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Consolidated Fiscal Note

2023-2024 Legislative Session

HF347 - 0 - School Lead Testing and Remediation Requirements

Chief Author: **Michael Howard**
 Committee: **Education Finance**
 Date Completed: **3/7/2023 4:50:42 PM**
 Lead Agency: **Education Department**
 Other Agencies:
 Health Dept

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Education Department						
General Fund	-	1,530	425	283	283	
Health Dept						
General Fund	-	263	514	514	514	514
State Total						
General Fund	-	1,793	939	797	797	797
	Total	-	1,793	939	797	797
	Biennial Total			2,732		1,594

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Education Department					
General Fund	-	-	-	-	-
Health Dept					
General Fund	-	1.5	1.5	1.5	1.5
	Total	-	1.5	1.5	1.5

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Alyssa Holterman Rosas **Date:** 3/7/2023 4:50:42 PM
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State Cost (Savings) Calculation Details

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*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
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Education Department						
General Fund	-	1,530	425	283	283	
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General Fund	-	263	514	514	514	
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	Biennial Total		2,732			1,594
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Education Department						
General Fund	-	1,530	425	283	283	
Health Dept						
General Fund	-	263	514	514	514	
Total	-	1,793	939	797	797	797
	Biennial Total		2,732			1,594
2 - Revenues, Transfers In*						
Education Department						
General Fund	-	-	-	-	-	-
Health Dept						
General Fund	-	-	-	-	-	-
Total	-	-	-	-	-	-
	Biennial Total		-			-

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Total	-	1,530	425	283	283	283
Biennial Total			1,955			566

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	-	-	-	-
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Alyssa Holterman Rosas **Date:** 3/7/2023 4:49:51 PM
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State Cost (Savings) Calculation Details

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Total	-	1,530	425	283	283	283
Biennial Total			1,955			566
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	
Total	-	-	-	-	-	
Biennial Total			-			-

Bill Description

This bill modifies lead testing and remediation requirements if the presence of lead is above five parts per billion (ppb) and authorizes re-testing for confirmation that the water contains lead at less than five ppb; changes lead testing and remediation in school district's 10-year Long-Term Facilities Maintenance (LTFM) plan from optional to required; requires school districts and charter schools to annually notify parents of the school's testing and remediation plan, test results and remediation efforts, annual updates on the school's website, and include lead in water testing/mitigation information in official handbooks and policies.

Requires districts and charter school annual reporting to the Commissioner of Minnesota Department of Health (MDH); requires annual MDH website reporting of school sites lead testing and remediation results; MDH five-year reporting to K-12 education legislative committees for any recommended lead in water testing/remediation changes.

District or charter school's remediation plan must include communication and coordination with the public water system in determination of the ownership and composition of the infrastructure connecting the water mains to the school's buildings (i.e. service lines, gooseneck, meters, joins, or other connectors). If it is determined that the infrastructure is composed of or contains lead, the schools and the city must coordinate a plan for replacement. District and charter schools are only responsible to remediate the infrastructure it owns but should continue interim remediation steps as directed by the Minnesota Department of Health in its "Reducing Lead in Drinking Water" technical guidance and comply with federal requirements in the federal Lead and Copper Rule.

For FY 25 and later, LTFM school district revenue remains at \$380/adjusted pupil unit (APU) and charter schools at \$132/APU plus costs approved by the commissioner of health for remediation of lead in the school's drinking water, including the cost of filters.

Requires sums from the general fund to be appropriated to MDE for FY 24 and FY 25. American Indian Tribal contracts or grant schools under Minnesota Statutes, section 124D.83 are eligible and must apply to MDH for lead in water testing/mitigation grants.

Assumptions

School building variables exist across the state based on age of building, square footage, hours of occupation, types of fixtures and valving installed and usage of drinking water fixtures; these variables impact the likelihood of lead exposure.

In discussions with Health and Safety Management Assistants/Coops who represent the majority of schools throughout the state, most remediation efforts to date have been to remove taps/fixtures or disconnect the water supply, replacing lead

solder joints, and implementation of a flushing program/s.

School districts and charter schools have not had a statutory authorization of a specific threshold at five ppbs, and consultation with MDH has determined that it is unknown how many schools will be affected by this lower acceptance level for lead in drinking/cooking water. Therefore, remediation costs for lead in water at the proposed statutory threshold of five parts per billion are currently unknown.

