater withdrawals from new sources of water. The bill also clarifies the administration of the PFAS fund and program by the department of environmental services.

Committee Minutes

SENATE CALENDAR NOTICE

Energy and Natural Resources

Sen Kevin Avar, Chair
Sen Bob Giuda, Vice Chair
Sen James Gray, Member
Sen David Watters, Member
Sen Rebecca Perkins Kwoka, Member

Date: April 27, 2021

HEARINGS

Monday	05/03/2021	
(Day)	(Date)	
Energy and Natural Resources	REMOTE 000	1:00 p.m.
(Name of Committee)	(Place)	(Time)
1:00 p.m. HB 235	addressing impacts to other water users from new sources of water for community water systems.	
1:15 p.m.	Hearing on proposed Amendment #2021-1218s, relative to the PFAS fund and programs, to HB 235 , addressing impacts to other water users from new sources of water for community water systems.	
1:30 p.m. HB 271	relative to standards for per and polyfluoroalkyl substances (PFAS) in drinking water and ambient groundwater.	
1:45 p.m. HB 135	requiring parties responsible for pollution of a drinking water supply to be financially responsible for certain consequences of that pollution.	

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. Link to Zoom Webinar: <https://www.zoom.us/j/93032573125>
2. To listen via telephone: 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
3. Or iPhone one-tap: US: +19292056099,,93032573125# or +13017158592,,93032573125#
4. Webinar ID: [930 3257 3125](https://www.zoom.us/j/93032573125)
5. To view/listen to this hearing on YouTube, use this link: <https://www.youtube.com/channel/UCjBZdtrjRnQdmg-2MPMiWrA>
6. To sign in to speak, register your position on a bill and/or submit testimony, use this link: <http://gencourt.state.nh.us/remotecommittee/senate.aspx>

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 (603-271-6931).

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 235

Rep. M. Pearson
Rep. Hobson

HB 271

Rep. Rung

HB 135

Rep. Boehm

Rep. Guthrie
Rep. Weyler

Rep. Weston

Rep. Lascelles

Rep. Green
Rep. Salloway

Rep. Notter

Rep. Welch
Sen. Birdsell

Griffin Roberge 271-3042

Kevin A. Avard
Chairman

Senate Energy and Natural Resources Committee

Griffin Roberge 271-3042

HB 235, addressing impacts to other water users from new sources of water for community water systems.

Hearing Date: May 3, 2021.

Time Opened: 1:05 p.m.

Time Closed: 1:17 p.m.

Members of the Committee Present: Senators Avard, Gray, Watters and Perkins Kwoka.

Members of the Committee Absent: Senator Giuda.

Bill Analysis: This bill requires the department of environmental services to adopt rules concerning small groundwater withdrawals from new sources of water.

Sponsors:

Rep. M. Pearson

Rep. Guthrie

Rep. Green

Rep. Welch

Rep. Hobson

Rep. Weyler

Rep. Salloway

Sen. Birdsell

Who supports the bill: Representative Susan Almy, Grafton - District 13; Senator Regina Birdsell, NH Senate District 19; Representative Peter Bixby, Strafford - District 17; Representative Efstathia Booras, Hillsborough - District 33; Representative Wendy Chase, Strafford - District 18; Catherine Corkery, NH Sierra Club; Patricia Dahme; Corinne Dodge; Representative Roger Dontonville, Grafton - District 10; Representative Chuck Grassie, Strafford - District 11; Representative Joan Hamblet, Rockingham - District 31; Representative Heidi Hamer, Hillsborough - District 17; Representative Linda Harriott-Gathright, Hillsborough - District 36; Representative Deborah Hobson, Rockingham - District 35; John Tuthill, Acworth, NH; Brandon Kernan, NH Department of Environmental Services; Janet Lucas; Honorable James McConnell, Swanzey, NH; Honorable Mindi Messmer, Rye, NH; Evan Oxenham; Representative Lee Oxenham, Sullivan - District 1; Representative Maria Perez, Hillsborough - District 23; Representative Andrew Renzullo, Hillsborough - District 37; Representative Cecilia Rich, Strafford - District 18; Leonard Sarapas, Hampstead, NH; Dottie Schmidt; Lisa Sweet; Alyson Tanguay; Representative Suzanne Vali, Hillsborough - District 30; Representative Safiya Wazir, Merrimack - District 17; Representative Joyce Weston, Grafton - District 8.

