S.40. An Act Relating to Testing and Remediation of Lead in Drinking Water of Schools and Child Care Facilities

As Passed Senate	As Proposed by House	Senate Conference Committee Proposal
Sec. 1. 18 V.S.A. chapter 24A is added to read:	8 V.S.A. chapter 24A is added to read: Sec. 1. 18 V.S.A. chapter 24A is added to read:	
CHAPTER 24A. LEAD IN DRINKING WATER OF SCHOOLS	CHAPTER 24A. LEAD IN DRINKING WATER OF SCHOOLS	CHAPTER 24A. LEAD IN DRINKING WATER OF SCHOOLS
AND CHILD CARE FACILITIES	AND CHILD CARE FACILITIES	AND CHILD CARE FACILITIES
<u>§ 1241. PURPOSE</u>	<u>§ 1241. PURPOSE</u>	<u>§ 1241. PURPOSE</u>
The purpose of this chapter is to require all school districts,	The purpose of this chapter is to require all school districts,	The purpose of this chapter is to require all school districts.
supervisory unions, independent schools, and child care providers in	supervisory unions, independent schools, and child care providers in	supervisory unions, independent schools, and child care providers in
Vermont to:	Vermont to:	Vermont to:
(1) test drinking water in their buildings and child care facilities	(1) test drinking water in their buildings and child care facilities	(1) test drinking water in their buildings and child care facilities
for lead contamination; and	for lead contamination; and	for lead contamination; and
(2) develop and implement an appropriate response or lead	(2) develop and implement an appropriate response or lead	(2) develop and implement an appropriate response or lead
remediation plan when sampling indicates unsafe lead levels in	remediation plan when sampling indicates unsafe lead levels in	remediation plan when sampling indicates unsafe lead levels in
drinking water at a school or child care facility.	drinking water at a school or child care facility.	drinking water at a school or child care facility.
§ 1242. DEFINITIONS	§ 1242. DEFINITIONS	§ 1242. DEFINITIONS
As used in this chapter:	As used in this chapter:	As used in this chapter:
(1) "Action level" means three parts per billion (ppb) of lead.	(1) "Action level" means five parts per billion (ppb) of lead.	(1) "Action level" means three parts per billion (ppb) of lead.
	(2) "Alternative water source" means:	(2) "Alternative water source" means:
	(A) water from an outlet within the building or facility that	(A) water from an outlet within the building or facility that
	is below the action level; or	is below the action level; or
	(B) containerized, bottled, or packaged drinking water.	(B) containerized, bottled, or packaged drinking water.
	(3) "Building" means any structure, facility, addition, or wing	(3) "Building" means any structure, facility, addition, or wing
(2) "Building" means any structure, facility, addition, or wing	that may be occupied or used by children or students.	that may be occupied or used by children or students.
that may be occupied or used by children or students.	(4) "Child care provider" has the same meaning as in 33 V.S.A.	(4) "Child care provider" has the same meaning as in 33 V.S.A.
(3) "Child care provider" has the same meaning as in 33 V.S.A.	<u>§ 3511.</u>	<u>§ 3511.</u>
<u>§ 3511.</u>	(5) "Child care facility" or "facility" has the same meaning as	(5) "Child care facility" or "facility" has the same meaning as
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(4) "Child care facility" or "facility" has the same meaning as	<u>in 33 V.S.A. § 3511.</u>	in 33 V.S.A. § 3511.
<u>in 33 V.S.A. § 3511.</u>	(6) "Commissioner" means the Commissioner of Health.	(6) "Commissioner" means the Commissioner of Health.
(5) "Commissioner" means the Commissioner of Health.	(7) "Department" means the Department of Health.	(7) "Department" means the Department of Health.
(6) "Department" means the Department of Health.	(8) "Drinking water" has the same meaning as in 10 V.S.A.	(8) "Drinking water" has the same meaning as in 10 V.S.A.
(7) "Drinking water" has the same meaning as in 10 V.S.A.	<u>§ 1671.</u>	<u>§ 1671.</u>
<u>§ 1671.</u>		(9) "First-draw sample" means a 250 milliliter sample of
(8) "First-draw sample" means a 250 milliliter sample of		drinking water that:
drinking water that:		(A) has been standing in plumbing pipes at least eight hours;
(A) has been standing in plumbing pipes at least eight hours;		(B) is collected without flushing the tap; and
(B) is collected without flushing the tap; and		(C) is conducted before a building or child care facility
(C) is conducted before a building or child care facility		opens or is in use.
opens or is in use.		(10) "Flush sample" means a sample of drinking water from an
(9) "Flush sample" means a sample of drinking water from an		outlet that:
outlet that:		(A) is taken from the outlet after the water has run for 30
(A) is taken from the outlet after the water has run for 30		seconds; and
seconds; and		(B) is conducted before a building or child care facility
(B) is conducted before a building or child care facility		opens or is in use.
opens or is in use.		
(10) "Independent school" has the same meaning as in 16	(9) "Independent school" has the same meaning as in 16 V.S.A.	(10) "Independent school" has the same meaning as in 16
<u>V.S.A. § 11.</u>	<u>§ 11.</u>	V.S.A. § 11.
(11) "Outlet" means a drinking water fixture currently or	(10) "Outlet" means a drinking water fixture currently or	
potentially used for consumption or cooking purposes, including a	reasonably expected to be used for consumption or cooking purposes,	(11) "Outlet" means a drinking water fixture currently or
drinking fountain, ice machine, or a faucet.	including a drinking fountain, ice machine, or a faucet as determined	reasonably expected to be used for consumption or cooking purposes,
-	by a school district, supervisory union, independent school, or child	including a drinking fountain, ice machine, or a faucet as determined
		by a school district, supervisory union, independent school, or child

