SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 5380

(SENATE AUTHORS: MORRISON, McEwen and Abeler)

DATE	D-PG	OFFICIAL STATUS
04/08/2024	13539	Introduction and first reading Referred to Education Finance

A bill for an act

relating to education; modifying lead in school drinking water requirements; establishing an account in the special revenue fund; appropriating money; amending Minnesota Statutes 2023 Supplement, section 121A.335, subdivisions 1, 2, 3, 5, by adding subdivisions; repealing Minnesota Statutes 2023 Supplement, section 121A.335, subdivision 6.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2023 Supplement, section 121A.335, subdivision 1, is amended to read:

Subdivision 1. **Model plan.** (a) The commissioners of health and education shall jointly develop a model plan to require school districts to ~~accurately and efficiently test for~~ develop a drinking water management plan for reducing the presence of lead in water in public school buildings serving students in kindergarten through grade 12 and serving children in child care facilities. To the extent possible, the commissioners shall base the plan on the standards established by the United States Environmental Protection Agency. The plan may be based on the technical guidance in the Department of Health's document, "Reducing Lead in Drinking Water: A Technical Guidance for Minnesota's School and Child Care Facilities." The plan must include recommendations for remediation efforts when testing reveals the presence of lead at or above five parts per billion.

(b) By August 1, 2025, the commissioners of health and education must revise the model plan to include the following:

(1) the location of each water outlet, specifying one of the following three categories:

(i) the location where a water outlet will be maintained to deliver water for human consumption, whether as drinking water or as a component of a food or beverage, specifying one of the following two categories:

(A) the location where a filtered bottle-filling station will be maintained. The plan must provide for the maintenance of at least one filtered bottle-filling station for every 75 occupants of the school, not including visitors or individuals attending special events; or

(B) the location where a filtered faucet will be maintained. The plan may provide for the maintenance of filtered faucets only when the installation of a filtered bottle-filling station is not feasible but a water outlet for human consumption is necessary, including but not limited to kitchens, nurses' stations, preschool classrooms, and teachers' lounges;

(ii) the location where a water outlet will be maintained for purposes other than as described in clause (i); and

(iii) the location where a water outlet will be shut off or rendered permanently inoperable;

(2) an established schedule for when each of the following will occur:

(i) annual water sampling and testing of the filtered water at each filtered bottle-filling station and filtered faucet in the school to ensure that the filters are properly installed and each location provides water with a lead concentration of not more than five parts per billion; and

(ii) regular replacement of the filter cartridge for each filtered bottle-filling station and filtered faucet in compliance with the manufacturer instructions or recommendations of the commissioners;

(3) a requirement that water sampling and testing must be conducted by drawing from all of the bubbler fixtures of the filtered bottle-filling stations and filtered faucets, and by collecting the water in 250 milliliter bottles after at least an eight-hour stagnation period and before any water use occurs at the school; and

(4) a requirement that if the testing of filtered water at a filtered bottle-filling station or filtered faucet indicates the presence of lead at a concentration of at least one part per billion but not more than five parts per billion, the district or charter school must:

(i) immediately check the status of the filter or filters at the filtered bottle-filling station or filtered faucet and replace the filter cartridge if the status light indicates that replacement is or will soon be required;

(ii) ensure the filtered bottle-filling station or filtered faucet is properly installed;

(iii) resample and retest the filtered water; and

(iv) if the water sampling and testing indicates the presence of lead at a concentration of at least one part per billion but not more than five parts per billion, send to the Department of Education and the Department of Health a copy of the test results and documentation of the make and model of the filtered bottle-filling station or filtered faucet and filter cartridge, and consult with the Department of Education and the Department of Health and filtered bottle-filling station or filtered faucet manufacturer.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 2. Minnesota Statutes 2023 Supplement, section 121A.335, is amended by adding a subdivision to read:

Subd. 1a. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Filtered bottle-filling station" or "station" means an apparatus that meets all of the following requirements:

(1) is connected to customer site piping;

(2) filters water and is certified to meet NSF/ANSI standard 53 for lead reduction and NSF/ANSI standard 42 for particulate removal;

(3) has a flow rate through the station that is paired to the specified flow rate of the filter cartridge;

(4) has a light or other device to indicate filter cartridge replacement status;

(5) is designed to fill drinking bottles or other containers for personal water consumption; and

(6) includes a drinking fountain.

