

AMENDMENT NO. _____ Calendar No. _____

Purpose: To require the Secretary of the Air Force to make payments to States for the treatment of perfluorooctane sulfonic acid and perfluorooctanoic acid in drinking water.

IN THE SENATE OF THE UNITED STATES—116th Cong., 1st Sess.

S. 1790

To authorize appropriations for fiscal year 2020 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. BENNET

Viz:

1 At the end of subtitle B of title III, add the following:

2 **SEC. 324. PAYMENTS TO STATES FOR THE TREATMENT OF**

3 **PERFLUOROOCTANE SULFONIC ACID AND**

4 **PERFLUOROOCTANOIC ACID IN DRINKING**

5 **WATER.**

6 (a) IN GENERAL.—The Secretary of the Air Force

7 shall pay a local water authority located in the vicinity

8 of an installation of the Air Force, or a State in which

9 the local water authority is located, for the treatment of

1 perfluorooctane sulfonic acid and perfluorooctanoic acid in
2 drinking water from the wells owned and operated by the
3 local water authority to attain the lifetime health advisory
4 level for such acids established by the Environmental Pro-
5 tection Agency and in effect on October 1, 2017.

6 (b) ELIGIBILITY FOR PAYMENT.—To be eligible to
7 receive payment under subsection (a)—

8 (1) a local water authority or State, as the case
9 may be, must—

10 (A) request such a payment from the Sec-
11 retary of the Air Force for reimbursable ex-
12 penses not already covered under a cooperative
13 agreement entered into by the Secretary relat-
14 ing to treatment of perfluorooctane sulfonic
15 acid and perfluorooctanoic acid contamination
16 before the date on which funding is made avail-
17 able to the Secretary for payments relating to
18 such treatment; and

19 (B) upon acceptance of such a payment,
20 waive all legal causes of action arising under
21 chapter 171 of title 28, United States Code
22 (commonly known as the “Federal Tort Claims
23 Act”), and any other Federal tort liability stat-
24 ute for expenses for treatment and mitigation
25 of perfluorooctane sulfonic acid and

1 perfluorooctanoic acid incurred before January
2 1, 2018, and otherwise covered under this sec-
3 tion;

4 (2) the elevated levels of perfluorooctane sul-
5 fonic acid and perfluorooctanoic acid in the water
6 must be the result of activities conducted by or paid
7 for by the Department of the Air Force; and

8 (3) treatment or mitigation of such acids must
9 have taken place during the period beginning on
10 January 1, 2016, and ending on the day before the
11 date of the enactment of this Act.

12 (c) AGREEMENTS.—

13 (1) IN GENERAL.—The Secretary of the Air
14 Force may enter into such agreements with a local
15 water authority or State as the Secretary considers
16 necessary to implement this section.

17 (2) USE OF MEMORANDUM OF AGREEMENT.—
18 The Secretary of the Air Force may use the applica-
19 ble Defense State Memorandum of Agreement to
20 pay amounts under subsection (a) that would other-
21 wise be eligible for payment under that agreement
22 were those costs paid using amounts appropriated to
23 the Environmental Restoration Account, Air Force,
24 established under section 2703(a)(4) of title 10,
25 United States Code.

1 (3) PAYMENT WITHOUT REGARD TO EXISTING
2 AGREEMENTS.—Payment may be made under sub-
3 section (a) to a State or a local water authority in
4 that State without regard to existing agreements re-
5 lating to environmental response actions or indem-
6 nification between the Department of the Air Force
7 and that State.

8 (d) LIMITATION.—Any payment made under sub-
9 section (a) may not exceed the actual cost of treatment
10 of perfluorooctane sulfonic acid and perfluorooctanoic acid
11 resulting from the activities conducted by or paid for by
12 the Department of the Air Force.

13 (e) AVAILABILITY OF AMOUNTS.—Of the amounts
14 appropriated to the Department of Defense for Operation
15 and Maintenance, Air Force, \$10,000,000 shall be avail-
16 able to carry out this section.