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Date: (Filing No. S-)

HEALTH AND HUMAN SERVICES

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

STATE OF MAINE

SENATE

130TH LEGISLATURE

FIRST SPECIAL SESSION

COMMITTEE AMENDMENT “ ” to S.P. 64, L.D. 129, “Resolve, To Protect Consumers of Public Drinking Water by Establishing Maximum Contaminant Levels for Certain Substances and Contaminants”

Amend the resolve by striking out everything after the title and inserting the following:

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

Whereas, perfluoroalkyl and polyfluoroalkyl substances are being identified at alarming levels in well water across the State; and

Whereas, perfluoroalkyl and polyfluoroalkyl substances are increasingly associated with significant health concerns that have major consequences for the residents of this State; and

Whereas, there is currently no enforceable standard to require water systems to test and treat for perfluoroalkyl and polyfluoroalkyl substances; and

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

Sec. 1. Definitions. Resolved: That, as used in this resolve, the following terms have the following meanings.

1. Community water system. "Community water system" has the same meaning as in the Maine Revised Statutes, Title 22, section 2660-B, subsection 2.

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1 **2. Department.** "Department" means the Department of Health and Human Services.

2 **3. Nontransient, noncommunity water system.** "Nontransient, noncommunity water
3 system" means a nontransient, noncommunity water system described in the Maine
4 Revised Statutes, Title 22, section 2660-B, subsection 5, paragraph A that is a school or
5 child care facility regulated as a nontransient, noncommunity water system under the
6 federal Safe Drinking Water Act.

7 **4. Perfluoroalkyl and polyfluoroalkyl substances.** "Perfluoroalkyl and
8 polyfluoroalkyl substances" or "PFAS" means a perfluoroalkyl substance or
9 polyfluoroalkyl substance that is detectable in drinking water using standard analytical
10 methods established by the United States Environmental Protection Agency, including
11 regulated PFAS contaminants.

12 **5. Regulated PFAS contaminants.** "Regulated PFAS contaminants" means
13 perfluorooctanoic acid, perfluorooctane sulfonic acid, perfluorohexane sulfonic acid,
14 perfluorononanoic acid, perfluoroheptanoic acid and perfluorodecanoic acid.

15 **Sec. 2. Interim drinking water standard and testing requirements for**
16 **perfluoroalkyl and polyfluoroalkyl substances. Resolved:** That community water
17 systems and nontransient, noncommunity water systems shall comply with the provisions
18 of this section.

19 **1. Initial monitoring.** On or before December 31, 2022, all community water systems
20 and nontransient, noncommunity water systems shall conduct monitoring for the level of
21 PFAS detectable using standard laboratory methods established by the United States
22 Environmental Protection Agency in effect at the time of sampling. Monitoring under this
23 subsection must be conducted for all regulated PFAS contaminants and additional PFAS
24 included in the list of analytes in the standard laboratory methods established by the United
25 States Environmental Protection Agency in effect at the time of sampling.

26 **2. Subsequent monitoring.** After completion of initial monitoring under subsection
27 1, a community water system or a nontransient, noncommunity water system shall conduct
28 continued monitoring for the presence of regulated PFAS contaminants in drinking water
29 supplied by the water system as follows until the adoption of rules required under section
30 3.

31 A. If initial monitoring under subsection 1 detects the presence of any regulated PFAS
32 contaminants individually or in combination at or above 20 nanograms per liter, the
33 community water system or nontransient, noncommunity water system shall conduct
34 continued quarterly monitoring until regulated PFAS contaminants are mitigated as
35 described in subsection 4.

36 B. If initial monitoring under subsection 1 detects the presence of any regulated PFAS
37 contaminants at or above each analyte's lowest concentration minimum reporting level
38 as specified in the standard laboratory methods established by the United States
39 Environmental Protection Agency in effect at the time of sampling and the level is
40 below 20 nanograms per liter, either individually or in combination with other detected
41 regulated PFAS contaminants, the community water system or nontransient,
42 noncommunity water system shall conduct continued monitoring annually.

43 **3. Reporting.** Monitoring results must be reported to the department in accordance
44 with 10-144 C.M.R. Chapter 231, Section 6.

1 **4. Treatment; notice.** If monitoring results under subsection 1 or 2 confirm the
2 presence of any regulated PFAS contaminants individually or in combination in excess of
3 20 nanograms per liter, the department shall:

4 A. Direct the community water system or nontransient, noncommunity water system
5 to implement treatment or other remedies to reduce the combined levels of regulated
6 PFAS contaminants in the drinking water of the water system below 20 nanograms per
7 liter; and

8 B. Direct the community water system or nontransient, noncommunity water system
9 to issue a notice to all users of the water system to inform them of the detected PFAS
10 concentration and potential risk to public health until the treatment under paragraph A
11 is completed.

