

1 H.873

2 Introduced by Committee on Education

3 Date:

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

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

1 remediation, and removal of PCBs in schools. In addition, the bill would
2 strike the deadline by which public schools and approved and recognized
3 independent schools are required to complete air indoor quality testing for
4 PCBs.

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

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

8 Sec. 1. PCB TESTING AND REMEDIATION IN SCHOOLS

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

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

1 E.709.1 exceeded the State school action levels. When a judgment or
2 settlement is reached under which PCB manufacturers pay for PCB
3 investigation, remediation, and removal in schools, any funds received under
4 the judgment or settlement related to PCBs in schools shall first be used to
5 reimburse the State for the costs related to investigation, remediation, and
6 removal of PCBs at schools that exceeded the State school action levels. Any
7 reimbursed monies shall be deposited into the Fund from which the money
8 was expended.

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

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

(B) ~~whether the remaining funds in the Education Fund~~ *whether the*
funds appropriated to the Agency of Education for investigation, remediation,

and removal of PCBs in schools are sufficient to fully fund grants to complete investigation, remediation, and removal of PCBs at those schools that test at levels exceeding the State school action levels but that have not received a grant; and

(C) when the Secretary of Natural Resources estimates ~~the remaining funds in the Education Fund~~ *the funds appropriated to the Agency of Education for investigation, remediation, and removal of PCBs in schools* will be insufficient to award grants to the remaining schools that will be required to complete investigation, remediation, and removal of PCBs.

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

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

(d)(1) If the Secretary of Natural Resources reports under subsection (c) of this section that there is \$4,000,000.00 or less of funds remaining ~~in the Education Fund~~ at the Agency of Education for the investigation, remediation, and removal of PCBs, ANR shall not initiate testing or payment for initial testing for PCBs at a school under subsection (a) of this section, and a school shall not be required to initiate testing for PCBs until such time as the General Assembly enacts a comprehensive plan for funding PCB investigation, remediation, and removal of PCBs in schools or as provided in subdivision (2) of this subsection.

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

(e) If a school tested positive for the presence of PCBs in excess of the State school action levels and the State lacks sufficient funds for the investigation, remediation, and removal of PCBs in the school, the Secretary of Natural Resources shall submit to the House Committees on Education and on Appropriations and the Senate Committees on Education and on

Appropriations the amount of funds that the General Assembly should appropriate to the Agency of Natural Resources to sufficiently fund investigation, remediation, and removal of PCBs in the school. *As part of the submission to the General Assembly, the Secretary shall recommend the source of the necessary funds, provided that the Secretary shall first consider all other sources of funding before recommending the Education Fund as a 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;

1 POLYCHLORINATED BIPHENYLS (PCBs) TESTING
2 IN SCHOOLS

3 (a) Notwithstanding 10 V.S.A. § 1283, of the funds transferred in Sec.
4 D.101(a) of this act to the Environmental Contingency Fund, the Department
5 of Environmental Conservation, in consultation with the Department of Health
6 and the Agency of Education, shall use up to \$4,500,000 to complete air
7 indoor quality testing for Polychlorinated Biphenyls (PCBs) in public schools
8 and approved and recognized independent schools that were constructed or
9 renovated before 1980. ~~All schools subject to this subsection shall test for~~
10 ~~PCBs on or before July 1, 2027.~~

11 Sec. 3. EFFECTIVE DATE

12 This act shall take effect on passage.