

Senate Calendar

WEDNESDAY, FEBRUARY 13, 2019

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ACTION CALENDAR

UNFINISHED BUSINESS OF TUESDAY, FEBRUARY 12, 2019

Third Reading

S. 84.

An act relating to emissions inspections.

NEW BUSINESS

Third Reading

H. 97.

An act relating to fiscal year 2019 budget adjustments.

Second Reading

Favorable with Recommendation of Amendment

S. 40.

An act relating to testing and remediation of lead in the drinking water of schools and child care facilities.

Reported favorably with recommendation of amendment by Senator Baruth for the Committee on Education.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 24A is added to read:

CHAPTER 24A. LEAD IN DRINKING WATER OF SCHOOLS AND
CHILD CARE FACILITIES

§ 1241. PURPOSE

The purpose of this chapter is to require all school districts, supervisory unions, independent schools, and child care providers in Vermont to:

(1) test drinking water in their buildings and child care facilities for lead contamination; and

(2) develop and implement an appropriate response or lead remediation plan when sampling indicates unsafe lead levels in drinking water at a school or child care facility.

§ 1242. DEFINITIONS

As used in this chapter:

(1) “Action level” means three parts per billion (ppb) of lead.

(2) “Building” means any structure, facility, addition, or wing that may be occupied or used by children or students.

(3) “Child care provider” has the same meaning as in 33 V.S.A. § 3511.

(4) “Child care facility” or “facility” has the same meaning as in 33 V.S.A. § 3511.

(5) “Commissioner” means the Commissioner of Health.

(6) “Department” means the Department of Health.

(7) “Drinking water” has the same meaning as in 10 V.S.A. § 1671.

(8) “First-draw sample” means a 250 milliliter sample of drinking water that:

(A) has been standing in plumbing pipes at least eight hours;

(B) is collected without flushing the tap; and

(C) is conducted before a building or child care facility opens or is in use.

(9) “Flush sample” means a sample of drinking water from an outlet that:

(A) is taken from the outlet after the water has run for 30 seconds;

and

(B) is conducted before a building or child care facility opens or is in

use.

(10) “Independent school” has the same meaning as in 16 V.S.A. § 11.

(11) “Outlet” means a drinking water fixture currently or potentially used for consumption or cooking purposes, including a drinking fountain, ice machine, or a faucet.

(12) “Potable water” means water sufficient for consumption and free from impurities in amounts sufficient to cause disease or harmful physiological effects with the bacteriological, chemical, physical, or radiological quality conforming to applicable rules or standards adopted by the Agency of Natural Resources and the Department of Health.

(13) “School district” has the same meaning as in 16 V.S.A. § 11.

(14) “Supervisory union” has the same meaning as in 16 V.S.A. § 11.

§ 1243. TESTING OF DRINKING WATER

(a) Scope of testing.

(1) Each school district, supervisory union, or independent school in the State shall test drinking water in the buildings it owns, controls, or operates for lead contamination as required under this chapter.

(2) Each child care provider in the State shall test drinking water in a child care facility it owns, controls, or operates for lead contamination as required under this chapter.

(b) Initial sampling.

(1) On or before January 1, 2020, each school district, supervisory union, independent school, or child care provider in the State shall collect a first-draw sample and a flush sample from each outlet in each building or facility it owns, controls, or operates. Sampling shall occur during the school year of a school district, supervisory union, or independent school.

(2) At least five days prior to sampling, the school district, supervisory union, independent school, or child care provider shall notify all staff and all parents or guardians of students directly in writing or by electronic means of:

(A) the scheduled sampling;

(B) the requirements for testing, why testing is required, and the potential health effects from exposure to lead in drinking water;

(C) information regarding how the school district, supervisory union, independent school, or child care provider shall provide notice of the sample results; and

(D) how the school district, supervisory union, independent school, or child care provider shall respond to a sample that exceeds the action level.

(3) The Department may adopt a schedule for the initial sampling by school districts, supervisory unions, independent schools, and child care providers.

(c) Continued sampling. After January 1, 2020, each school district, supervisory union, independent school, or child care provider in the State shall sample each outlet in each building or facility it owns, controls, or operates for lead according to a schedule adopted by the Department by rule under section 1247 of this title.