Who opposes the bill: None.

Who is neutral on the bill: None.

Summary of testimony presented in support:

Representative Mark Pearson

Rockingham - District 34

- HB 235 is a reintroduction of HB 1252-FN (2020). HB 1252-FN was recommended "ought to pass" by the House Resources, Recreation, and Development Committee by a vote of 20-0 and was placed on the House

consent calendar. The full House adopted the committee's recommendation by a voice vote. However, HB 1252-FN died on the Senate table due to the COVID-19 pandemic and the suspension of legislative activity.

- HB 235 seeks to address an issue that arose in a few summers ago in Hampstead. A large commercial water pumping company had operated in such a way that caused adverse impacts on nearby private well owners. Local state legislators met to discuss a solution to this issue and worked with a hydrologist, Mr. Leonard Sarapas.
- HB 235 requires the NH Department of Environmental Services (NHDES) to adopt administrative rules concerning small groundwater withdrawals from new sources of water. NHDES shall establish criteria and procedures to ensure a groundwater withdrawal less than 57,600 gallons over a 24-hour period from a new source of water for a community water system as defined RSA 485:1-a and subject to RSA 485:8 does not cause an unmitigated impact to an existing private water supply well.
- HB 235 does not seek to penalize or detrimentally impact water companies but seeks to ensure that private well owners are treated fairly.
- The House Resources, Recreation, and Development Committee recommended HB 235 "ought to pass with amendment" by a vote of 21-0. The committee placed the bill on the House consent calendar. The full House adopted the committee's recommendation by a voice vote.

Brandon Kernan - provided written testimony

Drinking Water and Groundwater Bureau Administrator, NHDES

- HB 235 as amended by the House authorizes NHDES to establish criteria within the administrative rules for new small community water supply wells to ensure that if these wells cause an adverse impact to nearby private water supply wells, NHDES can require the owner to perform an investigation and mitigation. The NHDES initially opposed HB 235 as introduced because it required NHDES to administer a substantial number of new requirements for applications of new sources of water for small community water systems without accounting for costs. NHDES supports the concept of HB 235 as amended by the House because it substantially streamlines the requirements NHDES has to administer while still ensuring impacts to water users are addressed.
- The Safe Drinking Water Act (RSA 485) requires NHDES approval for the design, testing, monitoring and operation for all community water systems in the state to ensure that the water supply needs of consumers are met and the public health is protected. Community water supply wells have specific siting, testing and sampling criteria under administrative rules that require an applicant demonstrate that a well, when connected to a community water system, is able to provide an adequate quantity of water that meets drinking water quality standards. Community water supply wells are designated as large or small based on their approved withdrawal volumes, whereby wells approved to withdraw less than 57,600 gallons per day of groundwater are designated small community water supply wells. Unlike large community water supply wells, small community water supply wells are not subject to requirements to demonstrate that before using the well, no adverse impacts to surrounding water users or resources will occur. The testing process for small community water supply wells is currently solely focused on evaluating the capacity and water quality of the production well.
- Currently, NHDES does not have authority to require that a small community water supply well applicant/owner mitigate potential adverse impacts to private water supply well(s) in the event that such impacts occur. Although there are neither widespread reports nor a long record of small community well impacts to private wells, the increasing density of development within the state and the use of small community water supply systems at subdivisions to increase land development increases the likelihood for these impacts in the future. The language in HB 235 would provide NHDES authority to require that a mitigation plan be developed and implemented when impacts to private water supply wells are observed.

Leonard Sarapas - provided written testimony

Hampstead, NH

- Mr. Sarapas is a NH licensed professional engineer and certified as a professional hydrologist in groundwater by the American Institute of Hydrology.
- HB 235 addresses gaps in NH's current regulations for new small community water supply wells that withdraw less than 57,600 gallons of groundwater per day. NH has separate rules and regulations for permitting and oversight of "large" (>40 gallons per minute or GPM) wells and "small" (<40 GPM) wells.
- One significant difference between large and small community water supply wells is that while NH's Groundwater Protection Act (RSA 485-C) calls out eleven specific adverse impacts not allowed as a result of the construction of a new large community water supply well, RSA 485-C does not prohibit impacts from new small community water supply wells. Therefore, NH's current laws and regulations do not provide

homeowners and residents meaningful protection from adverse impacts caused by new small community water supply wells. NH's current law and regulation provide homeowners and residents no meaningful protection from adverse impacts caused by new small community water supply wells, whereas a protective process has been in place for new large community water supply wells since 1998.

