HB 1649-FN - AS AMENDED BY THE SENATE

22Feb2024... 0352h
11Apr2024... 1086h
05/15/2024 1899s
05/23/2024 2114s
05/23/2024 2193s
05/23/2024 2149s

2024 SESSION

24-2805
08/02

HOUSE BILL ***1649-FN***

AN ACT relative to prohibiting certain products with intentionally added PFAS and relative to civil actions for PFAS contamination, and relative to settlement of lawsuits against manufacturers of PFAS for impacts to public drinking water systems.

SPONSORS: Rep. Ebel, Merr. 7; Rep. Simpson, Rock. 33; Rep. Spier, Hills. 6; Rep. Rung, Hills. 12; Rep. B. Boyd, Hills. 12; Rep. Mooney, Hills. 12; Rep. Dunn, Rock. 16; Rep. J. Sullivan, Graf. 2; Rep. N. Murphy, Hills. 12; Rep. W. Thomas, Hills. 12; Sen. Ricciardi, Dist 9; Sen. Chandley, Dist 11; Sen. Watters, Dist 4; Sen. Prentiss, Dist 5; Sen. Avard, Dist 12

COMMITTEE: Commerce and Consumer Affairs

AMENDED ANALYSIS

This bill restricts the use of per and polyfluoroalkyl substances in certain consumer products sold in New Hampshire. The bill also makes appropriations to the department of environmental services to fund an additional position and to fund the PFAS products control program. The bill further provides that funds received by the state in settlement of PFAS litigation will be deposited in the drinking water and groundwater trust fund and used to provide grants and loans to public water systems whose water sources have been impacted by PFAS above applicable standards.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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24-2805
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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT relative to prohibiting certain products with intentionally added PFAS and relative to civil actions for PFAS contamination, and relative to settlement of lawsuits against manufacturers of PFAS for impacts to public drinking water systems.

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

1 New Section; Consumer Protection; Per and Polyfluoroalkyl Substance Use Restricted. Amend RSA 149-M by inserting after section 63 the following new section:

149-M:64 Consumer Products; Per and Polyfluoroalkyl Substance Use Restricted.

I. In this section:

(a) "Adult mattress" means a mattress other than a crib mattress or toddler mattress.

(b) "Carpet or rug" means a fabric product marketed or intended for use as a floor covering in households or businesses.

(c) "Chemical" means a substance with a distinct molecular composition or a group of structurally related substances and includes the breakdown products of the substance or substances that form through decomposition, degradation, or metabolism.

(d) "Consumer product" means any tangible personal property which is distributed in commerce and which is normally used for personal, family, or household purposes. "Consumer products" includes product categories that are normally used by households, but designed for or sold to businesses, such as commercial carpets or commercial floor waxes.

(e) "Cosmetic" means an article for retail sale or professional use intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance.

(f) "Department" means the department of environmental services.

(g) "Distributor" has the same meaning as RSA 149-M:33, II.

(h) "Feminine hygiene product" means a product used to collect menstruation and vaginal discharge, including tampons, pads, sponges, menstruation underwear, disks, applicators, and menstrual cups, whether disposable or reusable.

(i) "Food packaging and containers"' means a container applied to or providing a means to market, protect, handle, deliver, serve, contain, or store a food or beverage. Food packaging includes: (1) a unit package, an intermediate package, and a shipping container; (2) unsealed

receptacles, such as carrying cases, crates, cups, plates, bowls, pails, rigid foil and other trays, wrappers and wrapping films, bags, and tubs; and (3) an individual assembled part of a food package, such as any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coatings, closures, inks, and labels.

(j) "Intentionally added PFAS" means PFAS that a manufacturer has intentionally added to a product or product component and that have a functional or technical effect in the product or product component, including PFAs components of intentionally added chemicals and PFAS that are intentional breakdown products of an added chemical that also have a functional or technical effect in the product.

