

SCHOOL WATER TESTING REQUIREMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen G. Handy

Senate Sponsor: Jani Iwamoto

LONG TITLE

General Description:

This bill enacts provisions related to monitoring and mitigating lead in drinking water in schools and child care centers.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Drinking Water Board to make administrative rules that:
 - create a program related to lead concentration in the drinking water of schools and child care centers;
 - establish a lead concentration level in drinking water at or above which schools and child care centers are required to undertake mitigation activities under certain conditions; and
 - require schools and child care centers to undertake certain monitoring, reporting, and mitigation activities;
- ▶ adds a required use for a portion of the Environmental Mitigation and Response Fund; and
- ▶ creates an expendable special revenue fund.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ to the Department of Environmental Quality - Environmental Mitigation and



28 Response Fund, as a one-time appropriation:

- 29 • from the General Fund, One-time, \$5,000,000.

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **19-1-604**, as enacted by Laws of Utah 2017, Chapter 246

35 ENACTS:

36 **19-4-115**, Utah Code Annotated 1953

37 **19-4-116**, Utah Code Annotated 1953



39 *Be it enacted by the Legislature of the state of Utah:*

40 Section 1. Section **19-1-604** is amended to read:

41 **19-1-604. Environmental mitigation.**

42 (1) The executive director shall administer the fund created in Section **19-1-603**.

43 (2) The executive director may:

44 (a) disburse funds to an authorized individual or public, private, or governmental
45 entity, or Native American tribe to implement a specified environmental mitigation action in
46 accordance with any terms and conditions associated with the funding source, as provided in
47 Subsection **19-1-603(4)**;

48 (b) expend funds to implement certain environmental mitigation actions in accordance
49 with any terms and conditions associated with the funding source, as provided in Subsection
50 **19-1-603(4)**;

51 (c) expend funds to implement an environmental response action or site closure, in
52 accordance with any terms and conditions associated with the funding source, as provided in
53 Subsection **19-1-603(4)**;

54 (d) expend funds to cover actual administrative expenditures in accordance with any
55 terms and conditions associated with the funds as provided in Subsection **19-1-603(4)**; and

56 (e) return unused funds to the funding source, if required under the terms and
57 conditions as provided in Subsection **19-1-603(4)**.

58 (3) For an environmental response action conducted pursuant to Subsection

59 [19-1-604](#)(2)(c), the executive director shall comply with applicable environmental cleanup
60 standards described in this title.

61 (4) If the executive director disburses funds to another state agency in accordance with
62 Subsection (2)(a), that agency may expend the funds in accordance with any terms and
63 conditions associated with the fund contributions as provided in Subsection [19-1-603](#)(4),
64 including returning any unused funds to the department.

65 (5) Following the completion of an environmental mitigation and response action, any
66 excess funds not returned to the funding source as provided in Subsection [19-1-603](#)(4) shall be
67 transferred to the Hazardous Substances Mitigation Fund, in accordance with Section
68 [19-6-307](#).

69 (6) (a) As used in this Subsection (6):

70 (i) "Child care center" means:

71 (A) center based child care, as defined in Section [26-39-102](#);

72 (B) an exempt provider, as defined in Section [26-39-102](#); or

73 (C) a preschool.

74 (ii) "School" means a public or private school serving any grades kindergarten through
75 grade 12.

76 (b) The executive director shall disburse state funds appropriated by the Legislature for
77 lead in drinking water mitigation described in Section [19-4-115](#) to schools and child care
78 centers that have a lead concentration at or above the lead level requiring mitigation, as defined
79 in Section [19-4-115](#).

80 (c) In making a disbursement described in Subsection (6)(b), the executive director
81 shall:

82 (i) prioritize funding for schools and child care centers that have known lead service
83 lines; and

84 (ii) require that before receiving a disbursement from the fund:

85 (A) a school shall spend at least \$1,000 on mitigating the lead concentration in the
86 school's drinking water; and

87 (B) a child care center shall spend at least \$200 on mitigating the lead concentration in
88 the child care center's drinking water.

89 Section 2. Section [19-4-115](#) is enacted to read:

90 19-4-115. Drinking water quality in schools and child care facilities.