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	care provider.	care provider.
(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) "School district" has the same meaning as in 16 V.S.A.	(12) "School district" has the same meaning as in 16 V.S.A.
<u>§ 11.</u>	<u>§ 11.</u>	<u>§ 11.</u>
(14) "Supervisory union" has the same meaning as in 16 V.S.A.	(12) "Supervisory union" has the same meaning as in 16 V.S.A.	(13) "Supervisory union" has the same meaning as in 16 V.S.A.
<u>§ 11.</u>	<u>§ 11.</u>	<u>§ 11.</u>
§ 1243. TESTING OF DRINKING WATER	§ 1243. TESTING OF DRINKING WATER	§ 1243. TESTING OF DRINKING WATER
(a) Scope of testing.	(a) Scope of testing.	(a) Scope of testing.
(1) Each school district, supervisory union, or independent	(1) Each school district, supervisory union, or independent	(1) Each school district, supervisory union, or independent
school in the State shall test drinking water in the buildings it owns,	school in the State shall collect a drinking water sample from each	school in the State shall collect a drinking water sample from each
controls, or operates for lead contamination as required under this	outlet in the buildings it owns, controls, or operates and shall submit	outlet in the buildings it owns, controls, or operates and shall submit
chapter.	the sample to the Department of Health for testing for lead	the sample to the Department of Health for testing for lead
	contamination as required under this chapter.	contamination as required under this chapter.
(2) Each child care provider in the State shall test drinking	(2) Each child care provider in the State shall collect a drinking	(2) Each child care provider in the State shall collect a drinking
water in a child care facility it owns, controls, or operates for lead	water sample from each outlet in a child care facility it owns, controls,	water sample from each outlet in a child care facility it owns, controls,
contamination as required under this chapter.	or operates for lead contamination as required under this chapter.	or operates for lead contamination as required under this chapter.