It is assumed that there will be need for all school districts/charter schools to purchase/install water filtration systems at all schools for remediation where testing shows lead in water at more than five ppb. It is assumed that all filtration stations will be purchased and installed in FY24. Average costs for filtrations systems are \$2,000 per filtration system; 100 students per filtration station; \$100 per filter with replacement of filters 4 times per year.

Charter school LTFM revenue is all state aid and according to statute may be used for any school purpose. All costs in this bill related to testing and remediation of lead in drinking water is 100 % state aid for charter schools. It is assumed that all revenue related to costs of testing and remediation of lead in drinking water for school district is funded 100 % by levy.

Students are based on FY24 Average Daily Membership (ADM) from the February 2023 Forecast.

Expenditure and/or Revenue Formula

Charter Schools	FY 24	FY 25	FY 26	FY 27
<u>Filter Station Cost</u>				
Estimated Charter School Students	70,816			
Students per station	100			
Total Stations Statewide	708			
Average Cost per Station	\$ 2,000			
Total Station Costs	\$ 1,416,320			
<u>Filter Cost</u>				
# of Stations	708	708	708	708
Costs per filter	100	100	100	100
Filters per year/station	4	4	4	4
	\$ 283,264	\$ 283,264	\$ 283,264	\$ 283,264
Total Costs - 100 % State Aid	\$ 1,699,584	\$ 283,264	\$ 283,264	\$ 283,264
90% current	1,530,000	255,000	255,000	255,000
10% prior year		169,584	28,264	28,264
Total appropriation	1,530,000	424,584	283,264	283,264
School Districts	FY 24	FY 25	FY 26	FY 27
<u>Filter Station Cost</u>				
Estimated School District Students	780,481			

Students per station	100			
Total Stations Statewide	7,805			
Average Cost per Station	\$ 2,000			
Total Station Costs	\$ 15,609,620			
Filter Cost				
# of Stations	7,805	7,805	7,805	7,805
Costs per filter	100	100	100	100
Filters per year/station	4	4	4	4
	\$ 3,122,000	\$ 3,122,000	\$ 3,122,000	\$ 3,122,000
Total Costs - 100 % Property Tax Levy	\$ 18,731,620	\$ 3,122,000	\$ 3,122,000	\$ 3,122,000

Long-Term Fiscal Considerations

Ongoing state aid costs related to lead in water filter costs for Charter Schools.

The required use of LTFM funding for remediation lead levels of five ppbs in drinking water will reduce the LTFM funds that are available for mandatory health & safety projects and deferred maintenance expenditures.

Local Fiscal Impact

Ongoing local levy costs related to lead in water filter costs for school districts.

References/Sources

Minnesota Department of Health (MDH)

“Reducing Lead in Drinking Water Guidance”

<https://www.health.state.mn.us/communities/environment/water/docs/pbschoolguide.pdf>

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Fiscal Note

2023-2024 Legislative Session

HF347 - 0 - School Lead Testing and Remediation Requirements

Chief Author: **Michael Howard**
 Committee: **Education Finance**
 Date Completed: **3/7/2023 4:50:42 PM**
 Agency: **Health Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact	X	

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State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	263	514	514	514	514
Total	-	263	514	514	514	514
Biennial Total			777			1,028

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	1.5	1.5	1.5	1.5
Total	-	1.5	1.5	1.5	1.5

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Kate Schiller **Date:** 3/1/2023 10:32:25 AM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

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State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	263	514	514	514	514
Total		-	263	514	514	514
Biennial Total				777		1,028
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	263	514	514	514	514
Total		-	263	514	514	514
Biennial Total				777		1,028
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-

Bill Description

This bill requires the Minnesota Departments of Education (MDE) and Health (MDH) to update the Reducing Lead in Drinking Water Model Plan to include recommendations for remediation when testing reveals the presence of lead above 5 parts per billion (ppb). This bill also requires schools to report lead in drinking water test results to MDH, and when lead is found above 5 ppb, schools must report remediation efforts. MDH must post this information annually on our website, and MDH must report to the legislature starting January 1, 2026 and every five years thereafter, on recommended changes to the lead testing standards and statutes for schools. Finally, this bill also adds lead remediation costs to the long-term facility maintenance revenue and for public and charter schools and establishes a grant program for American Indian Tribal Contract Schools. Money is appropriated to MDE, and an unspecified portion of the appropriation is transferred to MDH for managing the grant program. The bill is effective July 1, 2023.