(d) Interim methodology. Prior to adoption of the rules required under section 1247 of this title, sampling under this section shall be conducted according to a methodology established by the Department of Health, provided

that the methodology shall be at least as stringent as the sampling methodology provided for under the U.S. Environmental Protection Agency's 3Ts for Reducing Lead in Drinking Water in Schools.

(e) Waiver.

(1) The Commissioner shall waive the requirement that a school district, supervisory union, independent school, or child care provider sample drinking water under this section upon a finding that the school district, supervisory union, independent school, or child care provider:

(A) completed sampling of all outlets in each building or facility it owns, controls, or operates in the calendar year preceding January 1, 2020;

(B) conducted sampling according to a methodology consistent with the Department methodology established under subsection (d) of this section; and

(C) implemented or scheduled remediation that ensures that drinking water from all outlets does not exceed the action level.

(2) A school district, supervisory union, independent school, or child care provider that receives a waiver under this subsection shall be eligible for assistance from the State for the costs of remediation that has been implemented or scheduled as a result of sampling conducted in the calendar year preceding January 1, 2020.

(f) Laboratory analysis. The analyses of drinking water samples required under this chapter shall be conducted by the Vermont Department of Health Laboratory or by a certified laboratory under contract to the Department.

§ 1244. RESPONSE TO ACTIONABLE LEVEL; NOTICE; REPORTING

If a sample of drinking water under section 1243 of this title indicates an exceedance of the action level at an outlet, the school district, supervisory union, independent school, or child care provider that owns, controls, or operates the building or facility in which the outlet is located shall conduct remediation to eliminate or reduce lead levels in the drinking water from the outlet. In conducting remediation, a school district, supervisory union, independent school, or child care provider shall strive to achieve the lowest level of lead possible in drinking water and, at a minimum, shall:

(1) prohibit use of an outlet that exceeds the action level until a lead remediation plan or other remediation approved by the Commissioner is implemented and:

(A) sampling indicates that lead levels from the outlet are below the action level; or

(B) the outlet is permanently removed and cannot be accessed by any person;

(2) after a lead remediation plan or other approved remediation is implemented, retest the outlet until results indicate that the lead levels are at or below the action level;

(3) provide occupants of the building or child care facility an adequate supply of potable water for drinking and cooking until remediation is performed;

(4) notify all staff and all parents or guardians of students directly of the test results, in writing or by electronic means, within 10 business days after receipt of the laboratory report; and

(5) submit lead remediation plans to the Department as they are completed.

§ 1245. RECORD KEEPING; PUBLIC NOTIFICATION; DATABASE

(a) Record keeping. The Department of Health shall retain all records of test results, laboratory analyses, lead remediation plans, and waiver requests for 10 years following the creation or acquisition of the record. Records produced or acquired by the Department under this chapter are public records subject to inspection or copying under the Public Records Act.

(b) Public notification. On or before March 1, 2020, the Commissioner shall publish on the Department website the data from testing under section 1243 of this title so that the results of sampling are fully transparent and accessible to the public. The data published by the Department shall include a list of all buildings or facilities owned, controlled, or operated by a school district, supervisory union, independent school, or child care provider at which an outlet exceeded the action level within the previous two years of reported samples. The Commissioner shall publish all retesting data on the Department's website within two weeks of receipt of the relevant laboratory analysis. The Secretary of Education shall include a link on the Agency of Education website to the Department of Health website required under this subsection.

§ 1246. LEAD REMEDIATION PLAN; GUIDANCE

(a) Consultation. When a laboratory analysis of a sample of drinking water from an outlet at a building or facility owned, controlled, or operated by a school district, supervisory union, independent school, or child care provider exceeds the action level, the school district, supervisory union, independent school, or child care provider shall consult with the Commissioner regarding the development of a lead remediation plan or other necessary response.

(b) Guidance; lead remediation plan. The Commissioner, after consultation with the Secretary of Natural Resources and the Secretary of Education, shall issue guidance on development of a lead remediation plan by a school district, supervisory union, independent school, or child care provider. The guidance provided by the Commissioner shall reference the U.S. Environmental Protection Agency's 3Ts for Reducing Lead in Drinking Water in Schools.