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(b) Initial sampling.	(b) Initial sampling.	(b) Initial sampling.
(1) On or before January 1, 2020, each school district,	(1) On or before December 31, 2020, each school district,	(1) On or before July 1, 2020, each school district, supervisory
supervisory union, independent school, or child care provider in the	supervisory union, independent school, or child care provider in the	union, independent school, or child care provider in the State shall
State shall collect a first-draw sample and a flush sample from each	State shall collect a first-draw sample and a second flush sample from	collect a first-draw sample and a second flush sample from each outlet
outlet in each building or facility it owns, controls, or operates.	each outlet in each building or facility it owns, controls, or operates.	in each building or facility it owns, controls, or operates. Sampling
Sampling shall occur during the school year of a school district,	Sampling shall occur during the school year of a school district,	shall occur during the school year of a school district, supervisory
supervisory union, or independent school.	supervisory union, or independent school.	union, or independent school.
(2) At least five days prior to sampling, the school district,	(2) At least five days prior to sampling, the school district,	(2) At least five days prior to sampling, the school district,
supervisory union, independent school, or child care provider shall	supervisory union, independent school, or child care provider shall	supervisory union, independent school, or child care provider shall
notify all staff and all parents or guardians of students directly in	notify all staff and all parents or guardians of students directly in	notify all staff and all parents or guardians of students directly in
writing or by electronic means of:	writing or by electronic means of:	writing or by electronic means of:
(A) the scheduled sampling:	(A) the scheduled sampling;	(A) the scheduled sampling:
(B) the requirements for testing, why testing is required, and	(B) the requirements for testing, why testing is required, and	(B) the requirements for testing, why testing is required, and
the potential health effects from exposure to lead in drinking water;	the potential health effects from exposure to lead in drinking water;	the potential health effects from exposure to lead in drinking water;
	(C) information, provided by the Department of Health,	(C) information, provided by the Department of Health,
	regarding sources of lead exposure other than drinking water;	regarding sources of lead exposure other than drinking water;
	(D) information regarding how the school district,	(D) information regarding how the school district,
(C) information regarding how the school district,	supervisory union, independent school, or child care provider shall	supervisory union, independent school, or child care provider shall
supervisory union, independent school, or child care provider shall	provide notice of the sample results; and	provide notice of the sample results; and
provide notice of the sample results; and	(E) how the school district, supervisory union, independent	(E) how the school district, supervisory union, independent
(D) how the school district, supervisory union, independent	school, or child care provider shall respond to sample results that are at	school, or child care provider shall respond to sample results that
school, or child care provider shall respond to a sample that exceeds	or above the action level.	exceed the action level.
the action level.	(3) The Department may adopt a schedule for the initial	(3) The Department may adopt a schedule for the initial
(3) The Department may adopt a schedule for the initial	sampling by school districts, supervisory unions, independent schools,	sampling by school districts, supervisory unions, independent schools,
sampling by school districts, supervisory unions, independent schools,	and child care providers.	and child care providers.

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.

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(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

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- (c) Continued sampling. Beginning January 1, 2021, 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 and shall include a requirement for a first draw sample and a second flush sample.

(e) Exceptions.

- (1) The testing requirements of subsection (b) of this section shall not apply to a school district, supervisory union, independent school, or child care provider that:
- (A) completed testing of all outlets in each building or facility it owns, controls, or operates after November 1, 2017;
- (B) conducted testing according to a methodology consistent with the Department methodology established under subsection (d) of this section; and

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- (c) Continued sampling. Beginning July 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 and shall include a requirement for a first draw sample and a second flush sample.

