

Floor Amendment to HB 271

1 Amend the bill by inserting after section 3 the following and renumbering the original section 4 to  
2 read as 7:

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5 repealed and reenacted to read as follows:

6 485-H:3 Implementation of Drinking Water Protection Program.

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

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

16 III. The department shall adopt rules, and include conditions in loan and grant documents,  
17 to ensure that the applicant has made and will make reasonable efforts to obtain and use funds from  
18 any potentially liable third party prior to and after taking a loan from the PFAS loan fund or  
19 receiving a grant, and that any money received from a potentially liable third party after the loan is  
20 provided is applied to early repayment of such loan to the extent reasonable. In addition, the  
21 department shall adopt rules establishing criteria to ensure that an applicant shall not be eligible for  
22 loans or grants for any project or portion of a project to the extent the negligence of the applicant  
23 caused the contamination that resulted in the exceedance of a PFAS drinking water standard.

24 IV. If the department forgives any part of a loan or provides a grant related to costs for a  
25 project for which a third party might otherwise be liable, the right to recover payment from such  
26 third party shall be subrogated to the department to the extent of such forgiveness or grant. Any  
27 money recovered by the department from such third party shall be deposited in the PFAS loan fund.

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

31 485-H:4 Implementation of Groundwater, Surface Water and Aquatic Life Protection.

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

4 II. The department shall provide the loans and grants described in paragraph I if the  
5 applicant demonstrates, and the department agrees, that the project is the most cost-effective way to  
6 meet applicable PFAS standards and if the project meets the other provisions of this chapter and  
7 department rules adopted pursuant to this chapter. The applicant shall provide evidence in the  
8 application for funding that there is not a more cost-effective way to meet applicable PFAS  
9 standards.

10 III. The department shall adopt rules, and include conditions in loan and grant documents,  
11 to ensure that the applicant has made reasonable efforts to obtain and use funds from any liable or  
12 potentially liable third party prior to and after taking a loan from the PFAS loan fund or receiving a  
13 grant, and that any money received from a liable or potentially liable third party at a later time is  
14 applied to early repayment of the loan from the PFAS loan fund to the extent reasonable. In  
15 addition, the department shall adopt rules establishing criteria to ensure that an applicant shall not  
16 be eligible for loans or grants for any project or portion of a project to the extent the negligence of the  
17 applicant caused the contamination that resulted in the exceedance of an applicable PFAS standard.

18 IV. If the department forgives any part of a loan or provides a grant related to costs for a  
19 project for which a third party might otherwise be liable, the right to recover payment from such  
20 third party shall be subrogated to the department to the extent of such forgiveness. Any money  
21 recovered by the department from such third party shall be deposited in the PFAS loan fund.

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

25 5 Duties of the Department; Remediation Loan Forgiveness Program. Amend RSA 485-H:8 to  
26 read as follows:

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 **and grant** program to  
30 assist 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:

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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 6 New Section; Grants. Amend RSA 485-H by inserting after section 10 the following new  
16 section:

17 485-H:11 Grants. The department, to the limit of available federal funds deposited into the  
18 fund from the American Rescue Plan Act of 2021, Public Law 117-2, shall provide grants to entities  
19 meeting the eligibility requirements of RSA 485-H:3 and RSA 485-H:4 for up to 100 percent of the  
20 total eligible cost of the project.

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2021-1780s

AMENDED ANALYSIS

This bill directs the department of environmental services to set maximum contaminant limits for per and polyfluoroalkyl substances (PFAS).

This bill also enables the department of environmental services to make grants to eligible municipalities and drinking water and wastewater systems to address PFAS contamination.