

1 Introduced by Committee on Education

2 Date:

3 Subject: Education; hazardous substances; PCB testing of schools

4 Statement of purpose of bill as introduced: This bill proposes to address how
5 testing for polychlorinated biphenyls (PCBs) shall be conducted and
6 remediated. The bill would provide that if a school is required to test for the
7 presence of PCBs, the Agency of Natural Resources (ANR) shall conduct the
8 testing or pay for the testing. The bill provides that it is the intent of the
9 General Assembly that ANR shall seek to hold the manufacturers of PCBs
10 liable for the cost of PCB investigation, remediation, and removal in schools.
11 Prior to any judgment or settlement under which PCB manufacturers pay for
12 PCB investigation, remediation, and removal in schools, the bill would provide
13 that it is the intent of the General Assembly that the State of Vermont shall pay
14 for the costs of investigation, remediation, and removal of PCBs at any school
15 where testing exceeded the State school action levels. The bill also provides
16 that if there is \$4,000,000.00 or less of funds remaining in the Education Fund
17 for the investigation, remediation, and removal of PCBs, ANR shall not initiate
18 testing or payment for initial testing for PCBs at a school, and a school shall
19 not be required to initiate testing for PCBs until such time as the General
20 Assembly enacts a comprehensive plan for funding PCB investigation,
21 remediation, and removal of PCBs in schools. In addition, the bill would strike

1 the deadline by which public schools and approved and recognized
2 independent schools are required to complete air indoor quality testing for
3 PCBs.

4 An act relating to financing the testing for and remediation of the presence
5 of polychlorinated biphenyls (PCBs) in schools

6 It is hereby enacted by the General Assembly of the State of Vermont:

7 Sec. 1. PCB TESTING AND REMEDIATION IN SCHOOLS

8 (a) If a school is required to test for the presence of polychlorinated
9 biphenyls (PCBs) pursuant to 2021 Acts and Resolves No. 74, Sec. E.709.1,
10 the Agency of Natural Resources (ANR) shall conduct the testing or pay for
11 testing conducted by the school.

12 (b) It is the intent of the General Assembly that ANR shall seek to hold the
13 manufacturers of PCBs liable under 10 V.S.A. § 6615 for the cost of PCB
14 investigation, remediation, and removal in schools. Prior to any judgment or
15 settlement under which PCB manufacturers pay for PCB investigation,
16 remediation, and removal in schools, it is the intent of the General Assembly as
17 signified by 2023 Acts and Resolves No. 78, Sec. C.112, that the State of
18 Vermont shall pay for the costs of investigation, remediation, and removal of
19 PCBs at any school where testing under 2021 Acts and Resolves No. 74, Sec.
20 E.709.1 exceeded the State school action levels. When a judgement or

1 settlement is reached under which PCB manufacturers pay for PCB
2 investigation, remediation, and removal in schools, any funds received under
3 the judgment or settlement related to PCBs in schools shall first be used to
4 reimburse the State for the costs related to investigation, remediation, and
5 removal of PCBs at schools that exceeded the State school action levels. Any
6 reimbursed monies shall be deposited into the Fund from which the money was
7 expended.

8 (c)(1) Beginning on July 1, 2024 and every month thereafter, the Secretary
9 of Natural Resources shall report to the Secretary of Administration, the Joint
10 Fiscal Committee, and the Emergency Board the following information
11 regarding the funds appropriated to the Agency of Education and the Agency
12 of Natural Resources in 2023 Acts and Resolves No. 78, Sec. C.112 and
13 subsequent appropriations for investigation, remediation, and removal of PCBs
14 at schools that test at levels exceeding the State school action levels:

15 (A) the amount of the funds that remain in the Education Fund for
16 grants to schools and the amount of funds that remain under other sources for
17 investigation, remediation, and removal of PCBs at those schools;

18 (B) whether the remaining funds in the Education Fund are sufficient
19 to fully fund grants to complete investigation, remediation, and removal of
20 PCBs at those schools that test at levels exceeding the State school action
21 levels but that have not received a grant; and

1 (C) when the Secretary of Natural Resources estimates the remaining
2 funds in the Education Fund will be insufficient to award grants to the
3 remaining schools that will be required to complete investigation, remediation,
4 and removal of PCBs.