- As NH's population has grown, so has its demand for groundwater supplies. This will result in adverse impacts to some well owners from increased stress on aquifers. 4,000 new wells are being installed in NH each year. Water use trends are increasing, such as for lawn irrigation. These impacts are magnified during summer months and periods of drought, as seen during the summer of 2020.
- Senator Avard asked how one would determine if a small community water supply well is impacting nearby private well owners.
 - Mr. Sarapas said that HB 235 directs NHDES to draft administrative rules to help ensure that new small community water supply wells would not cause a significant adverse impact on surrounding, existing private drinking water wells. Currently, there is a proactive modeling effort to estimate where impacts might occur for large community water supply wells. NHDES will likely adopt a scaled down modeling effort for small community water supply wells.

Summary of testimony presented in opposition: None.

Neutral Information Presented: None.

GJR

Date Hearing Report completed: May 3, 2021.

Senate Energy and Natural Resources Committee

Griffin Roberge 271-3042

Amendment 2021-1218s, relative to the PFAS fund and programs, to **HB 235**, addressing impacts to other water users from new sources of water for community water systems.

Hearing Date: May 3, 2021.

Time Opened: 1:17 p.m.

Time Closed: 1:26 p.m.

Members of the Committee Present: Senators Avard, Gray, Watters and Perkins Kwoka.

Members of the Committee Absent: Senator Giuda.

Bill Analysis: This bill requires the department of environmental services to adopt rules concerning small groundwater withdrawals from new sources of water.

Sponsors:

Sen. Watters

Sen. Morse

Who supports the amendment: Natch Greyes, NH Municipal Association; Michael Wimsatt, NH Department of Environmental Services.

Who opposes the amendment: None.

Who is neutral on the amendment: None.

Summary of testimony presented in support:

Senator David Watters

NH Senate District 4

- Amendment 2021-1218s seeks to address technical issues raised by the NH Department of Environmental Services (NHDES) regarding the PFAS Remediation Loan Fund (Fund) under RSAs 485-F and 485-H. The Fund was established in SB 496-FN (2020), but was later included in HB 1264 (2020). The Fund was meant to help municipalities bear the cost of PFAS remediation and complying with the state's new maximum contaminant limits for PFOA, PFOS, PFHxS, and PFNA. The bill also detailed a process by which any potential settlement funds from NH's lawsuits against PFAS manufacturers would be deposited.
- A key part of amendment 2021-1218s seeks to clarify legislative intent behind HB 1264. All along, legislators felt there should be a mechanism for municipalities to help private wells either through the NH Drinking Water and Groundwater Trust Fund or through any lawsuit settlement funds. Amendment 2021-1218s makes clear that municipalities can apply to the Fund if there are private drinking water wells within the municipality that have been impacted by PFAS.

Michael Wimsatt - provided written testimony

Waste Management Division Director, NHDES

- Amendment 2021-1218s would repeal and re-enact RSA 485-H:3 to make municipalities eligible for the low interest loan program that is currently available to community water systems impacted by PFAS contamination. The amendment also makes other clarifications to RSA 485-F and 485-H.

- NHDES requested and supports amendment 2021-1218s because it provides vital assistance to municipalities that are struggling to address PFAS contamination in private drinking water wells in their communities, and will clarify the administration of the PFAS Remediation Loan Fund. The Fund was established by the legislature during the 2020 session in order to provide low interest financing to community water systems. This amendment will also make municipalities that do not currently operate water systems eligible to obtain financing in order to address PFAS contamination in their communities.

Natch Greyes

Municipal Services Counsel, NH Municipal Association

- Reiterated Mr. Wimsatt and Senator Watters' testimony in support of amendment 2021-1218s.

Summary of testimony presented in opposition: None.

Neutral Information Presented:

Representative Andrew Renzullo

Hillsborough - District 37

- Serves as the chair of the House Resources, Recreation, and Development Committee. He asked if amendment 2021-1218s would allow private well owners to apply to directly to the Fund or if municipalities would apply on their behalf. He knew some House Representatives would ask that question when HB 235 returned to the House for its concurrence.
 - Senator Watters said the original program did not explicitly provide for that option. The program covered municipal water treatment systems and community water treatment systems, but there had been an understanding that the NH Drinking Water and Groundwater Trust Fund had some flexibility to allow private well owners to come forward. If one well is impacted by PFAS, then several are likely to be impacted. Amendment 2021-1218s will help those municipalities that do not own and operate their own water systems to seek Fund assistance to help those well owners. It is more powerful for the municipalities to come forward and seek those funds for those well owners. The Fund also has loan forgiveness and loan payback provisions if NH should receive a legal settlement.