(k) "Juvenile product" means any product designed or marketed for use by infants and children under 12 years of age:

(1) Including, but not limited to a baby or toddler foam pillow, bassinet, bedside sleeper, booster seat, changing pad, child restraint system for use in motor vehicles and aircraft, co-sleeper, crib mattress, highchair, highchair pad, infant bouncer, infant carrier, infant seat, infant sleep positioner, infant swing, infant travel bed, infant walker, nap cot, nursing pad, nursing pillow, playmat, playpen, play-yard, polyurethane foam mat, pad or pillow, portable form nap mat, portable infant sleeper, portable hook-on chair, soft-sided portable crib, stroller, and toddler mattress, and

(2) Not including children's electronic products, such as a personal computer, audio and video equipment, calculator, wireless phone, game console, hand held device incorporating a video screen, or any associated peripheral such as a mouse, keyboard, power supply unit or power cord, a medical device, or an adult mattress.

(l) "Manufacturer" means any person, firm, association, partnership, corporation, organization, combination, or joint venture, which produces a PFAS-added product, or an importer or domestic distributor of a PFAS-added product, which is produced in a foreign country. In the case of a multi-component PFAS-added product, the manufacturer is the last manufacturer to produce or assemble the product. If the multi-component product is produced in a foreign country, the manufacturer is the importer or domestic distributor.

(m) "Medical device" has the meaning given "device" under 21 U.S.C. section 321(h).

(n) Perfluoroalkyl and polyfluoroalkyl substances or "PFAS" means "PFAS" as defined in 40 C.F.R. 705.3.

(o) "PFAS-added consumer product" means:

(1) A product, commodity, chemical, or product component that was manufactured after the effective date of this section;

(2) That contains PFAS intentionally added to the product, commodity, chemical, or product component; and

(3) Is a consumer product. These products include formulated PFAS-added products, and fabricated PFAS-added products.

(p) "PFAS-added product" means:

(1) A product, including a PFAS-added consumer product, commodity, chemical, or product component that was manufactured after the effective date of this section; and

(2) That contains PFAS intentionally added to the product, commodity, chemical, or product component.

(q) "Product" means an item manufactured, assembled, packaged, or otherwise prepared for sale to consumers, including its product components, sold, or distributed for personal, residential, commercial, or industrial use, including for use in making other products.

(r) "Product component" means an identifiable component of a product, regardless of whether the manufacturer of the product is the manufacturer of the component.

(s) "Supplier" has the same meaning as in RSA 149-M:33, X.

(t) "Upholstered furniture" means an article of furniture that is designed for sitting, resting, or reclining and is wholly or partly stuffed or filled with filling material.

(u) "Textile" means an item made in whole or part from a natural or synthetic fiber, yarn, or fabric. Textile includes but is not limited to leather, cotton, silk, jute, hemp, wool, viscose, nylon, and polyester.

(v) "Textile furnishings" means textile goods of a type customarily used in households and businesses, including but not limited to, draperies, floor coverings, furnishings, bedding, towels, and tablecloths. "Textile furnishings" does not include textiles used in medical or industrial settings.

(w) "Textile treatment" means a product intended to be applied to a textile to give or enhance one or more characteristics, including, but not limited to, stain resistance or water resistance. "Textile treatment" does not include textile dye.

II.(a) The following are exempt from the requirements of this section:

(1) The resale of products manufactured prior to the ban imposed by this section.

(2) A product for which federal law governs the presence of PFAS in the product in a manner that preempts state authority.

(3) Products regulated as drugs or medical devices by the United States Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321 et seq.

(4) Public water systems as defined by RSA 485:1-a, XV, wastewater treatment plants as defined by RSA 485-A:2, XVI-a, or a government-owned facility as the term facility is defined in RSA 149-M:4, IX.