12 **5. Enforcement.** The department may enforce the requirements of this section under
13 the Maine Revised Statutes, Title 22, chapter 601, subchapter 2. A person may appeal the
14 acts or decisions of the department under this section in accordance with Title 22, chapter
15 601, subchapter 2-A.

16 **Sec. 3. Maximum contaminant level for perfluoroalkyl and polyfluoroalkyl**
17 **substances. Resolved:** That the department shall adopt a maximum contaminant level
18 for perfluoroalkyl and polyfluoroalkyl substances in accordance with this section. Rules
19 adopted pursuant to this section are routine technical rules as defined in the Maine Revised
20 Statutes, Title 5, chapter 375, subchapter 2-A.

21 **1. Advance notice of proposed rulemaking.** On or before August 1, 2023, the
22 department shall initiate a public notice and comment process for potential rulemaking by
23 publishing an advance notice of proposed rulemaking regarding the department's regulation
24 of regulated PFAS contaminants.

25 **2. Proposed rule.** On or before December 31, 2023, the department shall file a
26 proposed rule with the Secretary of State establishing a maximum contaminant level for
27 regulated PFAS contaminants and monitoring requirements for community water systems
28 and nontransient, noncommunity water systems.

29 **3. Final rule.** On or before June 1, 2024, the department shall file a final rule with the
30 Secretary of State regarding the regulation of regulated PFAS contaminants. The
31 department may adopt federal regulatory requirements established by the United States
32 Environmental Protection Agency, including maximum contaminant levels for regulated
33 PFAS contaminants, if the new federal requirements are the same as or more restrictive
34 than the interim drinking water standards described in section 2. The department shall
35 submit a report to the joint standing committee of the Legislature having jurisdiction over
36 health and human services matters upon adoption of the final rule that includes information
37 about the final rule, including but not limited to the maximum contaminant levels adopted.
38 The joint standing committee of the Legislature having jurisdiction over health and human
39 services matters may report out legislation relating to the report.

40 **Sec. 4. Repeal of interim drinking water standard and testing**
41 **requirements. Resolved:** That the interim drinking water monitoring requirements for
42 PFAS and regulated PFAS contaminants under section 2 are repealed on the effective date
43 of the rules required under section 3.

1 **Sec. 5. Report by the Department of Health and Human Services.**
2 **Resolved:** That, beginning January 1, 2022 and annually thereafter until the rules pursuant
3 to section 3, subsection 3 are finally adopted, the Department of Health and Human
4 Services shall report to the joint standing committee of the Legislature having jurisdiction
5 over health and human services matters on the number of water systems tested, what levels
6 of perfluoroalkyl and polyfluoroalkyl substances were indicated upon testing and the status
7 of the rule-making process under this resolve. The joint standing committee of the
8 Legislature having jurisdiction over health and human services matters may report out
9 legislation relating to each report.

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

12 Amend the resolve by relettering or renumbering any nonconsecutive Part letter or
13 section number to read consecutively.

14 **SUMMARY**

15 This amendment, which is the unanimous report of the committee, amends the resolve
16 to accomplish the following.

- 17 1. It adds a mandate preamble.
- 18 2. It adds an emergency preamble and emergency clause.
- 19 3. It sets the interim drinking water standard for the regulated perfluoroalkyl and
20 polyfluoroalkyl substances at 20 nanograms per liter instead of 70 parts per trillion.
- 21 4. It adds a requirement that the Department of Health and Human Services regulate
22 perfluorodecanoic acid in addition to the 5 perfluoroalkyl and polyfluoroalkyl substances
23 provided for in the resolve.
- 24 5. It clarifies that rules adopted by the Department of Health and Human Services
25 related to the regulation of perfluoroalkyl and polyfluoroalkyl substances are routine
26 technical rules.
- 27 6. It requires the Department of Health and Human Services to report to the joint
28 standing committee of the Legislature having jurisdiction over health and human services
29 matters upon the adoption of final rules regulating perfluoroalkyl and polyfluoroalkyl
30 substances and annually beginning January 1, 2022 until the rules are finally adopted. It
31 also authorizes the committee to report out legislation related to each report.

32 **FISCAL NOTE REQUIRED**

33 **(See attached)**

COMMITTEE AMENDMENT