GJR

Date Hearing Report completed: May 3, 2021.

Speakers

Senate Remote Testify

Energy and Natural Resources Committee Testify List for Bill HB235 on 2021-05-03

Support: 33 Oppose: 0 Neutral: 0 Total to Testify: 4

<u>Name</u>	<u>Email Address</u>	<u>Phone</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Signed Up</u>
Greyes, Natch	ngreyes@nhmunicipal.org	603.224.7447	A Lobbyist	New Hampshire Municipal Association	Support	Yes	4/30/2021 2:51 PM
Kernen, Brandon	Brandon.Kernen@dcs.nh.gov	271-1168	State Agency Staff	New Hampshire Department of Environmental Services	Support	Yes	5/3/2021 7:22 AM
Wimsat, Mike	michael.j.wimsatt@des.nh.gov	603.271.1997	State Agency Staff	NHDES	Support	Yes	5/3/2021 11:52 AM
Sarapas, Leonard	lsarapas@comcast.net	603 505 0546	A Member of the Public	Myself	Support	Yes	4/29/2021 11:25 AM
Birdsell, Senator Regina	Not Given	Not Given	An Elected Official	Senate District 19	Support	No	4/29/2021 8:47 AM
Dahme, Patricia	Not Given	Not Given	A Member of the Public	Myself	Support	No	5/3/2021 1:34 PM
John, Tuthill	Not Given	Not Given	A Member of the Public	Myself	Support	No	5/3/2021 1:37 PM
Harriott-Gathright, Linda	linda.HarriottGathright@leg.state.nh.us	16038804537	An Elected Official	Myself	Support	No	5/3/2021 4:36 PM
Schmidt, Dottie	Not Given	Not Given	A Member of the Public	Myself	Support	No	5/4/2021 1:05 PM
Rich, Cecilia	cecilia.rich@leg.state.nh.us	Not Given	An Elected Official	Myself	Support	No	5/3/2021 7:52 AM
Dontonville, Roger	rdontonville@gmail.com	603.632.7719	An Elected Official	Myself	Support	No	5/3/2021 8:18 AM
perez, maria	mariaeli63@gmail.com	603.801.7867	An Elected Official	District 23	Support	No	5/3/2021 8:19 AM
Hamer, Heidi	Not Given	Not Given	An Elected Official	Myself	Support	No	5/3/2021 8:20 AM
Hobson, Deb	deborahlhobson@gmail.com	603-968-5417	An Elected Official	Myself	Support	No	5/3/2021 8:42 AM
Lucas, Janet	janluca1953@gmail.com	16037267614	A Member of the Public	Myself	Support	No	5/3/2021 8:44 AM
Messmer, Mindi	Not Given	Not Given	A Member of the Public	Myself	Support	No	5/3/2021 9:23 AM
Bixby, Peter	peter.bixby@leg.state.nh.us	16037495659	An Elected Official	Myself	Support	No	5/3/2021 9:28 AM
Booras, Hon. Efstathia	efstathiab73@gmail.com	603.930.3220	An Elected Official	Constituents	Support	No	5/3/2021 10:48 AM
Corkery, Catherine	catherine.corkery@sierraclub.org	603.224.8222	A Lobbyist	NH Sierra Club	Support	No	5/3/2021 11:12 AM
Dodge, corinne	corinnedodge@hotmail.com	16034325759	A Member of the Public	Myself	Support	No	5/3/2021 11:31 AM
Vail, Suzanne	Suzanne.vail@leg.state.nh.us	Not Given	An Elected Official	Hillsborough County 30	Support	No	4/30/2021 9:34 PM
Chase, Wendy	wendy.chase@comcast.net	603.319.7259	An Elected Official	Myself	Support	No	5/1/2021 2:57 PM
Oxenham, Lee	leeoxenham@comcast.net	603.727.9368	An Elected Official	Sullivan Co., District 1	Support	No	5/2/2021 1:51 PM
Oxenham, Evan	cvan.oxenham@gmail.com	603.727.9368	A Member of the Public	Myself	Support	No	5/2/2021 3:02 PM