5 (2) The Secretary of Natural Resources shall submit each report required
6 by this subsection to the House Committees on Education and on
7 Appropriations and the Senate Committees on Education and on
8 Appropriations. When the General Assembly is not in session, the Secretary of
9 Natural Resources shall also submit the report to the Joint Fiscal Committee
10 and the Emergency Board.

11 (3) If the Secretary of Natural Resources fails to submit a report
12 required by this subsection to the Secretary of Administration, the Joint Fiscal
13 Committee, or the Emergency Board, a school shall not be required to initiate
14 testing for PCBs until 15 days after the Secretary of Natural Resources has
15 submitted a required report to the Secretary of Administration, the Joint Fiscal
16 Committee, or the Emergency Board.

17 (d)(1) If the Secretary of Natural Resources reports under subsection (c) of
18 this section that there is \$4,000,000.00 or less of funds remaining in the
19 Education Fund for the investigation, remediation, and removal of PCBs, ANR
20 shall not initiate testing or payment for initial testing for PCBs at a school
21 under subsection (a) of this section, and a school shall not be required to

1 initiate testing for PCBs until such time as the General Assembly enacts a
2 comprehensive plan for funding PCB investigation, remediation, and removal
3 of PCBs in schools or as provided in subdivision (2) of this subsection.

4 (2) If initial testing of a school for PCBs is paused under subdivision (1)
5 of this subsection when the General Assembly is not in session, the Emergency
6 Board is authorized to transfer \$2,000,000.00 to the Agency of Education for
7 the purpose of providing grants to schools for the investigation, remediation,
8 and removal of PCBs. Upon transfer under this subdivision, ANR is
9 authorized to restart initial testing or payment for initial testing for PCBs at
10 schools.

11 (e) If a school tested positive for the presence of PCBs in excess of the
12 State school action levels and the State lacks sufficient funds for the
13 investigation, remediation, and removal of PCBs in the school, the Secretary of
14 Natural Resources shall submit to the House Committees on Education and on
15 Appropriations and the Senate Committees on Education and on
16 Appropriations the amount of funds that the General Assembly should
17 appropriate to the Agency of Natural Resources to sufficiently fund
18 investigation, remediation, and removal of PCBs in the school.

19 (f) Notwithstanding subsection (b) of this section and the intent of the
20 General Assembly to pay for the investigation, remediation, and removal of
21 PCBs in schools, the State of Vermont shall not pay for the costs of

1 investigation, remediation, and removal of PCBs in schools when the
2 investigation, remediation, and removal was not in response to indoor air
3 testing required pursuant to 2021 Acts and Resolves No. 74, Sec. E.709.1 but
4 was part of a planned renovation or construction project at a school under
5 which the PCBs would be remediated or removed as part of the project. This
6 subsection shall not apply to the \$16,000,000.00 reserved for the Burlington
7 School District under 2023 Acts and Resolves No. 78, Sec. C.112.

8 Sec. 2. 2021 Acts and Resolves No. 74, Sec. E.709.1, as amended by 2022

9 Acts and Resolves No. 166, Sec. 8 and 2023 Acts and

10 Resolves No. 78, Sec. C.111, is further amended to read:

11 Sec. E.709.1 ENVIRONMENTAL CONTINGENCY FUND;

12 POLYCHLORINATED BIPHENYLS (PCBs) TESTING

13 IN SCHOOLS

14 (a) Notwithstanding 10 V.S.A. § 1283, of the funds transferred in Sec.

15 D.101(a) of this act to the Environmental Contingency Fund, the Department

16 of Environmental Conservation, in consultation with the Department of Health

17 and the Agency of Education, shall use up to \$4,500,000 to complete air indoor

18 quality testing for Polychlorinated Biphenyls (PCBs) in public schools and

19 approved and recognized independent schools that were constructed or

20 renovated before 1980. ~~All schools subject to this subsection shall test for~~

21 ~~PCBs on or before July 1, 2027.~~

- 1 Sec. 3. EFFECTIVE DATE
- 2 This act shall take effect on passage.