

# Vermont Legislative Joint Fiscal Office

One Baldwin Street • Montpelier, VT 05633-5701 • (802) 828-2295 • Fax: (802) 828-2483

## *FISCAL NOTE*

Date: November 14, 2019  
Prepared by: Stephanie Barrett

### **Act 66 of 2019 (S.40) An act relating to testing and remediation of lead in the drinking water of schools and child care facilities – As Passed By House And Senate –Final enacted.**

<https://legislature.vermont.gov/Documents/2020/Docs/ACTS/ACT066/ACT066%20As%20Enacted.pdf>

Act 66 requires all school districts, supervisory unions, independent schools, and child care providers in Vermont to test drinking water in their buildings and child care facilities for lead contamination; and 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.

The Act establishes the methodology, scope, public notification and record keeping requirements for this testing program. The Vermont Department of Health is required to complete the initial sampling for this program on or before December 31, 2020.

The Act sets the action level for remediation at or above of four parts per billion (ppb) of lead which is effectively 4.0 ppb.

**Remediation Payments** – The act establishes payments for remediation of eligible costs by facility and fixture type as follows:

For remediation required under 18 V.S.A. chapter 24A, the Department of Health shall pay a school district, supervisory union, independent school, or child care provider the actual cost of replacement of a drinking water fixture, as evidenced by a receipt submitted to the State, up to the following maximum amount for each type of fixture:

- (1) public drinking fountains and ice machines: \$1,800;
- (2) outlets used for cooking: \$650;
- (3) all other outlets:
  - for schools: \$350; and
  - for child care providers: \$400.

**Fiscal Estimate<sup>i</sup>** – The following assumptions were made in estimating the costs of the initial sampling, testing and remediation payments of this program.

Records indicate a total building count of 425<sup>ii</sup> public and private schools and 958 center and home-based childcare facilities. An average number of drinking water taps/fixtures were made for each type of building 50 per school building, 10 per childcare center and 3 home-based childcare facility. This resulted in a total estimate of 26,882 taps/fixtures to be sampled. The testing cost of \$20 per test was based on department estimates and laboratory costs. Each fixture requires two tests per the methodology established. The total testing cost is estimated at

\$1,075,280 of which \$180,000 is anticipated to be offset by the Department of Environmental Conservation available EPA federal grant funding for lead testing.

The results of the Department of Health school lead testing pilot program conducted in 2017 and the Agency of Natural Resource community water system testing program which provided specific results for water systems in schools is the basis for estimating a ‘failure’ rate of 10.5%. This means 10.5% of the tested taps/fixtures will be at or exceed the action level of 4 ppb established in the Act.

The retesting costs of \$112,770 are estimated based on the failure rate for 2,819 taps/fixtures retested after remediation. The remediation payment cost estimated at \$1,653,503 reflects the same 2,189 fixtures to be remediated at the payment rates established in the Act. The distribution of fixture types is also based on the pilot program which indicated 4% kitchen fixtures, 15% water fountains or filling stations and 81% other outlets.

**Funding** – The Act contains appropriations of FY19 General Funds in FY19 to be carried forward as needed in the following amounts:

Department of Health:

\$125,000 to fund the limited service program position established in the act.

\$150,000 to fund program start-up and data management costs for the program.

\$2,562,500 to fund initial testing, retesting, and remediation eligible payments as set in the act.

Department of Environmental Conservation:

\$187,500 to fund the limited service remediation position established in the act, which is in addition to \$180,000 of federal funds available in the department budget for lead testing.

The total GF appropriation is \$3,025,000.

Total program cost including applied available federal lead testing funds is \$3,205,000.

### **Future Costs**

This fiscal note does **not** estimate costs for future sampling, testing and remediation beyond this initial testing program. By January 1, 2021, the Department of Health is required to adopt a schedule by rule for continued sampling and lead testing of the water at Vermont public and independent schools and childcare buildings and facilities.

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<sup>i</sup> JFO #342017 contains detailed analysis of the final agreed upon requirements of the Act and comparisons of the Senate and House passed versions of the bill as well as various conference committee proposals.

<sup>ii</sup> This is the estimated number of school buildings remaining to be tested after the pilot program conducted by the Department in 2017.