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Agency of Education Testimony on S.40, Sec. 4

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Background

The draft consensus + language presented by the group of stakeholders this morning / yesterday included the following language:

Sec 4.

Sec. 3. [16 V.S.A. § 2973](#) (b) is amended to read:

(b)(2)(D) An approved independent school may, in calculating tuition rates pursuant to § 2973, include all costs, including anticipated costs, related to or arising from lead draws, testing and remediation as required under 18 V.S.A. chapter 24A. The Secretary shall not deny approval of an application to increase a tuition rate if such costs serve as the basis, in part, for the proposed tuition rate.

Agency Position on S.40, Sec. 4

The Vermont Agency of Education opposes the inclusion of this language for the following reasons:

- The language limits the statutory discretion afforded the Secretary to make decisions in a very complex regulatory area. Such discretion is necessary to ensure compliance with state and federal law.
- The special education rate setting process for independent schools is under review as part of Act 173. Any changes to this language need be considered within that broader policy context.
- This is problematic for special education because expenses not directly tied to student IEPs are not allowable special education costs and cannot be counted towards maintenance of effort to maintain current levels of IDEA funding for LEA.
- The current rules around special education rate setting 2366.2.6 state that overhead costs including building operations are not allowed.