91 (1) As used in this section:

92 (a) "Lead level requiring mitigation" means the lead concentration in a school's
93 drinking water at or above which the school may be required to undertake mitigation activities
94 in accordance with Subsection (2)(d).

95 (b) "Local health department" means the same as that term is defined in Section
96 26A-1-102.

97 (c) "School" means a public or private:

98 (i) elementary school or secondary school through grade 12;

99 (ii) preschool;

100 (iii) kindergarten;

101 (iv) center based child care, as defined in Section 26-39-102; or

102 (v) exempt provider, as defined in Section 26-39-102.

103 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
104 board shall make rules that:

105 (a) establish a reduction of lead in drinking water program for schools;

106 (b) as part of the program described in Subsection (2)(a), require a school to:

107 (i) create a written plan regarding lead concentration in the school's drinking water;

108 (ii) through either the school's own employees or a contract with a local health
109 department or other entity, monitor and report on the lead concentration in the school's drinking
110 water; and

111 (iii) notify parents of children enrolled in the school of the lead concentration in the
112 school's drinking water;

113 (c) establish the lead level requiring mitigation; and

114 (d) determine whether a school is required to undertake mitigation if the lead
115 concentration in the school's drinking water is at or above the lead level requiring mitigation,
116 taking into consideration:

117 (i) the effectiveness of available mitigation to bring the lead concentration in the
118 school's drinking water below the lead level requiring mitigation; and

119 (ii) the lead concentration in the water delivered to the school.

120 (3) (a) As part of the Department of Health's consultation with the Department of

121 Environmental Quality described in Section 26-1-30, the Department of Health shall
122 recommend to the board a lead level requiring mitigation.

123 (b) The board shall consider the recommendation described in Subsection (3)(a) when
124 establishing the lead level requiring mitigation.

125 (4) The division shall provide resources to schools regarding a written plan described
126 in Subsection (2)(b)(i), including:

127 (a) a template; and

128 (b) guidance on how a school may customize the template described in Subsection
129 (4)(a).

130 (5) Subject to available funds:

131 (a) the executive director of the Department of Environmental Quality shall use money
132 from the Environmental Mitigation and Response Fund created in Subsection 19-1-603:

133 (i) for mitigation described in Subsection (2)(d); and

134 (ii) in accordance with Subsection 19-1-604(6); and

135 (b) the director shall allocate money in the Lead Sampling Fund created in Section
136 19-4-116 as described in Section 19-4-116.

137 Section 3. Section 19-4-116 is enacted to read:

138 **19-4-116. Lead Sampling Fund.**

139 (1) The terms defined in Section 19-4-115 apply to this section.

140 (2) There is created an expendable special revenue fund known as the "Lead Sampling
141 Fund."

142 (3) The Lead Sampling Fund consists of:

143 (a) grants from the federal government;

144 (b) legislative appropriations;

145 (c) voluntary contributions; and

146 (d) interest earned on the fund.

147 (4) The director may distribute money in the fund, for a cost incurred in complying
148 with the requirements for schools described in Subsection 19-4-115(2)(b) to:

149 (a) reimburse a school; or

150 (b) directly pay a provider under contract with a school.

151 Section 4. **Appropriation.**

152 The following sums of money are appropriated for the fiscal year beginning July 1,
 153 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for
 154 fiscal year 2020. The Legislature has reviewed the following expendable funds. The Legislature
 155 authorizes the State Division of Finance to transfer amounts between funds and accounts as
 156 indicated. Outlays and expenditures from the funds or accounts to which the money is
 157 transferred may be made without further legislative action, in accordance with statutory
 158 provisions relating to the funds or accounts.

159 ITEM 1

160 To Department of Environmental Quality -- Environmental
 161 Mitigation and Response Fund

162 From General Fund, One-time \$5,000,000

163 Schedule of Programs:

164 School Drinking Water Lead Mitigation \$5,000,000

165 The Legislature intends that the appropriation under this item be used to mitigate the
 166 concentration of lead in school and child care center drinking water, as described in Section
 167 [19-1-604.](#)