



Vermont
Superintendents
Association

S.40 - Lead in School Water

House Education Committee

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Preliminary Testimony offered on behalf of the Vermont Superintendents Association, the Vermont Principals' Association and the Vermont School Boards Association

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Our associations are committed to achieving safe learning environments for children, including participating in initiatives intended to address matters of environmental health and safety.

Although I raise questions about the content of the bill, those questions should not be construed as opposition to the goal of the bill.

S.40 - Statement of Purpose: This bill proposes to require all schools and child care facilities in Vermont to test drinking water outlets for lead contamination. If samples indicate lead at levels exceeding the defined action level, the bill would require the school or child care facility to develop and implement an appropriate response or lead remediation plan.

Key Areas of Interest:

Health Equity - Children are vulnerable to lead exposure and susceptible to its negative consequences -- for example behavior and learning problems, slowed growth, and anemia.

Department of Health Commissioner Levine raised a question about which facilities would be required to test and remediate. It is essential that any new laws addressing possible lead exposure, testing and remediation apply to **all entities** providing on-premise services to children, including public schools, independent schools and early childcare providers.

Action Levels - Currently (as of March 1, 2019) our associations do not have a position on the action levels. That stated, while the safety of children is of utmost importance, it is very

important to understand the cost and logistical implications of action levels. Comparative risk analysis and most efficient and effective use of funds should be considered for this new state initiative. Proposals for program details to support this initiative should be evaluated based on comparative risk and funding availability.

Logistics - Given the complexity of this work, which will involve three state agencies and will place new requirements on school districts and early childcare providers, the state should take responsibility for coordinating all logistics in a manner that will work well for school districts, independent schools and childcare providers. It is often complicated to work with the AOE on any singular endeavor; coordinating with multiple agencies is even more complex.

In this case, the Health Department has a major role in facilitating sampling, testing samples, reporting results and reviewing remediation plans.

The Department of Environmental Conservation has a duty to support schools and childcare facilities in developing remediation plans.

By the Department of Health's own count, there are more than 1,500 entities (nearly 1,000 are child care providers) which, under the Senate-passed version of S.40, will need to complete the sampling process before January 1, 2020.

Under S.40 as passed the Senate, school water samples must be taken when school is in session. There are approximately 76 school days between the start of school in August 2019 and the last day of school preceding the winter holiday break. Can the requirements of the bill regarding completion of initial testing be completed on the schedule proposed? Perhaps, but I am requesting that this Committee receive clear assurance from the Health Department that the schedule is realistic before approving the bill. It would be better to pace this work on a more practical timeline. Despite the learnings from the pilot, this is a brand-new state program of significant size and scope. The timelines and scheduling must be achievable.

Funding - Because this is a state initiative, our associations are asking that the state fully fund the direct costs associated with this bill. The program and all its core elements will be enacted by the General Assembly and administered by, and under the guidance of the state of Vermont.

This means that testing, retesting, future testing and remediation will be prescribed by the state. The state should bear all costs of this program, since it is establishing the requirements.

School budgets approved for FY2020 did not include funds for testing (labor to be provided by school districts) or for remediation. When/if elevated lead levels are determined, there will be immediate pressure to remediate.

The Senate has proposed a 50%/50% cost share between the state and school districts for the cost of remediation. We believe that the cost estimates relied on by the Senate and currently under discussion in the House Education Committee are too low. For FY2020, school districts have not budgeted for any level of remediation that may be necessitated by this program. The General Assembly should appropriate all funds necessary to address the requirements of any bill enacted.

If a local share *is required*, remediation work should be deferred until FY2021 and the local share should be capped, so that the risk associated with cost predictions by the General Assembly being too low is borne by the state, not by the local school districts.

Despite my confidence in JFO analyst Stephanie Barrett and the work of the Joint Fiscal Office, I believe that the cost estimates rely on too small a sample size, improperly assume that all schools can provide "in-house" labor for remediation activities and do not account whatsoever for more extensive remediation projects that will likely be necessary in some places.

There are also significant indirect costs associated with this initiative - primarily in the areas of test reviews; notice of testing results; communications with parents and other members of the community; coordination and development of remediation plans; and labor associated with remediation and all follow up. These responsibilities will inescapably fall to school districts and childcare operators - and the fiscal projections should account for these costs as well.

Also affecting the overall costs of this initiative is the determination of how often, and who will pay for, subsequent testing requirements. In addressing the costs of implementing this program, the bill and fiscal note only considers the costs of testing and retesting of the first round of sampling. It leaves the schedule for future testing to the rulemaking process and is silent on who will pay for future rounds of testing. We believe that absent funding for future testing, this program falls further into the category of an unfunded mandate. Other rules will be subject to the rulemaking process that could result in significant future costs.

Thank you. We are committed to working to make this bill as effective as possible.