

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 for the investigation,  
17 remediation, and removal of PCBs, ANR shall not initiate testing or payment  
18 for initial testing for PCBs at a school, and a school shall not be required to  
19 initiate testing for PCBs until such time as the General Assembly enacts a  
20 comprehensive plan for funding PCB investigation, remediation, and removal  
21 of PCBs in schools. In addition, the bill would strike the deadline by which

1 public schools and approved and recognized independent schools are required  
2 to complete air indoor quality testing for PCBs.

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

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

6 Sec. 1. PCB TESTING AND REMEDIATION IN SCHOOLS

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

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

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

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

13 (A) the amount of the funds that remain for grants to schools;

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

18 (C) when the Secretary of Education estimates the remaining funds  
19 will be insufficient to award grants to the remaining schools that will be  
20 required to complete investigation, remediation, and removal of PCBs.

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

6           (3) If the Secretary of Education fails to submit a report required by this  
7           subsection to the Secretary of Administration, a school shall not be required to  
8           initiate testing for PCBs until 15 days after the Secretary of Education has  
9           submitted a required report to the Secretary of Administration.

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

18          (2) If initial testing of a school for PCBs is paused under subdivision (1)  
19          of this subsection when the General Assembly is not in session, the Emergency  
20          Board is authorized to transfer \$2,000,000.00 to the Agency of Education for  
21          the purpose of providing grants to schools for the investigation, remediation,

1 and removal of PCBs. Upon transfer under this subdivision, ANR is  
2 authorized to restart initial testing or payment for initial testing for PCBs at  
3 schools.

4 (e) If a school tested positive for the presence of PCBs in excess of the  
5 State school action levels and the State lacks sufficient funds for the  
6 investigation, remediation, and removal of PCBs in the school, the Secretary of  
7 Education shall submit to the House Committees on Education and on  
8 Appropriations and the Senate Committees on Education and on  
9 Appropriations the amount of funds that the General Assembly should  
10 appropriate to the Agency of Education to sufficiently fund investigation,  
11 remediation, and removal of PCBs in the school.

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

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

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

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

4 Sec. E.709.1 ENVIRONMENTAL CONTINGENCY FUND;

5 POLYCHLORINATED BIPHENYLS (PCBs) TESTING

6 IN SCHOOLS

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

15 Sec. 3. EFFECTIVE DATE

16 This act shall take effect on passage.