(5) Products or substances approved as substitutes under the Significant New Alternatives Policy program of the United States Environmental Protection Agency, pursuant to section 612 of the amended Clean Air Act of 1990, 42 U.S.C. section 7671k, or substitutes needed to execute the American Innovation and Manufacturing Act, 42 U.S.C. section 7675 et seq. This exemption does not apply to PFAS-added products banned by this section.

(b) The following are exempt from the PFAS ban imposed by this section:

(1) Products made with at least 85 percent recycled content.

(2) Products manufactured prior to the ban imposed by this section.

(3) Replacement parts for products manufactured prior to the ban imposed by this section.

III.(a) The department is authorized to participate in the establishment and implementation of a multi-jurisdictional clearinghouse to assist in carrying out the requirements of this section and to help coordinate applications and reviews of the manufacturer obligations under the section. The clearinghouse may also maintain a database of all products containing PFAS, including PFAS-added products; a file on all exemptions granted by the participating jurisdictions; a file on alternative labeling plans; and a file of all the manufacturers' reports on the effectiveness of any PFAS-added product collection systems they may institute.

(b) Public disclosure of confidential business information submitted to the department pursuant to this section shall be governed by the requirements of the state's freedom of information act. Notwithstanding the requirements of the state's freedom of information act, the department may provide the interjurisdictional clearinghouse with copies of such information and the interjurisdictional clearinghouse may compile or publish analyses or summaries of such information provided that the analyses or summaries do not identify any manufacturer or reveal any confidential information. Clearinghouse members and employees shall be viewed as operating under a common interest and conversations among and between members or employees shall not violate any exception to any member jurisdiction's freedom of information act.

IV. Product Ban. On January 1, 2027, the following PFAS-added consumer products shall be prohibited from being sold, offered for sale, or distributed for sale or for promotional purposes in the state:

(a) Carpets or rugs.

(b) Cosmetics.

(c) Textile treatments.

(d) Feminine hygiene products.

(e) Food packaging and containers.

(f) Juvenile products.

(g) Upholstered furniture.

(h) Textile furnishings.

V.(a) Upon request by the department, a certificate of compliance, or copies thereof, stating that a product is in compliance with the requirements of this section shall be furnished by its manufacturer or supplier to the department.

(b) Where compliance is achieved under any jurisdiction exemptions provided in paragraph II, the certificate of compliance shall state the specific basis upon with the exemption is claimed.

(c) The certificate of compliance shall be signed by an authorized official of the manufacturer or supplier. The purchaser shall retain the certificate of compliance for as long as the produce is in use. A certificate of compliance shall be kept on file by the manufacturer or supplier. A manufacturer or supplier may make the certificate of compliance available on their company website or through an authorized representative of the company such as an interjurisdictional clearinghouse.

(d) If the manufacturer or supplier of a product reformulates or creates a new product, the manufacturer or supplier shall provide an amended or new certificate of compliance for such reformulated or new product to the department.

(e) Within 30 days of receipt of a request by the department under this section, the manufacturer or supplier shall:

(1) Provide the department with the certificate of compliance attesting that the product does not contain a chemical regulated under this act; or

(2) Notify persons who sell the product containing chemicals regulated under this section that the sale of the product is prohibited, and provide the department with a copy of the notice and a list of the names and addresses of those notified.

VI. The department may adopt, under RSA 541-A, any rules necessary for the implementation, administration, and enforcement of this section.

VII.(a) The department may enforce this section pursuant to its authority under RSA 149-M:38. The commissioner may coordinate with the commissioner of the department of health and human services in enforcing this section, if necessary.

(b) When requested by the department, a person shall furnish to the department any information that the person may have or may reasonably obtain that is relevant to show compliance with this section.

VIII. On or before January 1, 2026, and every 3 years thereafter, the department shall submit a report to the governor and the general court regarding implementation of this section, and other state and federal laws governing PFAS-added products. In preparation of the report, the department shall review the status of development of and state participation in a multi-jurisdictional clearinghouse pursuant to paragraph III of this section, as well as relevant data available thru the Environmental Protection Agency reporting requirements for PFAS use pursuant to the Toxic Substances Control Act Section 8(a)7. The report shall include a review of implementation costs for this section and any recommendations for legislative changes.

