

1 H.873

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

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

5 Sec. 1. PCB TESTING AND REMEDIATION IN SCHOOLS

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

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

1 reimburse the State for the costs related to investigation, remediation, and
2 removal of PCBs at schools that exceeded the State school action levels. Any
3 reimbursed monies shall be deposited into the Fund from which the money was
4 expended.

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

12 (A) the amount of the funds that remain at the Agency of Education
13 for grants to schools and the amount of funds that remain under other sources
14 for investigation, remediation, and removal of PCBs at those schools;

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

20 (C) when the Secretary of Natural Resources estimates the funds
21 appropriated to the Agency of Education for investigation, remediation, and

1 removal of PCBs in schools will be insufficient to award grants to the
2 remaining schools that will be required to complete investigation, remediation,
3 and removal of PCBs.

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

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

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

1 comprehensive plan for funding PCB investigation, remediation, and removal
2 of PCBs in schools or as provided in subdivision (2) of this subsection.

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

10 (e) If a school tested positive for the presence of PCBs in excess of the
11 State school action levels and the State lacks sufficient funds for the
12 investigation, remediation, and removal of PCBs in the school, the Secretary of
13 Natural Resources shall submit to the House Committees on Education and on
14 Appropriations and the Senate Committees on Education and on
15 Appropriations the amount of funds that the General Assembly should
16 appropriate to the Agency of Natural Resources to sufficiently fund
17 investigation, remediation, and removal of PCBs in the school. As part of the
18 submission to the General Assembly, the Secretary shall recommend the
19 source of the necessary funds, provided that the Secretary shall first consider
20 all other sources of funding before recommending the Education Fund as a
21 source of the necessary funds.

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

11 Sec. 2. 2021 Acts and Resolves No. 74, Sec. E.709.1, as amended by 2022
12 Acts and Resolves No. 166, Sec. 8 and 2023 Acts and Resolves No. 78, Sec.
13 C.111, is further amended to read:

14 Sec. E.709.1 ENVIRONMENTAL CONTINGENCY FUND;

15 POLYCHLORINATED BIPHENYLS (PCBs) TESTING

16 IN SCHOOLS

17 (a) Notwithstanding 10 V.S.A. § 1283, of the funds transferred in Sec.
18 D.101(a) of this act to the Environmental Contingency Fund, the Department
19 of Environmental Conservation, in consultation with the Department of Health
20 and the Agency of Education, shall use up to \$4,500,000 to complete air indoor
21 quality testing for Polychlorinated Biphenyls (PCBs) in public schools and

1 approved and recognized independent schools that were constructed or
2 renovated before 1980. ~~All schools subject to this subsection shall test for~~
3 ~~PCBs on or before July 1, 2027.~~

4 Sec. 3. EFFECTIVE DATE

5 This act shall take effect on passage.