§ 1247. RULEMAKING

(a) The Commissioner shall adopt rules under this chapter to achieve the purposes of this chapter. It is the intent of the General Assembly that the rules adopted under this section shall be no less stringent than the requirements of the U.S. Environmental Protection Agency's 3Ts for Reducing Lead in Drinking Water in Schools.

(b) On or before November 1, 2020, the Commissioner, with continuing consultation with the Secretary of Natural Resources and the Secretary of Education, shall adopt rules regarding the implementation of the requirements of this chapter. The rules shall include:

(1) requirements or guidance for taking samples of drinking water from outlets in a building or facility owned, controlled, or operated by a school district, supervisory union, independent school, or child care provider;

(2) the frequency of sampling required, including additional sampling requirements when there is an exceedance of the action level at an outlet;

(3) requirements for implementation of a lead mitigation plan or other necessary response to a reported exceedance of the action level;

(4) conditions or criteria for the waiver of sampling required under this chapter; and

(5) any other requirements that the Commissioner deems necessary for the implementation of the requirements of this chapter.

§ 1248. ENFORCEMENT; PENALTIES

In addition to any other authority provided by law, the Commissioner of Health or a hearing officer designated by the Commissioner may, after notice and an opportunity for hearing, impose an administrative penalty of up to \$500.00 for a violation of the requirements of this chapter. The hearing before the Commissioner shall be a contested case subject to the provisions of 3 V.S.A. chapter 25.

Sec. 2. 16 V.S.A. § 4001(6) is amended to read:

(6) “Education spending” means the amount of the school district budget, any assessment for a joint contract school, career technical center payments made on behalf of the district under subsection 1561(b) of this title, and any amount added to pay a deficit pursuant to 24 V.S.A. § 1523(b) that is paid for by the school district, but excluding any portion of the school budget paid for from any other sources such as endowments, parental fundraising, federal funds, nongovernmental grants, or other State funds such as special education funds paid under chapter 101 of this title.

* * *

(B) For purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12), “education spending” shall not include:

* * *

(xi) Costs incurred by a school district or supervisory union when sampling drinking water outlets, implementing lead remediation, or retesting drinking water outlets as required under 18 V.S.A. chapter 24A.

Sec. 3. APPROPRIATIONS; POSITIONS; SAMPLING OF DRINKING WATER OUTLETS IN SCHOOLS

(a) In addition to any other funds appropriated to the Department of Health (Department) in fiscal year 2019, the following amounts are appropriated to the Department in fiscal year 2019 for the purposes of implementing the requirements in 18 V.S.A. chapter 24A that a school district, supervisory union, independent school, or child care provider test drinking water outlets for lead:

(1) \$1,350,000.00 for the costs of sampling drinking water outlets by school districts, supervisory unions, independent schools, or child care providers;

(2) \$190,000.00 for the costs of retesting drinking water outlets by school districts, supervisory unions, independent schools, or child care providers;

(3) \$700,000.00 to cost share with school districts, supervisory unions, independent schools, or child care providers the costs of implementing remediation.

(b) In addition to any other funds appropriated to the Agency of Natural Resources in fiscal year 2019, \$125,000.00 is appropriated to the Agency in fiscal year 2019 to hire an environmental analyst to assist in remediation required under 18 V.S.A. chapter 24A.

(c) The establishment of the following new classified limited service positions is authorized in fiscal year 2019:

(1) In the Agency of Natural Resources – environmental analyst V.

(2) In the Department of Health – public health analyst.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 6-0-0)

Reported favorably with recommendation of amendment by Senator Westman for the Committee on Appropriations.

The Committee recommends that the bill be amended as recommended by the Committee on Education with the following amendment thereto:

By striking out Sec. 3 (appropriations) in its entirety and inserting in lieu thereof the following:

Sec. 3. POSITIONS; SAMPLING OF DRINKING WATER OUTLETS IN SCHOOLS

The establishment of the following new classified limited service positions are authorized in fiscal year 2019:

(1) In the Agency of Natural Resources – environmental analyst V.

(2) In the Department of Health – public health analyst.

(Committee vote: 7-0-0)

NOTICE OF JOINT ASSEMBLY

Thursday, February 21, 2019 - 10:30 A.M. – House Chamber - Election of a Sergeant at Arms, of an Adjutant and Inspector General, and of three (3) trustees for the University of Vermont, and Vermont and State Agricultural College.