2 Department of Environmental Services; Position Established; Appropriation. There is hereby established in the department of environmental services, one full-time classified environmentalist IV position for the purposes of establishing rules, coordinating with the clearinghouse and manufacturers on technical implementation details, recommendations as to any related manufacturer fees and performing ongoing duties such as compliance assurance and enforcement as

outlined in this act. The sum necessary to pay the salary, benefits, and other costs related to the position established in this section is hereby appropriated to the department of environmental services for the biennium ending June 30, 2025. This appropriation shall be in addition to any other appropriations made to the department in the biennium. The governor is authorized to draw a warrant for said sum out of any money in treasury not otherwise appropriated. The funds appropriated for this position shall lapse on June 30, 2033.

3 Appropriation; Department of Environmental Services. The sum of $250,000 for the biennium ending June 30, 2025, is hereby appropriated to the department of environmental services to be deposited into the PFAS remediation fund established in RSA 485-H:10. Such funds shall be used exclusively for the use of the department to address expenses associated with the PFAS restrictions on consumer products under RSA 149-M:64. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

4 New Paragraph; Hazardous Waste Fund Cleanup. Amend RSA 147-B:2 by inserting after paragraph II-b the following new paragraph:

II-c. "Fully fluorinated carbon atom" means a carbon atom on which all of the hydrogen substituents have been replaced by flourine.

5 New Paragraphs; Hazardous Waste Fund Cleanup. Amend RSA 147-B:2 by inserting after paragraph VIII-i the following new paragraphs:

VIII-j. “PFAS” means all perfluoroalkyl and polyfluoroalkyl substances.

VIII-k. “Perfluoroalkyl substance” means a chemical of which all of the alkyl carbon atoms are fully fluorinated carbon atoms.

VIII-l. “Polyfluoroalkyl substance” means a chemical containing at least one fully fluorinated carbon atom and at least one carbon atom that is not a fully fluorinated carbon atom.

VIII-m. “PFAS facility" means any site, area, or location where PFAS is or has been used in a manufacturing process.

VIII-n. “Manufacturing process” means a process that turns raw materials into a finished product.

6 Strict Liability; Civil Action. Amend RSA 147-B:10, I(d) to read as follows:

(d) Accepts or accepted any hazardous waste or hazardous material for transport to disposal or treatment facilities or sites selected by such person, shall be strictly liable for all costs incurred by the state in responding to a release or threatened release of hazardous waste or hazardous material at or from the facility as specified in paragraph II ***and shall be strictly liable for containment, cleanup, restoration, or other remediation related to the release or threatened release of hazardous waste or hazardous material in accordance with applicable law and departmental rules***.

7 Strict Liability; Civil Action. Amend RSA 147-B:10, III(a) to read as follows:

(a) The attorney general may institute an action before the superior court for the county in which the facility is located against any person liable pursuant to paragraph I of this section to recover all costs incurred by the state ***or to require containment, cleanup, restoration, or other remediation in accordance with applicable law and departmental rules***. Costs recovered under this section shall be deposited into the fund except that costs recovered to offset expenditures made from the drinking water and groundwater trust fund established in RSA 6-D:1 shall be deposited into the drinking water and groundwater trust fund.

