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Testimony to the House Education Committee: S.40 - An Act Relating to Testing and Remediation of Lead in the Drinking Water of Schools and Child Care Facilities

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The Agency of Education is pleased to offer additional testimony in support of the committee on S.40.

Statement of Position

The agency supports all initiatives to improve student health and learning. It is important, however, to craft good public policy that balances state resources with good public health outcomes.

To that end, we offer the following constructive suggestions to the committee.

Policy Suggestions for Consideration

Fiscal Implications

S.40 has significant fiscal implications both for the state and for school districts. Policy decisions, such as what action level to set, the extent and scope of testing, and whether or not to include childcare facilities in addition to schools, will have fiscal impacts for local entities and the state as a whole.

It is important to keep in mind that **all Vermonters will pay for the costs of testing and remediation**, at least in the case of public schools. Regardless of the level of funding the state chooses to put forward for the program, we will collectively bear the full costs of the program, either through direct state funding for testing and remediation cost sharing or through increased school budgets in the coming years.

Multiple policy decisions in S.40 could have fiscal impacts for schools, including:

- **Action level**: should the General Assembly choose a lower action level, it is very likely remediation costs will be higher. The General Assembly has taken expert testimony on both the action level and the complexities of remediation and should weigh the increased cost against improved public health outcome.
- **Testing protocols**: The General Assembly should consider setting a testing protocol that is clear and as simple to comply with as possible, and grounded in existing published research (e.g. the EPA's [3Ts for Reducing Lead in Drinking Water Toolkit](#)). Additionally, the General Assembly should avoid establishing requirements that might complicate or confuse testing.

- Timeline: The General Assembly should take care to establish a feasible timeline that will be financially and logistically workable for both the state and for school districts and should consider how other policy decisions could impact the timeline.
- Remediation Flexibility: The General Assembly should consider structuring S.40 in a way that gives school districts a certain amount of flexibility in crafting remediation plans. School districts could, for example, keep certain outlets in service for use in handwashing as needed with appropriate safeguards to prevent the outlet being used as a source for drinking or cooking. The General Assembly should establish a policy direction that has what it concludes is an appropriate level of flexibility and leave the specifics of technical guidance to schools to the Vermont Department of Health through rulemaking

Logistical Complexity

S.40 is a project of particular technical and logistical complexity. Given the implications for student health and safety, it is **important to do this work right** on the first try.

The General Assembly should establish clear policy directives that derive from the value judgments that legislators have made about what is the best approach to safeguard student health and safety. With these guidelines established, the General Assembly should empower the Vermont Department of Health to bring its expertise to bear in the rulemaking process to create the most clear and effective testing and remediation processes to execute the General Assembly's mandate. VDH will work with the Agency of Education and the Department of Environmental Conservation as well as school districts, independent schools and childcare providers to create the most efficient and effective testing and remediation programs possible.

This approach will empower both the state and providers to work efficiently and decrease complexity and cost without compromising safety for Vermont learners. This flexibility on the implementation side will be necessary to handle the many unanticipated implementation challenges that will no doubt emerge and will allow for a more responsive support framework for schools and communities.

Conclusion

The debate about lead testing and remediation has thrown into sharp relief what we do and do not know about the condition of school water supplies across Vermont. While we have a good understanding of the public health imperatives, as well as how best to test our school water supplies, the full extent of the problem and fiscal and logistical implications of adequate remediation are less clear. More data and a better understanding of the scope and implications of appropriations will certainly help bring clarity to policymaking.

A phased approach has been recommended to the committee several times, where the General Assembly orders an initial round of testing and remediation with an opportunity to reconsider its approach with more data and experience. The General Assembly should consider a policy approach that reduces cost and complexity (through a higher action level or other relevant approach). Once the testing is complete, more robust action can be contemplated, with more complete picture of the scope of the problem and greater understanding of the costs of remediation.