Assumptions

Updating Model Plan

Updating the Reducing Lead in Drinking Water Model Plan to include the updated requirements of the bill is within the scope of work for existing staff and has a de minimis cost for MDH. The remediation options available for schools that identify lead in their drinking water at or above 5.0 ppb are well known and can be incorporated into the existing model plan document. It is assumed that MDE would communicate changes to the plan to school districts.

School Plans, Testing, and Reporting

The bill requires MDH to develop reporting requirements for schools to provide data about test results and remediation in a standard format, train and provide instructions for reporting data to MDH to ensure data is accurate and complete, create a mechanism to obtain test results from schools and remediation steps taken by schools such as an online platform for uploading documents to be reviewed and then shared to a public facing portal at least annually, and create a platform to host data on the web and develop a records retention policy. 1.0 Full Time Equivalent (FTE) staff is required to develop the process, training, and education materials, and manage the data reporting.

Schools maintain the responsibility of reviewing their data and developing testing and remediation plans following applicable state and federal laws and guidance. MDE and MDH do not review and approve lead testing and remediation projects, but the school Superintendent signs a "Statement of Assurances" stating they have followed state and federal requirements as is done with other Long-term Facilities Maintenance (LTFM) funded projects such as Radon testing/mitigation.

The department will need to create a data portal to receive and display testing and remediation results data required by the

bill. MN.IT estimates that would cost \$143,250 to develop the data portal and \$21,328 per year to maintain the system.

MDH Legislative Report

The bill requires MDH to provide a report to the legislature every 5 years. This report is to include recommendations for any changes needed to the statute based on current science and data. This report will be created using data reported by schools and the new program staff identified in the previous section.

American Indian and Tribal Contract School for School Testing and Remediation

There are 11 federally recognized Minnesota tribal nations which have a unique relationship with the State of Minnesota and the federal government. Indian tribal contract schools are not eligible for state Long-Term Facilities Maintenance Plan dollars.

In Minnesota there are currently four Bureau of Indian Education tribal schools recognized as the American Indian tribal contract schools. Each school and district may have multiple buildings that could potentially need remediation and testing. The grant program described in the proposed legislation would provide grants to these four schools.

The cost of a new separate grant program for American Indian tribal contract schools includes a 0.5 FTE staff to create, administer and conduct outreach on the new program as well as the costs of testing and remediation. Based on information provided by MDE, we assume we need to test five buildings per year meeting the definition and the average cost for testing and remediation at \$40,000 each. Based on experience with other school districts and the requirements in statute, we assume the American Indian tribal contract schools will test a portion of their schools annually on a five-year cycle. As a result, grants are assumed ongoing.

Expenditure and/or Revenue Formula

Expenditure (Actual Dollars)	Amount	FY 2024	FY 2025	FY 2026	FY 2027
Salary & Fringe:		FTE	FTE	FTE	FTE
State Program Admin Coordinator	145,917	1.50	1.50	1.50	1.50
	FTE	1.50	1.50	1.50	1.50
	Subtotal	218,876	218,876	218,876	218,876
Information Technology:					
Data Portal for test results. Development in FY24, Maintenance in FY25 and beyond		143,250	21,328	21,328.00	21,328.00
	Subtotal	0	21,328	21,328	21,328
Other Operating Costs:					
	Subtotal	0	0	0	0
Grants, Aids & Subsidies:					
Grants to tribal nation schools for remediation and testing (40k each building and 5 buildings)	0	0	200,000	200,000	200,000
	Subtotal	0	200,000	200,000	200,000
Indirect (20.3% Eligible Costs)	Subtotal	44,432	74,136	74,136	74,136
Expenditure	Total	263,307	514,339	514,340	514,340
Fiscal Tracking (Dollars in Thousands)		FY 2024	FY 2025	FY 2026	FY 2027
Health Protection BACT 03		263	514	514	514

Administration		263	314	314	314
Grants		0	200	200	200

Long-Term Fiscal Considerations

Local Fiscal Impact

There is a possibility of fiscal impact to local school districts and charter schools, both due to new reporting requirements and setting of a required remediation threshold for lead of 5.0 ppb. While the provision of funds provided within the bill via long-term facilities maintenance revenue may address much of the cost of the remediation, it is possible that not all costs associated with remediation would be covered. Additionally, school staff time costs associated with new reporting/notification requirements would not be addressed within the bill's provisions. The specific impacts to any individual district or charter school may vary by size of school/district, lead levels identified, and type of remediation pursued.

References/Sources

Agency Contact:

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