(c) "Filtered faucet" means a faucet that at the point of use includes a filter that is certified to meet NSF/ANSI standard 53 for lead reduction and NSF/ANSI standard 42 for particulate removal.

(d) By October 1, 2025, a school must not install a drinking fountain, unless the drinking fountain is a filtered bottle-filling station.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 3. Minnesota Statutes 2023 Supplement, section 121A.335, subdivision 2, is amended to read:

Subd. 2. **School plans.** (a) By July 1, 2018, the board of each school district or charter school must adopt the commissioners' model plan or develop and adopt an alternative plan to accurately and efficiently test for the presence of lead in water in school buildings serving prekindergarten students and students in kindergarten through grade 12.

(b) By July 1, 2024, a school district or charter school must revise its plan to include its policies and procedures for ensuring consistent water quality throughout the district's or charter school's facilities. The plan must document the routine water management strategies and procedures used in each building or facility to maintain water quality and reduce exposure to lead. A district or charter school must base the plan on the United States Environmental Protection Agency's "Ensuring Drinking Water Quality in Schools During and After Extended Closures" fact sheet and the United States Environmental Protection Agency's "3Ts Toolkit for Reducing Lead in Drinking Water in Schools and Child Care Facilities" manual. A district or charter school's plan must be publicly available upon request.

(c) By July 1, 2026, a school district or charter school must revise its plan to include changes to the model plan under subdivision 1, paragraph (b).

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 4. Minnesota Statutes 2023 Supplement, section 121A.335, subdivision 3, is amended to read:

Subd. 3. **Frequency of testing.** (a) The plan under subdivision 2 must include a testing schedule for every building serving prekindergarten through grade 12 students. The schedule must require that each building be tested at least once every five years. A school district or charter school must begin testing school buildings by July 1, 2018, and complete testing of all buildings that serve students within five years.

(b) By July 1, 2026, each school district or charter school must establish a schedule for when each of the following will occur:

(1) annual water sampling and testing of the filtered water at each filtered bottle-filling station and filtered faucet in the school to ensure that the filters are properly installed and each location provides water with a lead concentration of not more than five parts per billion; and

(2) regular replacement of the filter cartridge for each filtered bottle-filling station and filtered faucet in compliance with the manufacturer instructions or recommendations of the commissioners.

~~(b)~~ (c) A school district or charter school that finds lead at a specific location providing cooking or drinking water within a facility must formulate, make publicly available, and implement a plan that is consistent with established guidelines and recommendations to ensure that student exposure to lead is reduced to below five parts per billion as verified by a retest. This includes, when a school district or charter school finds the presence of lead at or above five parts per billion in any water fixture that can provide cooking or drinking water, immediately shutting off the water fixture or making it unavailable until the hazard has been remediated as verified by a retest. A district or charter school must post a conspicuous sign near a water fixture made unavailable stating the water outlet is inoperable because of high lead concentration, and must maintain the sign until the water fixture is returned to service.

~~(c)~~ (d) A school district or charter school must test for the presence of lead after completing remediation activities required under this section to confirm that the water contains lead at a level below five parts per billion.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 5. Minnesota Statutes 2023 Supplement, section 121A.335, subdivision 5, is amended to read:

Subd. 5. **Reporting.** (a) A school district or charter school must send parents an annual notice that includes the district's or charter school's annual testing and remediation plan, information about how to find test results, and a description of remediation efforts on the district website. The district or charter school must update the lead testing and remediation information on its website at least annually. In addition to the annual notice, the district or charter school must include in an official school handbook or official school policy guide information on how parents may find the test results and a description of remediation efforts on the district or charter school website and how often this information is updated.

(b) If a test conducted under subdivision 3, paragraph (a), reveals the presence of lead at or above five parts per billion, the school district or charter school must, within 30 days of receiving the test result, ~~either~~ remediate the presence of lead to below five parts per billion, verified by retest, ~~or~~ and directly notify parents of the test result. The notice must contain information provided by the Department of Health on the health effects of lead exposure and ways to reduce childhood lead exposure.