Candidates for the positions of Sergeant at Arms, Adjutant and Inspector General, and legislative candidates for UVM trustees must notify the Secretary of State **in writing** of their candidacies not later than Thursday, February 14, 2019, by 4:00 P.M., pursuant to the provisions of 2 V.S.A. §12(b). Otherwise their names will not appear on the ballots for these positions.

The following rules shall apply to the conduct of these elections:

First: All nominations for these offices will be presented in alphabetical order prior to voting.

Second: There will be only one nominating speech of not more than three (3) minutes and not more than two seconding speeches of not more than one (1) minute each for each nominee.

JFO NOTICE

The following grant and/or limited-service position requests are hereby accepted and appropriated to the department indicated for the purpose specified by the grantor:

JFO #2945 - \$499,912 from the U.S. Dept. of Agriculture to the VT Agency of Agriculture, Food and Markets. The funding would allow the Agency to implement a multi-pronged maple products marketing campaign, including: public relations, promotional materials, a marketing plan, expansion of the annual Maple Open House Weekend into a month-long event, and an international trade mission. *One (1) limited service position is associated with this request.*

JFO #2946 - \$41,750 from the Northern Border Regional Commission to the VT Agency of Agriculture, Food and Markets. The funding would be combined with a \$26,250 State match to convene a two-day dairy summit focused on farmer resiliency, processor engagement, and dairy market evolution.

JFO #2947 – Three (3) limited-service positions within the VT Dept. of Labor. The positions would be funded by a sub-grant from the VT Dept. of Children and Families (DCF) with grant funding that was previously approved by the Joint Fiscal Committee (JFO #2781) for the purposes of establishing job training programs for supplemental nutrition assistance program (SNAP) participants.

JFO #2948 – One (1) limited-service position within the Vermont Military Department. The position would be titled Records and Information Management (RIM) Specialist and would assist the State in conformance to federal requirements for military document management. The position would be 100% federally funded.

JFO #2949 – One (1) limited-service position within the VT Dept. of Public Safety. The position would be titled Homeland Security Program Planner and would be responsible for managing the Vermont Critical Infrastructure Program and with performing outreach to organizations that may be targets of terrorist activities. The Position would be 100% federally funded.

JFO #2950 – One (1) limited-service position within the VT Dept. of Environmental Conservation (DEC). The position would be titled Environmental Analyst V and would provide engineering support within the

wastewater system and potable water supply program to review permit applications through DEC's five regional offices. The Position would be 100% federally funded.

FOR INFORMATION ONLY

House and Senate Committees on Appropriations

Monday, February 25, 2019, 6:00 - 7:00 p.m. – The Vermont House and Senate Committees on Appropriations are seeking public input on the Governor's Recommended FY2020 State Budget and will hold community-based public hearings on Monday, February 25, 2019, 6:00 – 7:00 p.m. at the following 5 locations. An additional location in Springfield will be held from 5:30 – 6:30 p.m.

Morrisville – People's Academy High School, Auditorium, top of Copley Avenue

Rutland City – Rutland Public Schools, Longfellow School Building, Board Room

St. Johnsbury – St. Johnsbury House, Main dining room, 1207 Main Street

St. Albans City – St. Albans City School, Library, 29 Bellows Street

Winooski – Community College of Vermont, Room 108, 1 Abenaki Way

Springfield – Springfield Town Hall, 96 Main Street, 3rd Floor Conference Room (Selectmen's Hall) **5:30-6:30 p.m.**

The Committees will take testimony on the Governor's recommended State budget at the above dates and times. Anyone interested in testifying should come to one of the hearings. Time limits on testimony may apply depending on volume of participants. If you have a story you would like to share privately with the committee members, please contact Theresa to schedule this at the end of one of the hearings.

To view or print a copy of the proposed budget, go to the Department of Finance and Management's website at the following URL address: <https://finance.vermont.gov/budget/budget-recommendations/operating-budget/fy2020>

For more information about the format of these events, or to submit written testimony, contact Theresa Utton-Jerman or Rebecca Buck at tutton@leg.state.vt.us or rbuck@leg.state.vt.us or at 802-828-5767 or toll-free within Vermont at 1-800-322-5616. **Requests for interpreters should be made by Friday, February 8.**