Manager’s Amendment to NDAA: Combatting PFAS Contamination
Led by Senators Carper, Barrasso, Capito, Gillibrand, Sullivan, Shaheen

Per- and Polyfluoroalkyl Substances (PFAS) are a class of man-made chemicals that include PFOA, PFOS and GenX. Developed in the 1940s, PFAS can be found across industries and in many products, including food packaging, nonstick pans, carpeting and military-grade firefighting foam.

These are highly persistent chemicals that have become ubiquitous in our environment, contaminating drinking water sources in communities across the country. It’s estimated that 99 percent of Americans have some level of PFAS in their bloodstream. All the while, these chemicals have been linked to adverse health impacts like cancer, liver damage, thyroid disease, decreased fertility and hormone suppression.

Many communities with PFAS contamination are located near Department of Defense installations where firefighting foams were used. Some have been forced to act on their own to clean up and mitigate the impacts of PFAS contamination.

The “PFAS Action Plan” released by EPA in February 2019 was riddled with delays, inaction and, at best, aspirational deadlines that failed to address the urgency of this nationwide problem. The Manager’s Amendment to NDAA contains several pieces of bipartisan legislation that have been introduced to address PFAS contamination.

Measures included in this amendment:

1. **Protect Drinking Water from PFAS Act of 2019** *(S. 1473)*: Led by Senators Gillibrand and Capito, the amendment would direct EPA to set an enforceable, nationwide drinking water standard under the Safe Drinking Water Act for PFOA and PFOS within two years of enactment. The amendment also requires additional PFAS chemicals to be regulated over time, and adds new drinking water monitoring requirements for PFAS.

2. **PFAS Release Disclosure Act** *(S. 1507)*: Led by Senators Capito, Gillibrand and Carper, this portion of the amendment would require public disclosure, as part of Toxic Release Inventory (TRI) annual reports, when environmental releases of about 200 PFAS chemicals occur – including PFOS and PFOA. The TRI serves as a centralized database of releases or waste processing of toxic chemicals by industrial and federal facilities.

3. **Safe Drinking Water Assistance Act** *(S. 1251)*: Led by Senators Shaheen and Portman, this section of the amendment would improve federal efforts to identify the public health impacts of emerging contaminants such as PFAS. Among other elements, it would direct EPA and HHS to convene a working group to improve Federal efforts to identify and respond to these contaminants, and establish and maintain a comprehensive database of resources to assist states and stakeholders with testing for contaminants.
4. **The PFAS Detection Act (S. 950):** Led by Senators Stabenow and Rounds, this section of the amendment would invest $45 million in authorizing the U.S. Geological Survey to develop advanced testing methods capable of detecting PFAS, and conduct nationwide sampling for these chemicals - focusing first on areas near drinking water with known or suspected PFAS contamination.

5. **Encouragement for the signing of cooperative cleanup agreements:** Portions of the PFAS Accountability Act (S. 1372) led by Senator Stabenow and Rubio that are included in the NDAA base text as reported by Senate Armed Services urge the Department of Defense (DOD) to work quickly towards finalizing standard cooperative agreements that may be requested by states to fund testing, monitoring, removal, and remedial actions of PFAS from federal sites. The Manager’s Amendment includes the bill’s grant provisions that enable the federal government to issue grants to states, local communities and tribes to take actions to address waters contaminated by PFAS.

6. **Drinking Water Grants:** The amendment includes an additional $100 million per year of grant funding over five years to address PFAS contamination, with 25% being set aside for small and disadvantaged communities.

7. **PFAS Research:** The amendment authorizes $15 million/year for EPA to conduct research on PFAS, including evaluating the toxicity of specific PFAS and developing new ways to monitor and detect the chemicals.

8. **Updates to TSCA to Address PFAS:** The amendment includes a requirement for EPA to take final action on the Significant New Use Rule (SNUR) proposed in 2015 under TSCA to restrict the manufacture of certain long-chain PFAS chemicals.

9. **PFAS Disposal Guidance:** The amendment includes a provision that requires EPA to publish interim guidance within one year on the destruction and disposal of PFAS chemicals and materials containing these contaminants.

10. **Reporting of PFAS Data:** The amendment requires EPA to promulgate a rule no later than January 1, 2023 that requires companies that manufactured PFAS chemicals after 2006 to report to EPA information such as: the common or trade name, molecular structure, environmental and health effects.

### IMPORTANT: PFAS and Superfund

Please note this amendment does not include language from the PFAS Action Act of 2019 (S. 638), which would designate PFAS as hazardous substances eligible for cleanup under EPA’s Superfund law. This action would trigger cleanups at contaminated sites across the country and assign liability to polluters. Introduced on March 1, 2019 and reviewed in an EPW hearing on May 22, this bill is led by Senator Carper and has 32 cosponsors, including six Republicans. Efforts are ongoing to include a compromise version of this legislation in NDAA.