



**Kansas State Legislature
Hearing on House Bill 2142
Get the Lead Out of School Drinking Water Act
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Thank you for the opportunity to present testimony on this important topic. We support the House's efforts, and in particular, Representative Thomas's efforts, to reduce lead in school drinking water. We also suggest some changes that will strengthen this bill to protect children from lead exposure even more.

The Natural Resources Defense Council (NRDC) is an international nonprofit environmental advocacy organization with over three million members and online activists. NRDC works to safeguard the earth – its people, plants, and animals – and the natural systems on which all life depends. We combine the power of our members and online activists with lawyers, scientists, and policy advocates across the globe to ensure the rights of all people to clean air, clean water, protected natural resources, and a healthy environment.

It's an added privilege to provide input on House Bill 2142 because I attended elementary school in both Newton and Overland Park, so I have some experience with Kansas school drinking water. I've been working on safe drinking water issues for nearly 30 years and formerly served on the USEPA's National Drinking Water Advisory Council, which advises the agency on the implementation of the federal Safe Drinking Water Act. I've been involved in both volunteer and professional capacities in Flint, Michigan, and in other communities with lead contaminated drinking water supporting residents in their efforts to get the lead out of their drinking water.

Since 2018, I have been leading NRDC's work to reduce lead in school and childcare center drinking water in Michigan. NRDC drafted a model bill for states to adopt to address this problem. I worked with Michigan lawmakers and other stakeholders to craft bipartisan bills based on NRDC's model bill, and I am pleased to note that HB 2142 incorporates many of the provisions in the model bill. The model bill and associated documents can be found [here](#). The Michigan bills, which cleared the Senate with nearly unanimous support in September 2022, can be found [here](#) and [here](#).

Schools are meant to be places for children to thrive. But when lead gets into the drinking water in schools—leached from plumbing, fixtures, and fittings—it presents a grave risk to the development of young bodies and minds.

Lead is a poisonous heavy metal that can cause serious health problems, especially in children and pregnant people. Young children and fetuses are most susceptible, particularly their developing brains

and nervous systems, and some of the impacts can be irreversible, lasting into adulthood. Lead exposure has been found to decrease children’s cognitive capacity and cause behavior issues, including problems with focus. The experts – the [Centers for Disease Control and Prevention](#), the [American Academy of Pediatrics](#), and the [World Health Organization](#) – agree that that there is no safe level of lead exposure.

Many schools are housed in old buildings with aging plumbing fixtures, fittings, pipes, and solder that contain a high concentration of lead, which can leach into the drinking water. Even new plumbing contains lead because the federal Safe Drinking Water Act allows it. While each school should be evaluated for lead service lines and service line components, lead usually gets into school drinking water from the plumbing, fixtures, solder, flux, and fittings in school buildings.

NRDC Supports HB 2142 with amendments, and we look forward to working on potential improvements to the bill.

We are pleased to see that HB 2142 includes our recommended approach of “filter first.” Other major provisions that we support include (1) the 1 part per billion (ppb) action level, which is the [action level](#) recommended by the American Academy of Pediatrics; (2) a requirement of annual post-filtration testing, (3) training for custodial staff on installation and maintenance of filters, (4) dissemination of information to parents and school employees, and (5) placement of signs at non-potable taps instructing people not to drink from those taps.

The Logic and Cost Savings of “Filter First”

A filter first approach cuts out the initial round of testing before remediation because schools install filters on drinking water taps before they test for lead. The reason is simple: lead testing results in [St. Louis](#), [Indiana](#), [New York State](#), and elsewhere around the country demonstrate that lead is prevalent in drinking water in schools. In other words, we know that lead will be detected in unfiltered drinking water in schools. This is because virtually no installed plumbing fixtures are completely free from lead. Even today, federal law allows up to 0.25 percent of lead in plumbing fixtures and fittings; older plumbing can contain much higher amounts of lead.

We also know that filtration is effective when the filter is certified by NSF International or the Water Quality Association to remove lead and is properly installed and maintained. In a filter first approach, testing would only need to be conducted after filters are installed at drinking water outlets for the purpose of ensuring that the filters are working properly. This is much smarter than embarking on a lengthy testing process that will only prove what we already know to be true. This bill recognizes that truth.

And, a filter first approach saves money – a significant amount – by avoiding that first round of unnecessary testing and by designating filtered water locations as potable drinking water, as demonstrated by NRDC’s Michigan cost analysis included in [this piece](#).

Remediation Should Not Rely on “Lead Free” Plumbing

Although we are pleased to see that the bill includes a filter first approach, we are concerned that one way to remediate would be to install plumbing fixtures, fittings, etc. that are considered “lead free” under the federal Safe Drinking Water Act. This provision would not protect children and school staff.

The bill includes a definition of “lead free” that is included in the federal Safe Drinking Water Act. This definition, however, is a misnomer because it allows lead to be included in various plumbing products –

technically, “not more than a weighted average of 0.25 percent lead when used with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures” and “not containing more than 0.2 percent lead when used with respect to solder and flux.” It simply makes no sense to include this provision because, as stated above, there is no safe level of lead. Moreover, it will likely thwart a school’s ability to stay under the 1 ppb action level.

To Succeed, this Program Needs Dedicated Funding

Although the bill establishes a “get the lead out of school drinking water fund,” the amount of that funding is unknown, leading to concerns that this program may become an unfunded mandate. This proposed program to remove lead in drinking water in schools will succeed when there is a dedicated source of funding that does not come out of schools’ meager budgets.

And some federal funding could potentially be available, as the bill acknowledges. For example, under the 2021 federal Bipartisan Infrastructure Law, also known as the Infrastructure Investment and Jobs Act (IIJA), states can use EPA grants to remediate lead in school drinking water through the filter first approach. [42 USC § 300j-24 \(d\)\(2\)\(A\)\(i\) and \(d\)\(2\)\(B\)\(iii\)\(III\)](#).

The bill also references the American Rescue Plan Act (ARPA). Kansas, like many states, may have funds remaining under ARPA. Indeed, just last year, Michigan dedicated \$50 million from ARPA funds to implement its legislation, and Missouri appropriated \$27 million in ARPA funds to its program to reduce lead in school drinking water, which took effect on August 28, 2022.

The bill mentions two other federal programs: America's Water Infrastructure Act of 2018 and the Water Infrastructure Finance and Innovation Act of 2014, both administered by the US Environmental Protection Agency. Finally, other states have relied on funding from state water infrastructure or environmental programs.

The bottom line is that, to truly protect children and school employees from exposure to lead in drinking water, this bill needs to include dedicated funding for the filter first program it is establishing.

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The Legislature is to be commended for addressing this significant public health issue that affects our children, as well as adults that work in Kansas schools. We look forward to working with Representative Thomas and the local advocates to offer technical changes to improve this bill.

Thank you for the opportunity to submit this testimony.