8 New Paragraph; Strict Liability; Civil Action; PFAS Facilities. Amend RSA 147-B:10 by inserting after paragraph VII the following new paragraph:

VIII. Any person who owns or operates a PFAS facility where a release or releases of PFAS at or from such PFAS facility have resulted in total combined concentrations in groundwater or surface water of 10,000 ng/l (parts per trillion) or greater of PFAS compounds for which ambient groundwater quality standards have been established pursuant to RSA 485-C, or who owned or operated a PFAS facility at the time of such a release or releases, shall be subject to the provisions of RSA 147-B:10 and RSA 147-B:10-a. However, any public water system as defined by RSA 485:1-a, XV, wastewater treatment plant as defined by RSA 485-A:2, XVI-a, or facility permitted pursuant to RSA 149-M:9 shall be exempt from the provisions of this paragraph. Nothing herein shall be interpreted to limit the applicability of RSA 147-B:10 or RSA 147-B:10-a to releases of PFAS otherwise subject to such sections.

9 New Paragraph; Definitions; Point of Entry Treatment. Amend RSA 485:1-a by inserting after paragraph XIV the following new paragraph:

XIV-a. "Point of entry treatment" or "POET" means a treatment device or system applied to the drinking water entering a house or building for the purpose of reducing contaminants in the drinking water distributed throughout the house or building.

10 New Paragraphs; Enforcement and Penalties; Provision of Safe Drinking Water. Amend RSA 485:58 by inserting after paragraph VII the following new paragraphs:

VIII. Notwithstanding RSA 507:7-e, I-III, and in addition to any other available remedies, where a property owner demonstrates by a preponderance of the evidence that contamination emanating from a PFAS facility subject to RSA 147-B:10, VIII caused contamination of the property owner's drinking water at a level at or above state or federal maximum contaminant levels, the owner or operator of such PFAS facility shall be jointly and severally liable for:

(a) The provision of safe drinking water to such property owner either in the form of a point-of-entry treatment system capable of treating such PFAS to non-detect levels or, if practicable, a connection to a public water system;

(b) If connection to a public water system is not practicable, the property owner shall also be entitled to the cost of all reasonable operation and maintenance costs needed to ensure that the POET treats such PFAS to non-detect levels; and,

(c) All other reasonable costs including attorneys' fees related to obtaining compliance with subparagraphs (a) and (b).

IX. A judgment pursuant to paragraph VIII requiring installation of a POET or connection to a public water system, along with associated costs, shall not preclude any other remedies including but not limited to a separate claim for personal injuries caused in whole or in part by the consumption of drinking water contaminated by PFAS.

11 PFAS Fund and Programs; Contingent Reimbursement. Amend RSA 485-H:6 to read as follows:

485-H:6 Contingent Reimbursement.

I. ***Except as provided in paragraph I-a,*** following the reimbursement of the department of justice for legal expenses related to relevant litigation; the transfer of funds to the revenue stabilization reserve account pursuant to RSA 7:6-e; the redemption of bonds issued or debt incurred pursuant to RSA 6:13-e, III(a); and reimbursement of the general fund for any debt principal or interest payments made to support bonds issued or debt incurred pursuant to RSA 6:13-e, III(a), any remaining funds from judgments or settlements received by the state resulting from lawsuits against the manufacturers of PFAS shall be deposited into the drinking water and groundwater trust fund established in RSA 6-D:1.

I-a. Following the reimbursement of the department of justice for legal expenses related to relevant litigation, any funds from judgments or settlements received by the state resulting from lawsuits against manufacturers of PFAS attributable to impacts to public drinking water systems shall be deposited directly into the drinking water and groundwater trust fund established in RSA 6-D:1. RSA 7:6-e and RSA 6:13-e, III, shall not apply to funds deposited pursuant to this paragraph. The New Hampshire drinking water and groundwater advisory commission shall ensure that an amount equivalent to the funds deposited pursuant to this paragraph is distributed through a combination of loans and grants to public water systems whose water sources have been impacted by PFAS contamination above applicable standards.

II. In addition to the loan forgiveness described in RSA 485-H:5, the department, upon certification by the state treasurer that funds from judgments or settlements have been received ***under paragraph I*** and used to redeem the bonds issued under RSA 6:13-e in full and the general fund has been reimbursed for all interest and principal payments charged against it to support said bond, shall grant partial loan forgiveness to the loan recipients, up to 50 percent of the loan principal.