(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

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	(C)(i) determined no outlet is at or above the action level for	
	lead; or	
	(ii) implemented or scheduled remediation that ensures	
	that drinking water from all outlets is below the action level.	
(C) implemented or scheduled remediation that ensures that	(2) A school district, supervisory union, independent school, or	(C) implemented or scheduled remediation that ensures that
drinking water from all outlets does not exceed the action level.	child care provider that qualifies for the exception under subdivision	drinking water from all outlets does not exceed the action level.
(2) A school district, supervisory union, independent school, or	(1) of this subsection shall, within 30 days of the effective date of this	(2) A school district, supervisory union, independent school, or
child care provider that receives a waiver under this subsection shall	act, submit a written notice of exception to the Department of Health	child care provider that receives a waiver under this subsection shall
be eligible for assistance from the State for the costs of remediation	that shall include the results of testing and a summary of remediation	be eligible for assistance from the State for the costs of remediation
that has been implemented or scheduled as a result of sampling	implemented or scheduled.	that has been implemented or scheduled as a result of sampling
conducted in the calendar year preceding January 1, 2020.	(3) A school district, supervisory union, independent school, or	conducted after April 22, 2019.
	child care provider that qualifies for the exception under subdivision	
	(1) of this subsection shall be eligible for assistance from the State for	
	the costs of remediation.	(f) Laboratory analysis. The analyses of drinking water samples
(f) Laboratory analysis. The analyses of drinking water samples	(f) Laboratory analysis. The analyses of drinking water samples	required under this chapter shall be conducted by the Vermont
required under this chapter shall be conducted by the Vermont	required under this chapter shall be conducted by the Vermont	Department of Health Laboratory or by a certified laboratory under
Department of Health Laboratory or by a certified laboratory under	Department of Health Laboratory or by a certified laboratory under	contract to the Department.
contract to the Department.	contract to the Department.	•
(g) Application; bottled water. Although the intent of the Vermont		(g) Application; bottled water. Although the intent of the Vermont
General Assembly is to achieve significant reductions in lead levels in		General Assembly is to achieve significant reductions in lead levels in
all drinking water provided to children by school districts, supervisory		all drinking water provided to children by school districts, supervisory
unions, independent schools, or child care providers, the acceptable		unions, independent schools, or child care providers, the acceptable
lead level in bottled water is regulated by the U.S. Food and Drug		lead level in bottled water is regulated by the U.S. Food and Drug
Administration; consequently, bottled water from a vending machine		Administration; consequently, bottled water from a vending machine
or bottled water from a water requirements of this chapter.		or bottled water from a water dispenser shall be exempt from the
		requirements of this chapter.

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§ 1244. RESPONSE TO ACTIONABLE LEVEL; NOTICE;	§ 1244. RESPONSE TO ACTION LEVEL; NOTICE; REPORTING	§ 1244. RESPONSE TO ACTION LEVEL; NOTICE; REPORTING
REPORTING	If a sample of drinking water under section 1243 of this title	If a sample of drinking water under section 1243 of this title
If a sample of drinking water under section 1243 of this title	indicates that drinking water from an outlet is at or above the action	indicates that drinking water from an outlet exceeds the action level,
indicates an exceedance of the action level at an outlet, the school	level, the school district, supervisory union, independent school, or	the school district, supervisory union, independent school, or child
district, supervisory union, independent school, or child care provider	child care provider that owns, controls, or operates the building or	care provider that owns, controls, or operates the building or facility in
that owns, controls, or operates the building or facility in which the	facility in which the outlet is located shall conduct remediation to	which the outlet is located shall conduct remediation to eliminate or
outlet is located shall conduct remediation to eliminate or reduce lead	eliminate or reduce lead levels in the drinking water from the outlet.	reduce lead levels in the drinking water from the outlet. At a
levels in the drinking water from the outlet. In conducting	At a minimum, the school district, supervisory union, independent	minimum, the school district, supervisory union, independent school,
remediation, a school district, supervisory union, independent school,	school, or child care provider shall:	or child care provider shall:
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	(1)(A) prohibit use of an outlet that is at or above the action	(1)(A) prohibit use of an outlet that exceeds action level until:
lead remediation plan or other remediation approved by the	level until:	
Commissioner is implemented and:	(i) implementation of a lead remediation plan or other	(i) implementation of a lead remediation plan that is
	remediation measure that was published or approved by the	consistent with the U.S. Environmental Protection Agency's 3Ts for
	Commissioner or that is consistent with the U.S. Environmental	Reducing Lead in Drinking Water in Schools; and
	Protection Agency's 3Ts for Reducing Lead in Drinking Water in	
	Schools; and	
(A) sampling indicates that lead levels from the outlet are	(ii) sampling indicates that lead levels from the outlet are	(ii) sampling indicates that lead levels from the outlet are
below the action level; or	below the action level; or	below the action level; or
(B) the outlet is permanently removed and cannot be	(B) prohibit use of an outlet that is at or above the action	(B) prohibit use of an outlet that exceeds the action level
accessed by any person;	level until the outlet is permanently removed, disabled, or otherwise	until the outlet is permanently removed, disabled, or otherwise cannot
	cannot be accessed by any person for the purposes of consumption or	be accessed by any person for the purposes of consumption or
	cooking;	cooking;