Weston, Joyce	jweston14@roadrunner.com	Not Given	An Elected Official	Myself	Support	No	5/2/2021 3:06 PM
Grassie, Chuck	chuck.grassie@leg.state.nh.us	16039787417	An Elected Official	Strafford 11	Support	No	5/2/2021 10:56 PM
Tanguay, Alyson	Not Given	Not Given	A Member of the Public	Myself	Support	No	5/3/2021 4:57 AM
Hamblet, Joan	joan.hamblet@leg.state.nh.us	603.205.4925	An Elected Official	Myself	Support	No	5/2/2021 8:25 PM
Sweet, Lisa	Not Given	Not Given	A Member of the Public	Myself	Support	No	5/2/2021 9:16 PM
Almy, Susan	susan.almy@comcast.net	603.448.4769	An Elected Official	Myself	Support	No	5/2/2021 9:26 PM
McConnell, James	Not Given	Not Given	A Member of the Public	Myself	Support	No	5/2/2021 9:29 PM
Renzullo, Andy	Andrew,Renzullo@leg.state.nh.us	603.943.8962	An Elected Official	Myself	Support	No	5/3/2021 6:25 AM
Wazir, Safiya	Not Given	Not Given	An Elected Official	My Constituents	Support	No	5/3/2021 7:22 AM

Testimony

Griffin Roberge

From: Beauchesne, Suzanne <Suzanne.E.Beauchesne@des.nh.gov>
Sent: Friday, April 30, 2021 12:27 PM
To: Kevin Avard; Bob Giuda; James Gray; Rebecca Perkins Kwoka; David Watters; Griffin Roberge
Cc: Mark Pearson; Joseph Guthrie; Dennis Green; David Welch; Deborah Hobson; Ken Weyler; Jeffrey Salloway; Regina Birdsell; Kernen, Brandon; Roy, Stephen J.; O'Donovan, Thomas; Pelletier, Rene
Subject: HB 235 Letter of Testimony
Attachments: HB 235 LOT Community Water Systems 043021.pdf

Dear Chairman Avard and Members of the Committee:

Attached is a letter of testimony from the NH Department of Environmental Services on HB 235, an act addressing impacts to other water users from new sources of water for community water systems. Should you have questions, please feel free to contact either Brandon Kernen, Drinking Water and Groundwater Bureau Administrator (Brandon.Kernen@des.nh.gov or 271-1168) or Stephen Roy (Stephen.Roy@des.nh.gov or 271-0660). Thank you. Suzanne

Stay Safe! Be Well!

Suzanne Beauchesne
Assistant to the Commissioner
NH Department of Environmental Services
29 Hazen Drive, PO Box 95
Concord, NH 03301
Phone: (603) 271-3449
Suzanne.Beauchesne@des.nh.gov

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The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

April 30, 2021

The Honorable Kevin Avard
Chairman, Energy and Natural Resources Committee
State House, Senate Chamber
Concord, NH 03301

RE: HB 235, AN ACT addressing impacts to other water users from new sources of water for community water systems

Dear Chairman Avard and Members of the Committee:

Thank you for the opportunity to testify on HB 235. As amended by the House of Representatives (House), this bill would authorize the New Hampshire Department of Environment Services (NHDES) to establish criteria within the administrative rules for new small community water supply wells to ensure that if these wells cause an adverse impact to nearby private water supply wells, NHDES can require the owner to perform an investigation and mitigation. The NHDES initially opposed HB 235 as introduced by the House because it required NHDES to administer a substantial number of new requirements for applications of new sources of water for small community water systems without accounting for costs. NHDES supports the concept of HB 235 as amended by the House because it substantially streamlines the requirements NHDES has to administer while still ensuring impacts to water users are addressed. NHDES provides the following information to assist the committee in its considerations.

The Safe Drinking Water Act (RSA 485) requires NHDES approval for the design, testing, monitoring and operation for all community water systems in the state to ensure that the water supply needs of consumers are met and the public health is protected. Community water supply wells have specific siting, testing and sampling criteria under administrative rules that require an applicant demonstrate that a well, when connected to a community water system, is able to provide an adequate quantity of water that meets drinking water quality standards. Community water supply wells are designated as large or small based on their approved withdrawal volumes, whereby wells approved to withdraw less than 57,600 gallons per day of groundwater are designated small community water supply wells. Unlike large community water supply wells, small community water supply wells are not subject to requirements to demonstrate that before using the well, no adverse impacts to surrounding water users or resources will occur. The testing process for small community water supply wells is currently solely focused on evaluating the capacity and water quality of the production well.