(a) If insufficient funds are received by the state ***under paragraph I*** to cover 50 percent of the principal, the reimbursements shall be prorated. In no instance shall the loan reimbursement exceed 50 percent of the total loan amount, unless it received loan forgiveness under RSA 485-H:5, in which case the combined maximum shall be 60 percent.

(b) In the event a loan recipient receives compensation from a responsible party, the department shall not grant partial loan forgiveness that in combination with any compensation would exceed 100 percent of the total cost of the remediation.

12 State Treasurer; Authority to Borrow; Certain Environmental Projects. Amend RSA 6:13-e, III to read as follows:

III. Payment of principal and interest on the borrowing authorized under paragraph I shall be paid when due from general fund revenue; provided, however, that pursuant to RSA 485-H:6, I, any borrowing under paragraph I shall be paid at or prior to maturity from any available funds derived from lawsuits against the manufacturers of PFAS, after reimbursement to the department of justice for legal expenses related to the litigation and the transfer of funds to the revenue stabilization reserve account pursuant to RSA 7:6-e. ***This paragraph shall not apply to any funds from judgments or settlements received by the state resulting from lawsuits against manufacturers of PFAS for impacts to public drinking water systems.***

13 Rulemaking; Department of Environmental Services Exempt. Notwithstanding any provisions of law to the contrary, for the biennium ending June 30, 2025, the department of environmental services' PFAS removal rebate program for private wells authorized pursuant to RSA 485-H:3, II-a shall not be subject to any rulemaking requirements contained in RSA 485-H and RSA 541-A.

14 Effective Date.

I. Sections 7-10 of this act shall take effect 60 days after its passage.

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

LBA
24-2805
Amended 5/29/24

HB 1649-FN- FISCAL NOTE

AS AMENDED BY THE SENATE (AMENDMENTS #2024-2114s, #2024-2149s, and #2024-2193s)

AN ACT relative to prohibiting certain products with intentionally added PFAS and relative to civil actions for PFAS contamination, and relative to settlement of lawsuits against manufacturers of PFAS for impacts to public drinking water systems.

FISCAL IMPACT: [X] State [ ] County [X] Local [ ] None

Estimated State Impact - Increase / (Decrease)				
	FY 2024	**FY 2025**	**FY 2026**	**FY 2027**
Revenue	$0	$0	$0	$0
Revenue Fund(s)	General Fund Drinking Water and Groundwater Trust Fund			
Expenditures	$0	In Excess of $114,000	In Excess of $180,000	In Excess of $184,000
Funding Source(s)	General Fund Drinking Water and Groundwater Trust Fund and PFAS Remediation Fund			
Appropriations	$0	Approximately $307,000	$0	$0
Funding Source(s)	General Fund			

- Does this bill provide sufficient funding to cover estimated expenditures? [X] Yes
- Does this bill authorize new positions to implement this bill? [X] Yes

Estimated Political Subdivision Impact - Increase / (Decrease)				
	FY 2024	**FY 2025**	**FY 2026**	**FY 2027**
County Revenue	$0	$0	$0	$0
County Expenditures	$0	$0	$0	$0
Local Revenue	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Local Expenditures	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

Sections 1 and 3 of this bill restricts the use of per and polyfluoroalkyl substances in certain consumer products sold in New Hampshire. The bill establishes a role for the Department of Environmental Services in the implementation, administration, and enforcement of restrictions on PFAS in consumer products specified in a proposed new section of RSA 149-M. The implementation may include participation in establishment of a multi-jurisdictional clearinghouse to assist in carrying out the requirements proposed in RSA 149-M:64. The cost of

