

Agency of Natural Resources Testimony on S.239

Chair Mullin and Members of the Committee:

Thank you very much for the opportunity to testify this morning regarding S.239. For the record, my name is Trey Martin, Senior Counsel for Government Affairs at the Vermont Department of Environmental Conservation (DEC). I am speaking this morning on behalf of DEC, and more generally on behalf of the Agency of Natural Resources (ANR) as a whole.

1. While DEC and ANR have a somewhat more limited role in S.239 than the Department of Health (Health), we welcome the opportunity to work with Health in areas of shared expertise to pursue the important policy goal of reducing Vermonters' exposure to toxic chemicals. This bill requires Health, in consultation with ANR, to identify chemicals of high concern based on a number of factors, including environmental monitoring results showing the presence of toxic chemicals in the natural environment or animal tissues. Multiple DEC programs and the other ANR departments have experience implementing these kinds of monitoring studies. Likewise, our waste program has a strong interest in the ultimate fate of chemicals following disposal or in the absence of proper disposal and would welcome the opportunity to work with Health to identify situations where bioaccumulation and persistence of chemicals should be taken into account in a decision to regulate chemicals.

2. ANR and DEC are working on the issue of toxics regulation on two fronts. In addition to our work with Health and bill proponents on the draft before you today, we have worked through ECOS (the national forum of state Environmental Commissioners) to support strong federal reform of the Toxic Substances Control Act (TSCA), and we are meeting with our congressional delegation on an ongoing basis to support their understanding of federal legislation currently under consideration. As you've heard in hearings on this bill, this kind of regulation is complex and can be time and resource intensive. You've also heard about the potential for impacting the flow of commerce if bills like this are implemented in different ways around the country. For these reasons, strong reform of TSCA by the U.S. Congress would be ideal. On this account, I am pleased to report that there has been significant progress in Washington D.C. to accomplish meaningful reform. First, there are ongoing efforts to amend S.1009 in the U.S. Senate, and second, a U.S. House committee held its first hearing yesterday on a discussion draft of an alternative bill. However, the two versions are far apart despite that progress, and we assume there is strong likelihood that this Congress will not pass meaningful TSCA reform.

3. If the states are required to lead on this issue, regulations should be responsible and effective. This bill was intended to allow collaboration with other states and data-sharing for regulated companies, it also allows Health to benefit from the work other states are doing in identifying priority chemicals, and it creates an advisory group to assist Health in working out the most complicated issues around regulatory prohibitions, labeling requirements, etc. Thus, it allows Vermont to move forward immediately with the publication of a list for consumers and businesses of chemicals that concern Health and ANR, even while the advisory group and Health work on the more complex aspects of the bill.

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All that said, I want to underscore: Because the main weight of implementing the bill falls on Health, we defer to the testimony you heard from Dr. Chen and Sarah Vose regarding the resources required to do the complex work of implementing a program like this. Likewise, in setting up the parameters for identifying a toxicological framework for identifying chemicals we want to list, we will follow the lead of Health.

4. Ultimately, this kind of legislation requires a balancing of interests. On one hand, the Agency enthusiastically supports the public's right to have clear and accessible information about, and the right to be protected from, harmful chemicals. On the other hand, the Agency embraces its obligation to work with industry to minimize impacts on the worldwide system of commerce in which Vermont participates. ANR believes that S.239 is a strong construct to achieve those interests.