(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 (2) provide occupants of the building or child care facility an	(2) provide occupants of the building or child care facility an
adequate supply of potable water for drinking and cooking until adequate alternative water source until remediation is performed;	adequate alternative water source until remediation is performed;
remediation is performed; (3) notify all staff and all parents or guardians of students	(3) notify all staff and all parents or guardians of students
(4) notify all staff and all parents or guardians of students directly of the test results and the proposed or taken remedial action is	directly of the test results and the proposed or taken remedial action in
directly of the test results, in writing or by electronic means, within 10 writing or by electronic means within 10 school days after receipt of	writing or by electronic means within 10 school days after receipt of
business days after receipt of the laboratory report; and the laboratory report;	the laboratory report;
(5) submit lead remediation plans to the Department as they are (4) submit lead remediation plans to the Department as they are	(4) submit lead remediation plans to the Department as they are
completed. completed;	completed;
(5) notify all staff and all parents or guardians or students in	(5) notify all staff and all parents or guardians or students in
writing or by electronic means of what remedial actions have been	writing or by electronic means of what remedial actions have been
taken; and	taken; and
(6) submit notice to the Department of Health that remediation	(6) submit notice to the Department of Health that remediation
plans have been completed.	plans have been completed.
§ 1245. RECORD KEEPING; PUBLIC NOTIFICATION; § 1245. RECORD KEEPING; PUBLIC NOTIFICATION;	§ 1245. RECORD KEEPING; PUBLIC NOTIFICATION;
<u>DATABASE</u> <u>DATABASE</u>	DATABASE
(a) Record keeping. The Department of Health shall retain all	(a) Record keeping. The Department of Health shall retain all
records of test results, laboratory analyses, lead remediation plans, and records of test results, laboratory analyses, lead remediation plans, and	records of test results, laboratory analyses, lead remediation plans, and
waiver requests for 10 years following the creation or acquisition of notices of exception for 10 years following the creation or acquisition	waiver requests for 10 years following the creation or acquisition of
the record. Records produced or acquired by the Department under of the record. Records produced or acquired by the Department under	the record. Records produced or acquired by the Department under
this chapter are public records subject to inspection or copying under this chapter are public records subject to inspection or copying under	this chapter are public records subject to inspection or copying under
the Public Records Act.	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.

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(b) Public notification. On or before March 1, 2021, 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 drinking water
from an outlet tested at or above 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.

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(b) Public notification. On or before October 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 drinking water
from an outlet tested exceeds 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

§ 1246. LEAD REMEDIATION PLAN; GUIDANCE;

COMMUNICATION

- (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 is at or above the action level, the school district, supervisory union, independent school, or child care provider may consult with the Commissioner regarding the development of a lead remediation plan or other necessary response.
 - (b) Guidance; lead remediation plan. The Commissioner, after

§ 1246. LEAD REMEDIATION PLAN; GUIDANCE;

COMMUNICATION

- (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 may consult with the Commissioner regarding the development of a lead remediation plan or other necessary response.
 - (b) Guidance; lead remediation plan. The Commissioner, after