(c) Starting July 1, 2024, school districts and charter schools must report their test results and remediation activities to the commissioner of health in the form and manner determined by the commissioner in consultation with school districts and charter schools, by July 1 of each year. The commissioner of health must post and annually update the test results and remediation efforts on the department website by school site.

(d) A district or charter school must maintain a record of lead testing results and remediation activities for at least 15 years.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 6. Minnesota Statutes 2023 Supplement, section 121A.335, is amended by adding a subdivision to read:

Subd. 8. **Facilities requirements.** (a) By October 1, 2025, a district or charter school must not install a drinking fountain, unless the drinking fountain is a filtered bottle-filling station.

(b) By the end of the 2026-2027 school year, each district or charter school must:

(1) install all filtered bottle-filling stations and filtered faucets as indicated in the plan and not already in existence;

(2) shut off or render permanently inoperable any water outlet providing water for human consumption that is not a filtered bottle-filling station or filtered faucet; and

(3) post a conspicuous sign near each water outlet indicating whether or not the outlet is intended to provide water for human consumption.

(c) By the end of the 2026-2027 school year and annually thereafter, a district or charter school must submit to the commissioner of education documentation, in the form and in a manner determined by the commissioner, that certifies that the district or charter school has complied with the requirements of this section.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 7. Minnesota Statutes 2023 Supplement, section 121A.335, is amended by adding a subdivision to read:

Subd. 9. **Clean drinking water account.** (a) An account is established in the special revenue fund known as the clean drinking water account. Money in the account is annually appropriated with an initial funding amount of $55,000,000 to the commissioner of health

to create and operate a program to assist school districts, charter schools, nonpublic schools, and licensed child care centers with the following:

(1) the first time acquisition and installation of filtered bottle-filling stations and filtered faucets, in compliance with this section;

(2) maintenance of filtered bottle-filling stations and filtered faucets, including replacement of filter cartridges, in compliance with the plan; and

(3) costs associated with water sampling and testing.

(b) The commissioner of health may award grants to school districts, charter schools, and licensed child care centers.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 8. Minnesota Statutes 2023 Supplement, section 121A.335, is amended by adding a subdivision to read:

Subd. 10. **Nonpublic schools.** A nonpublic school, excluding a home school, must:

(1) test for the presence of lead in water in school buildings serving students in kindergarten through grade 12;

(2) revise its water management plan to include changes to the model plan under the requirements of subdivision 1, paragraph (b); and

(3) comply with the requirements under subdivision 8.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 9. **APPROPRIATION.**

Subdivision 1. **Department of Education.** The sum indicated in this section is appropriated from the general fund to the Department of Education in the fiscal year designated.

Subd. 2. **Clean drinking water account.** (a) For transfer to the clean drinking water account:

$ 55,000,000 2025

(b) This is a onetime appropriation.

Sec. 10. **REPEALER.**

Minnesota Statutes 2023 Supplement, section 121A.335, subdivision 6, is repealed.

121A.335 LEAD IN SCHOOL DRINKING WATER.

Subd. 6. **Public water systems.** (a) A district or charter school is not financially responsible for remediation of documented elevated lead levels in drinking water caused by the presence of lead infrastructure owned by a public water supply utility providing water to the school facility, such as lead service lines, meters, galvanized service lines downstream of lead, or lead connectors. The district or charter school must communicate with the public water system regarding its documented significant contribution to lead contamination in school drinking water and request from the public water system a plan for reducing the lead contamination.

(b) If the infrastructure is jointly owned by a district or charter school and a public water supply utility, the district or charter school must attempt to coordinate any needed replacements of lead service lines with the public water supply utility.

(c) A district or charter school may defer its remediation activities under this section until after the elevated lead level in the public water system's infrastructure is remediated and postremediation testing does not detect an elevated lead level in the drinking water that passes through that infrastructure. A district or charter school may also defer its remediation activities if the public water supply exceeds the federal Safe Drinking Water Act lead action level or is in violation of the Safe Drinking Water Act Lead and Copper Rule.