membership in a clearinghouse is estimated to be at least $7,000 per year based on current membership rates for the Interstate Chemicals Clearinghouse, which operates in a similar fashion. Actual membership costs may be higher due to the relatively broad scope and complexity of the requirements of the bill. The bill provides that the Department may establish rules to address these requirements. The bill makes an appropriation to the Department for the biennium ending June 30, 2025 to fund an Environmentalist IV position to establish rules, coordinate with manufacturers on technical implementation details, and to make recommendations regarding manufacturer fees and ongoing compliance and enforcement. It is assumed that any recommended fees would not be established within the biennium ending June 30, 2025, and may require new legislation. The bill makes an appropriation of $250,000 for the biennium ending June 30, 2025 to the PFAS remediation fund to be used by the department to address expenses associated with the PFAS restrictions on consumer products such as the costs associated with data collection, lab testing and analysis, third party assistance, educational material development and distribution, and participation in the multi-jurisdictional clearinghouse. The Department estimated the cost of the Environmentalist IV position would be as follows:

	FY 2025*	FY 2026	FY 2027
Environmentalist IV Salary, LG 27, Step 1	$31,914	$66,478	$70,681
Benefits	$18,100	$36,770	$37,674
Total Salary & Benefits	$50,014	$103,248	$108,355
Other Expenses (Equipment, Office space, DoIT support etc.)	$6,551	$19,447	$17,944
Total Cost	$56,565	$122,695	$126,299
Total Position Cost (Rounded)	$57,000	$123,000	$127,000

* The Department assumes a start date of January 1, 2025 for the Environmentalist IV Position.

The Department indicates the costs associated with data collection, lab testing, and analysis, third party assistance, and development and distribution of educational materials are indeterminable, but are estimated to range up to $50,000 per year. The Department does not anticipate any impact on revenues or expenditures to county or local governments.

Sections 4 through 10 of this bill creates a civil action for certain PFAS contamination. The Judicial Branch states it is not possible to estimate how this change in law would impact the number of filings in the courts. Because available civil actions are expanded, it is expected that litigation would increase. Common costs for civil cases include the following:

Average Costs in Superior Court	FY 2024	FY 2025

Complex Civil Case	$1,321	$1,347
Routine Civil Case	$494	$504
Superior Court Fees	As of 2/12/2020	
Original Entry Fee	$280	
Third-Party Claim	$280	
Motion to Reopen	$160	

The Department of Justice states this provision of the bill relates to a new private right of action for PFAS. The bill clarifies the authority of the State to bring actions to require remediation of hazardous waste to ensure that such authority applies not just to "facilities" as described in RSA 147-A but to any spiller of hazardous waste/materials as described in RSA 147-B:2. The Department indicates the bill would have no impact other than a possible savings in litigation costs as the State would not have to present arguments about this authority.

Sections 11 through 12 of this bill provides that after reimbursement to the Department of Justice for litigation expenses, any funds from judgments or settlements from lawsuits against manufacturers of PFAS attributable to impacts to public drinking water systems shall be deposited directly into the drinking water and groundwater trust fund established in RSA 6-D:1. The funds shall not be not be subject to fiscal committee approval or the requirement to deposit a portion in the rainy day fund (RSA 7:6-e and RSA 6:13-e). The Drinking Water and Groundwater Advisory Commission must ensure that an equivalent amount of funds is distributed through loans and grants to public water systems impacted by PFAS contamination above applicable standards. The fiscal impact of this requirement would be an indeterminable increase in judgment or settlement funds deposited in the drinking water and groundwater trust fund and an indeterminable decrease in judgment or settlement funds deposited in the general fund (rainy day fund pursuant to RSA 7:6-e.)

Section 13 of this bill exempts the Department of Environmental Services PFAS removal rebate program for private wells from the rulemaking requirements contained in RSA 485-H and RSA 541-A for the biennium ending June 30, 2025. This provision of the bill will have no direct fiscal impact.

AGENCIES CONTACTED:

Departments of Justice and Environmental Services, and Judicial Branch