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consultation with the Secretary of Natural Resources and the Secretary	consultation with the Secretary of Natural Resources, the	consultation with the Secretary of Natural Resources, the
of Education, shall issue guidance on development of a lead	Commissioner for Children and Families, and the Secretary of	Commissioner for Children and Families, and the Secretary of
remediation plan by a school district, supervisory union, independent	Education, shall issue guidance on development of a lead remediation	Education, shall issue guidance on development of a lead remediation
school, or child care provider. The guidance provided by the	plan by a school district, supervisory union, independent school, or	plan by a school district, supervisory union, independent school, or
Commissioner shall reference the U.S. Environmental Protection	child care provider. The guidance provided by the Commissioner shall	child care provider. The guidance provided by the Commissioner shall
Agency's 3Ts for Reducing Lead in Drinking Water in Schools.	reference the U.S. Environmental Protection Agency's 3Ts for	reference the U.S. Environmental Protection Agency's 3Ts for
	Reducing Lead in Drinking Water in Schools.	Reducing Lead in Drinking Water in Schools.
	(c) Communications: The Department of Health shall develop	(c) Communications: The Department of Health shall develop
	sample communications for parents for use by school districts,	sample communications for parents for use by school districts,
	supervisory unions, independent schools, and child care providers	supervisory unions, independent schools, and child care providers
	concerning lead in water and reducing exposure to lead under this	concerning lead in water and reducing exposure to lead under this
	<u>chapter.</u>	<u>chapter.</u>
§ 1247. RULEMAKING	§ 1247. RULEMAKING	§ 1247. RULEMAKING
(a) The Commissioner shall adopt rules under this chapter to	(a) The Commissioner shall adopt rules under this chapter to	(a) The Commissioner shall adopt rules under this chapter to
achieve the purposes of this chapter. It is the intent of the General	achieve the purposes of this chapter.	achieve the purposes of this chapter.
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	(b) On or before November 1, 2020, the Commissioner, with	(b) On or before November 1, 2020, the Commissioner, with
the Secretary of Education, shall adopt rules regarding the	continuing consultation with the Secretary of Natural Resources, the	continuing consultation with the Secretary of Natural Resources, the
implementation of the requirements of this chapter. The rules shall	Commissioner for Children and Families, and the Secretary of	Commissioner for Children and Families, and the Secretary of
include:	Education, shall adopt rules regarding the implementation of the	Education, shall adopt rules regarding the implementation of the
	requirements of this chapter. The rules shall include:	requirements of this chapter. The rules shall include:

As Passed Senate	As Proposed by House	Senate Conference Committee Proposal
(1) requirements or guidance for taking samples of drinking	(1) requirements or guidance for taking samples of drinking	(1) requirements or guidance for taking samples of drinking
water from outlets in a building or facility owned, controlled, or	water from outlets in a building or facility owned, controlled, or	water from outlets in a building or facility owned, controlled, or
operated by a school district, supervisory union, independent school,	operated by a school district, supervisory union, independent school,	operated by a school district, supervisory union, independent school,
or child care provider;	or child care provider that are no less stringent than the requirements	or child care provider that are no less stringent than the requirements
	of the U.S. Environmental Protection Agency's 3Ts for Reducing Lead	of the U.S. Environmental Protection Agency's 3Ts for Reducing Lead
	in Drinking Water in Schools and that include a first draw sample and	in Drinking Water in Schools and that include a first draw sample and
	second flush sample;	second flush sample;
	(2) the frequency of continued sampling of outlets by school	(2) the frequency of continued sampling of outlets by school
(2) the frequency of sampling required, including additional	districts, supervisory unions, independent schools, and child care	districts, supervisory unions, independent schools, and child care
sampling requirements when there is an exceedance of the action level	providers, provided that the Department:	providers, provided that the Department:
at an outlet;	(A) may stagger when continued sampling shall occur by	(A) may stagger when continued sampling shall occur by
	school or provider, school type or provider type, or initial sampling	school or provider, school type or provider type, or initial sampling
	results; and	results; and
	(B) shall, to the degree practicable, maintain the same term	(B) shall maintain the same term of sampling frequency for
	of sampling frequency for all school districts, supervisory unions,	all school districts, supervisory unions, independent schools, and child
	independent schools, and child care providers:	care providers;
(3) requirements for implementation of a lead mitigation plan	(3) requirements for implementation of a lead mitigation plan	(3) requirements for implementation of a lead mitigation plan
or other necessary response to a reported exceedance of the action	or other necessary response to a report that drinking water from an	or other necessary response to a report that drinking water from an
<u>level;</u>	outlet is at or above the action level;	outlet exceeds the action level; and
(4) conditions or criteria for the waiver of sampling required	(4) exemptions from the requirements for sampling or	
under this chapter; and	remediation under this chapter, including conditions or criteria for the	
(5) any other requirements that the Commissioner deems	exceptions from the sampling required under this chapter; and	
necessary for the implementation of the requirements of this chapter.	(5) any other requirements that the Commissioner deems	(4) any other requirements that the Commissioner deems
	necessary for the implementation of the requirements of this chapter.	necessary for the implementation of the requirements of this chapter.