The Honorable Kevin Avard
Chairman, Senate Energy and Natural Resources Committee
April 30, 2021
Page 2

Currently, NHDES does not have authority to require that a small community water supply well applicant/owner mitigate potential adverse impacts to private water supply well(s) in the event that such impacts occur. Although there are neither widespread reports nor a long record of small community well impacts to private wells, the increasing density of development within the state and the use of small community water supply systems at subdivisions to increase land development increases the likelihood for these impacts in the future. The language in HB 235 would provide NHDES authority to require that a mitigation plan be developed and implemented when impacts to private water supply wells are observed.

Thank you again for the opportunity to comment on HB 235. Should you have questions, please feel free to contact either Brandon Kernen, Drinking Water and Groundwater Bureau Administrator (Brandon.Kernen@des.nh.gov or 271-1168) or Stephen Roy (Stephen.Roy@des.nh.gov or 271-0660).

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Scott", with a long horizontal flourish extending to the right.

Robert R. Scott
Commissioner

cc: Sponsors of HB 235: Representatives Pearson, Guthrie, Green, Welch, Hobson, Weyler, Salloway and Senator Birdsell

Griffin Roberge

From: Leonard <lsarapas@comcast.net>
Sent: Friday, April 30, 2021 9:48 AM
To: Kevin Avard; Bob Giuda; James Gray; Rebecca Perkins Kwoka; David Watters; Griffin Roberge
Cc: Mark Pearson; Leonard
Subject: Advance summary of Sarapas testimony in support of HB 235 (May 3 1:00 pm)
Attachments: Summary of Sarapas Testimony HB 235 Senate May 2021.docx

Dear Committee members,

I am scheduled to testify before the Committee in support of HB 235 this coming Monday, and am providing a summary of my testimony to assist the Committee in your consideration of this bill.

While I have every intention of personally providing testimony, I will be working in northern NH on the 3rd, and not sure if I will have adequate cell service to connect with the hearing. If I do not have adequate phone service, I am asking that the House sponsor of this bill, Representative Mark Pearson, be allowed to read this in my behalf.

Thank you for your consideration, Leonard Sarapas

House Bill 235 - Addressing impacts to other water users from new “small” community water systems

Summary and Intent of Bill

- As NH has grown, **demands on our groundwater supplies have grown** and continue to grow, resulting in **adverse impacts to some well owners** from increased stress on our aquifers. These impacts are magnified during summer months and periods of drought.
- This bill is **intended to help prevent the loss of water to drinking water well owners from new small community water supply wells**. It is **proactive in nature**, not retro-active, with the intent of taking practical measures to help protect residents’ wells, and address an identified **public groundwater protection gap**.
- The **bill is supported by NH DES Commissioner Scott** in his February 13, 2020 letter, and was **written in collaboration with NH DES**.
- It will **support continued growth** in NH while **protecting residential water wells**.
- RSA 485-C, NH’s **Groundwater Protection Act**, was originally passed in **1991** to address concerns related to groundwater contamination, and excessive groundwater withdrawals.
- NH has **separate rules and regulations** for permitting and oversight of **“large” (> 40 gallons per minute or GPM) wells** and **“small” (< 40 GPM) wells**.
- One **significant difference** between large and small wells is that while NH’s Groundwater Protection Act calls out **11 specific adverse impacts** not allowed as a result of the construction of a new “large” well, it **does not prohibit impacts from new smaller community water system wells**.
- In simple terms, NH’s current law and regulations provide home owners and residents **no meaningful protection from** adverse impacts caused by **“new small community wells”**, whereas a protective process has been, and is now, in place for new large wells since August 1998.
- A “small” well **can support over 200 homes** and **may have far reaching effects** on other wells, so not necessarily small in terms of causing impacts.
- This proposed bill would **establish rules** to help insure that new proposed “small” public water supply wells would **not cause a significant adverse impact to surrounding, existing private drinking water wells**.
- While far less than the 11 adverse impacts prohibited for new large wells, this change would **provide meaningful protection to residents** which rely on wells for their water.

Prepared by Leonard Sarapas, 19 Croy Path, Hampstead, NH. Mr. Sarapas is a NH licensed Professional Engineer and certified as a Professional Hydrologist in Groundwater by the American Institute of Hydrology.

