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October 15, 2025

Via Email

The Honorable Robyn K. Kennedy, Senate Chair
The Honorable Jay D. Livingstone, House Chair
Joint Committee on Children, Families, and Persons With Disabilities
Massachusetts State House
24 Beacon Street
Boston, MA 02133

Re: Written Testimony for H.255—An Act relative to enabling access and empowering early educators

Dear Chair Kennedy, Chair Livingstone, and Members of the Joint Committee:

On behalf of the LSP Association (LSPA), we are writing to express our concern with language in House Bill 255 that, as currently drafted, would unintentionally undermine longstanding public health protections and put children at risk.

LSP Association (LSPA)

The [LSPA](#) is a non-profit association for Licensed Site Professionals (LSPs) and related environmental practitioners. LSPs are scientists, engineers, and public health specialists licensed by the Commonwealth to work on behalf of property owners, operators, and other involved parties to oversee the assessment and cleanup of oil and hazardous material released to the environment. Our members work with their institutional, non-profit, government, and private clients to remediate contaminated sites, so these properties can be placed back into active and productive use. While doing so, they must adhere to the requirements of the Massachusetts Contingency Plan (MCP). Through education, information, and advocacy, the LSPA aims to help our 800 members achieve and maintain high standards of practice in overseeing the assessment and remediation of hazardous waste disposal sites.

Why This Matters

Massachusetts General Laws Chapter 21E (M.G.L. c. 21E) and the MCP, 310 CMR 40.0000 require contaminated sites to be cleaned up to a level that ensures “No Significant Risk” to human health or the environment. In cases where contamination remains after site closure with the Massachusetts Department of Environmental Protection (MassDEP) that could pose unacceptable risks in the absence of use restrictions on those sites, MassDEP requires a legally binding safeguard called an **Activity and Use Limitation (AUL)**—a recorded deed restriction that prevents certain sensitive uses and activities where exposure could pose serious risks¹. The majority of AULs include daycare and other child-related use restrictions, such as playgrounds.

¹ Massachusetts Department of Environmental Protection [Guidance on Implementing Activity and Use Limitations](#), Policy #WSC 25-300, April 23, 2025.

Comments on H.255

As written, Section 33 (lines 63–66) of H.255 would invalidate *any restriction* in a property record that prohibits family childcare use. As such, this blanket language would also void those AULs' preclusion of daycare uses, thereby eliminating one of MassDEP's most critical tools for ensuring children are not exposed to contamination. This outcome would:

- Put children and families at risk of exposure to harmful contaminants.
- Undermine MassDEP's statutory authority.
- Conflict with decades of public health protections embedded in Massachusetts law, including MassDEP's hazardous waste site cleanup regulations (i.e., the MCP).

We respectfully urge H.255 be amended to exclude AULs from this provision:

*a) Every provision in a written instrument relating to real property that purports to restrict the conveyance, encumbrance, leasing, or mortgaging of the real property for use or occupancy as a family child care home is void, and every restriction in that written instrument as to the use or occupancy of the property as a family child care home is void, **excluding any Activity and Use Limitation (AUL) recorded on the property in accordance with regulations promulgated by the Massachusetts Department of Environmental Protection.***

This clarification would maintain the Bill's intent to remove unnecessary barriers to childcare while ensuring that health-based environmental safeguards remain in place.

Conclusion

We support the goal of expanding access to early education, but want to avoid any unintended consequences that could expose children to harmful contaminants. Clarifying this language will protect both Massachusetts families and the integrity of our environmental regulatory framework.

We very much appreciate your consideration in this matter. Please do not hesitate to contact us with questions or for further information.

Respectfully,

The LSP Association, Inc.



Katie Kudzma
LSPA President



Mariellen Morris
LSPA Executive Director

CC:

- Commissioner Bonnie Heiple, MassDEP
- Assistant Commissioner Millie Garcia-Serrano, MassDEP BWSC
- Secretary Rebecca Tepper, Executive Office of Energy and Environmental Affairs
- Representative Michael P. Kushmerek, 3rd Worcester District
- Representative Natalie M. Higgins, 4th Worcester District