As Proposed by House

•	1010	ENFORCEMENT; PENALTIES
0	1/4X	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.

As Passed Senate

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

§ 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

§ 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.

Senate Conference Committee Proposal

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. \S 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

As Passed Senate	As Proposed by House	Senate Conference Committee Proposal
V.S.A. chapter 24A.	V.S.A. chapter 24A.	V.S.A. chapter 24A.
Sec. 3. POSITIONS; SAMPLING OF DRINKING WATER	Sec. 3. POSITIONS; SAMPLING OF DRINKING WATER	Sec. 3. POSITIONS; SAMPLING OF DRINKING WATER
OUTLETS IN SCHOOLS	OUTLETS IN SCHOOLS	OUTLETS IN SCHOOLS
The establishment of the following new classified limited service	The establishment of the following new classified limited service	The establishment of the following new classified limited service
positions are authorized in fiscal year 2019:	positions are authorized in fiscal year 2019:	positions are authorized in fiscal year 2019:
(1) In the Agency of Natural Resources – environmental	(1) In the Agency of Natural Resources – environmental	(1) In the Agency of Natural Resources – environmental
analyst V.	analyst V.	analyst V.
(2) In the Department of Health – public health analyst.	(2) In the Department of Health – public health analyst.	(2) In the Department of Health – public health analyst.
	Sec. 3a. DEPARTMENT FOR CHILDREN AND FAMILIES;	Sec. 3a. DEPARTMENT FOR CHILDREN AND FAMILIES;
	RULES FOR REGULATED CHILD CARE PROVIDERS	RULES FOR REGULATED CHILD CARE PROVIDERS
	On or before December 31, 2020, the Commissioner for Children	On or before December 31, 2020, the Commissioner for Children
	and Families shall amend the rules for regulated child care providers to	and Families shall amend the rules for regulated child care providers to
	comply with the requirements of 18 V.S.A. chapter 24A and rules	comply with the requirements of 18 V.S.A. chapter 24A and rules
	adopted by the Department of Health under that chapter for the testing	adopted by the Department of Health under that chapter for the testing
	of lead in the drinking water of child care facilities.	of lead in the drinking water of child care facilities.
	Sec. 4. STATUS OF REMEDIATION OF LEAD IN SCHOOLS	Sec. 4. STATUS OF REMEDIATION OF LEAD IN SCHOOLS
	AND CHILD CARE FACILITIES	AND CHILD CARE FACILITIES
	On or before January 15, 2020, the Commissioner of Health, after	On or before January 15, 2020, the Commissioner of Health, after
	consultation with the Secretary of Natural Resources, the	consultation with the Secretary of Natural Resources, the
	Commissioner for Children and Families, and the Secretary of	Commissioner for Children and Families, and the Secretary of
	Education, shall provide written or oral testimony to the House	Education, shall provide written or oral testimony to the House
	Committee on Education and the Senate Committee on Education	Committee on Education and the Senate Committee on Education
	regarding the implementation, administration, and financing of the	regarding the implementation, administration, and financing of the
	requirements under 18 V.S.A. chapter 24A that schools and child care	requirements under 18 V.S.A. chapter 24A that schools and child care
	providers sample for and remediate lead in drinking water. The	providers sample for and remediate lead in drinking water. The