Griffin Roberge

From: Beauchesne, Suzanne <Suzanne.E.Beauchesne@des.nh.gov>
Sent: Monday, May 03, 2021 10:56 AM
To: Kevin Avard; Bob Giuda; James Gray; Rebecca Perkins Kwoka; David Watters; Griffin Roberge
Cc: Mark Pearson; Joseph Guthrie; Dennis Green; David Welch; Deborah Hobson; Ken Weyler; Jeffrey Salloway; Regina Birdsell; Wimsatt, Mike; Rousseau, Amy; Juranty, Mike; Chuck Morse
Subject: AMENDED LETTER OF TESTIMONY on HB 235 (PFAS RLF)
Attachments: HB 235 LOT - PFASRLF2 050321.pdf

Dear Chairman Avard and Members of the Committee:

The attached amended letter of testimony from the NH Department of Environmental Services on HB 235 relative to the PFAS funds and programs replaces the letter submitted last week. That letter erroneously indicated that the amendment had already been adopted by the Senate. Should you have questions, please feel free to contact either Mike Wimsatt, Waste Management Division Director, at michael.j.wimsatt@des.nh.gov or (603) 271-1997 or Amy Rousseau, PFAS Response Administrator at amy.e.rousseau@des.nh.gov or (603) 848-1372. Thank you. Suzanne

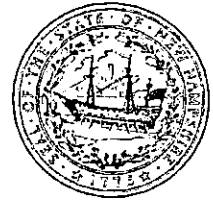
Stay Safe! Be Well!

Suzanne Beauchesne
Assistant to the Commissioner
NH Department of Environmental Services
29 Hazen Drive, PO Box 95
Concord, NH 03301
Phone: (603) 271-3449
Fax: (603) 271-2867
Suzanne.Beauchesne@des.nh.gov

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The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

May 3, 2021

The Honorable Kevin Avard
Chairman, Energy and Natural Resources Committee
State House, Senate Chamber
Concord, NH 03301

RE: HB 235, AN ACT addressing impacts to other water users from new sources of water for community water systems

Amendment 2021-1218s: Relative to the PFAS fund and programs

Dear Chairman Avard and Members of the Committee:

Thank you for the opportunity to testify on proposed amendment 2021-1218s to HB 235. This amendment would repeal and re-enact RSA 485-H:3 to make municipalities eligible for the low interest loan program that is currently available to community water systems impacted by PFAS contamination. The amendment also makes other clarifications to RSA 485-F and 485-H.

NHDES has requested and supports this amendment because it provides vital assistance to municipalities that are struggling to address PFAS contamination in private drinking water wells in their communities, and will clarify the administration of the PFAS Remediation Loan Fund. The Fund was established by the legislature during the 2020 session in order to provide low interest financing to community water systems. This amendment will also make municipalities that do not currently operate water systems eligible to obtain financing in order to address PFAS contamination in their communities.

Thank you again for the opportunity to testify in support of proposed amendment 2021-1218s. Should you have questions, please feel free to contact either Mike Wimsatt, Waste Management Division Director, at michael.j.wimsatt@des.nh.gov or (603) 271-1997 or Amy Rousseau, PFAS Response Administrator at amy.e.rousseau@des.nh.gov or (603) 848-1372.

Sincerely,

Robert R. Scott
Commissioner

cc: Sponsors of HB 235: Representatives Pearson, Guthrie, Green, Welch, Hobson, Weyler, Salloway, and Senator Birdsell. Sponsor of Amendment 2021-1218s: Senators Watters and Morse

Voting Sheets

Senate Energy & Natural Resources Committee

EXECUTIVE SESSION RECORD

2021-2022 Session

Bill # **HB 235**

Hearing Date: 05/03/2021

Executive Session Date: 05/03/2021

Motion of: Amendment 1218s w/changes Vote: 4-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: OTPA Vote: 4-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<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. Avard, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<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"/>
Sen. Watters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<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"/>
Sen. Watters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Watters

Notes: Committee amendment changes language on lines 9-11 on amendment 2021-1218s.

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Monday, May 3, 2021

THE COMMITTEE ON Energy and Natural Resources

to which was referred **HB 235**

AN ACT

addressing impacts to other water users from new
sources of water for community water systems.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 4-0

AMENDMENT # 1333s

Senator David Watters
For the Committee

Griffin Roberge 271-3042

ENERGY AND NATURAL RESOURCES

HB 235, addressing impacts to other water users from new sources of water for community water systems.

