

Congress of the United States

Washington, DC 20510

March 19, 2024

The Honorable Tom Vilsack
Secretary
Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

Dear Secretary Vilsack,

We write today to urge you to review and approve as expeditiously as possible the State of New Hampshire's request for a determination that the State's per- and polyfluoroalkyl substances (PFAS) Rebate Program payments meet the criteria for Section 126 tax exemption.

Nearly half of New Hampshire residents get their water supply at home from private wells. PFAS have increasingly been discovered in wells across New Hampshire and these "forever chemicals" in the water supply pose a significant risk to people's health and well-being. We applaud the New Hampshire Department of Environmental Services (NH DES) for launching a PFAS Removal Rebate Program¹ that helps ensure the cost of treatment for a well is not a barrier to cleaner water. Programs like the PFAS Rebate Program are imperative to ensure clean drinking water is accessible to everyone.

Since launching in 2022, the PFAS rebate program has provided families with reimbursement for up to \$5,000 for the installation of a PFAS treatment system or up to \$10,000 to connect to a public water system. NH DES has issued hundreds of rebates to constituents whose wells were contaminated. Ultimately, these rebates were issued to restore residents' access to a basic human right – the clean drinking water that was in place before PFAS contamination.

Households that utilized New Hampshire's rebate program to protect their water supply from these harmful "forever chemicals" spent their own money and then later received a rebate from the state of New Hampshire. They were later informed the state's payment could be considered taxable income by the Internal Revenue Service; in this case, the payments were categorized as "state grants", and individuals received 1099-G forms reporting the income.

Rebate recipients and clean water advocates have expressed confusion and concern that individuals may have to pay income tax on reimbursements for their out-of-pocket costs to address drinking water contamination. We are concerned that access to clean, safe drinking water could be negatively impacted if recipients are prevented from accessing the full financial assistance offered by the rebates. As the Environmental Protection Agency finalizes national drinking water standards for PFAS, more of our constituents may learn about and take advantage of the PFAS Rebate Program.² The current tax treatment of these payments risks limiting future

¹ <https://www.pfas.des.nh.gov/funding/pfas-removal-rebate-program-private-wells>

² <https://www.epa.gov/sdwa/and-polyfluoroalkyl-substances-pfas>

participants' access to clean drinking water and jeopardizing the health of even more New Hampshire families.

Under Section 126 of the Internal Revenue Code³ certain payments made to persons under conservation programs may be excluded from gross income after a determination by the Secretary of Agriculture, which the state of New Hampshire has requested. We are confident that New Hampshire's PFAS Rebate Program meets the Section 126 criteria as this program primarily serves to conserve water resources and restore the environment.

We urge you to approve the state's request for this determination as soon as possible and appreciate your attention to this critical issue. We look forward to your prompt response.

Sincerely,



Jeanne Shaheen
United States Senator



Chris Pappas
Member of Congress

³ 26 U.S.C. § 126