As Passed Senate	As Proposed by House	Senate Conference Committee Proposal
	testimony may include recommendations for additional programmatic	testimony may include recommendations for additional programmatic
	and technical requirements for sampling for and remediating lead in	and technical requirements for sampling for and remediating lead in
	schools or child care facilities in the State.	schools or child care facilities in the State.
	Sec. 5. ALLOCATION OF FUNDS; REMEDIATION; ELIGIBLE	Sec. 5. ALLOCATION OF FUNDS; REMEDIATION; ELIGIBLE
	COSTS	COSTS
	(a) For remediation required under 18 V.S.A. chapter 24A, the	(a) For remediation required under 18 V.S.A. chapter 24A, the
	Department of Health shall pay a school district, supervisory union,	Department of Health shall pay a school district, supervisory union,
	independent school, or child care provider the actual cost of	independent school, or child care provider the actual cost of
	replacement of a drinking water fixture, as evidenced by a receipt	replacement of a drinking water fixture, as evidenced by a receipt
	submitted to the State, up to the following maximum amount for each	submitted to the State, up to the following maximum amount for each
	type of fixture:	type of fixture:
	(1) public drinking fountains and ice machines: \$2,000.00;	(1) public drinking fountains and ice machines: \$1,340.00;
	(2) outlets used for cooking: \$700.00;	(2) outlets used for cooking: \$470.00;
	(3) all other outlets: \$400.00.	(3) all other outlets: \$270.00.
	(b) The State shall make payments to school districts, supervisory	(b) The State shall make payments to school districts, supervisory
	unions, independent schools, or child care providers under this section	unions, independent schools, or child care providers under this section
	from one-time funds appropriated to the Department of Health in fiscal	from one-time funds appropriated to the Department of Health in fiscal
	years 2020 and 2021 for the costs of initial testing, retesting, and	year 2020 for the costs of initial testing, retesting, and remediation
	remediation under 18 V.S.A. chapter 24A. Funds appropriated to the	under 18 V.S.A. chapter 24A. Funds appropriated to the Department
	Department of Health in Sec. 88 (a)(2) of H.532 of 2019 may be	of Health in Sec. 88 (a)(2) of H.532 of 2019 may be transferred to the
	transferred to the State agency or department administering these	State agency or department administering these payments.
	payments.	

As Passed Senate	As Proposed by House	Senate Conference Committee Proposal
H.532. FY 2019 Budget Adjustments	Sec. 5a. Subdivision (a)(2) of 2019 Acts and Resolves No. 6, Sec. 88	Sec. 5a. Subdivision (a)(2) of 2019 Acts and Resolves No. 6, Sec. 88
As Approved by the Governor	is amended to read:	is amended to read:
(2) To the Department of Health: \$2,400,000 to fund testing	(2) To the Department of Health: \$2,400,000 to fund in fiscal	(2) To the Department of Health: \$2,400,000 to fund in fiscal
for lead in drinking water and additional support in schools and child	years 2020 and 2021 testing for lead in drinking water and additional	year 2020 testing for lead in drinking water and additional support.
care facilities consistent with the program established in S.40 of 2019.	support, retesting, and replacement of drinking water fixtures in	retesting, and replacement of drinking water fixtures in schools and
These funds are allocated as follows:	schools and child care facilities consistent with the program	child care facilities consistent with the program established in
	established in requirements in S.40 of 2019. These funds are allocated	requirements in S.40 of 2019. These funds are allocated as follows:
(A) \$125,000 to fund the limited service program position	as follows:	(A) \$125,000 to fund the limited service program position
established in S.40 of 2019.	(A) \$125,000 to fund the limited service program position	established in S.40 of 2019.
(B) \$150,000 to fund program start-up and data	established in S.40 of 2019.	(B) \$150,000 to fund program start-up and data
management costs for the program.	(B) \$150,000 to fund program start-up and data	management costs for the program.
(C) \$2,125,000 to fund the initial testing and retesting costs	management costs for the program.	(C) \$2,125,000 to fund the <u>costs of</u> initial testing and,
and to apply to tap remediation costs.	(C) \$2,125,000 to fund the costs of initial testing and.	retesting costs and to apply to tap remediation costs, and replacement
	retesting costs and to apply to tap remediation costs, and replacement	of drinking water fixtures.
	of drinking water fixtures.	
Sec. 4. EFFECTIVE DATE	Sec. 6. EFFECTIVE DATE	Sec. 6. EFFECTIVE DATE
This act shall take effect on passage.	This act shall take effect on passage.	This act shall take effect on passage.