Ought to Pass with Amendment, Vote 4-0.

Senator David Watters for the committee.

Docket of HB235

Docket Abbreviations

Bill Title: (Second New Title) addressing impacts to other water users from new sources of water for community water systems and relative to the PFAS fund and programs.

Official Docket of HB235.:

Date	Body	Description
1/9/2021	H	Introduced (in recess of) 01/06/2021 and referred to Resources, Recreation and Development HJ 2 P. 40
1/27/2021	H	Public Hearing: 02/03/2021 10:00 am Members of the public may attend using the following link To join the webinar: https://www.zoom.us/j/92220129569 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
3/10/2021	H	Committee Report: Ought to Pass with Amendment #2021-0580h (Vote 21-0; CC) HC 18 P. 22
4/7/2021	H	Amendment #2021-0580h : AA VV 04/07/2021 HJ 5 P. 45
4/7/2021	H	Ought to Pass with Amendment 2021-0580h: MA VV 04/07/2021 HJ 5 P. 45
4/7/2021	H	Reconsider (Rep. Osborne): MF VV 04/07/2021 HJ 5 P. 50
4/7/2021	S	Introduced 04/01/2021 and Referred to Energy and Natural Resources; SJ 11
4/28/2021	S	Remote Hearing : 05/03/2021, 01:00 pm; Links to join the hearing can be found in the Senate Calendar; SC 22
4/28/2021	S	Remote Hearing : 05/03/2021, 01:15 pm, on proposed amendment #2021-1218s ; Links to join the hearing can be found in the Senate Calendar; SC 22
5/6/2021	S	Committee Report: Ought to Pass with Amendment #2021-1333s , 05/13/2021; SC 23
5/13/2021	S	Committee Amendment #2021-1333s , AA, VV; 05/13/2021; SJ 15
5/13/2021	S	Ought to Pass with Amendment 2021-1333s, MA, VV; OT3rdg; 05/13/2021; SJ 15
6/7/2021	H	House Non-Concurs with Senate Amendment 2021-1333s and Requests CofC (Reps. Renzullo, Suzanne Smith, Gunski, Healey): MA VV 06/04/2021 HJ 9 P. 51
6/10/2021	S	Sen. Avard Accedes to House Request for Committee of Conference, MA, VV; 06/10/2021; SJ 19
6/10/2021	S	President Appoints: Senators Avard, Gray, Watters; 06/10/2021; SJ 19
6/15/2021	H	Conference Committee Meeting: 06/15/2021 02:00 pm LOB 201-203
6/17/2021	S	Conference Committee Report Filed, #2021-1997c ; 06/24/2021
6/24/2021	S	Conference Committee Report #2021-1997c , Adopted, VV; 06/24/2021; SJ 20
6/24/2021	H	Conference Committee Report 2021-1997c: Adopted, VV 06/24/2021
7/15/2021	S	Enrolled Adopted, VV, (In recess 06/24/2021); SJ 20
7/15/2021	H	Enrolled (in recess of) 06/24/2021
9/7/2021	H	Signed by Governor Sununu 08/24/2021; Chapter 222; Eff: 10/23/2021

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HB 235

Senate Committee: ENR

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

N/A 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):

- amendment # 12185 _____ - amendment # _____

- amendment # 1335 _____ - amendment # _____

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): 1997

_____ 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:

Committee Aide

Date

Senate Clerk's Office AK

June 15, 2021
2021-1997-CofC
08/04

1 Committee of Conference Report on HB 235, addressing impacts to other water users from new
2 sources of water for community water systems.

3

4 Recommendation:

5 That the House recede from its position of nonconcurrence with the Senate amendment, and

6 That the Senate recede from its position in adopting its amendment to the bill, and

7 That the Senate and House each pass the bill as amended by the House.

The signatures below attest to the authenticity of this Report on HB 235, addressing impacts to other water users from new sources of water for community water systems.

Conferees on the Part of the Senate

Conferees on the Part of the House

Sen. Avard, Dist. 12

Rep. Renzullo, Hills. 37

Sen. Gray, Dist. 6

Rep. Suzanne Smith, Graf. 8

Sen. Watters, Dist. 4

Rep. Gunski, Hills. 6

Rep. Healey, Hills. 21