

House Committee on Education  
Matt Chapman, Director, Waste Management and Prevention  
Department of Environmental Conservation  
PCB Appropriations and Funding proposal (dated 2/14/24)

The ANR supports the House Committee on Education's proposal with the following modifications:

- Subsection (b), page 1, lns 14-19. The State's litigation against PCB manufacturers is for a broad range of harms that PCB containing products have caused to the State from site specific release impacts, damages to natural resources, and impacts to indoor air in schools. The legislative direction on where any judgment or settlement is spent should be limited to monies related to impacts to schools and not the broader case the State is seeking and should be sufficiently broad to allow other factors to be prioritized (e.g. litigation costs, costs that we recovered for school staff time that was a part of work on this program) not only grants to schools.
- Subsection (b), page 1, 20. The State has spent funds from more sources than the Education Fund to investigate, remediate, and remove PCBs at schools. Reimbursed monies should be deposited in the Fund from which they were spent. This would return funds to the Environmental Contingency Fund and Solid Waste Management Assistance Fund that have been spent on PCBs in Schools.
- Much of the information contained within the report under subsection (c)(1) comes from data provided by the ANR to AOE. It is odd to have AOE report to ANR on data that ANR provided to AOE. We recommend the report be sent to the Secretary of AOA and prepared by AOE in consultation with ANR.
- Sec. C.112 of Act 78 of 2023 appropriate \$29.5 M, \$16M of which was reserved for Burlington.
  - Was it the Committee's intent to include the amount reserved for Burlington (but not spent) or exclude the \$16M reserve when calculating the \$4M "pause" amount?
  - Was it the Committee's intent to include funds from other dedicated sources that were not Education Fund sources?
- In subsection (f), I don't believe funds reserved for Burlington can be granted to the school district with this language. They were undertaking a planned school renovation project when they discovered PCBs. The Committee should consider whether to exempt Burlington from this section. The Committee may also wish to consider treating districts who have a planned project that test for building materials the same way that BSD is being treated – reimbursement for cleanup costs but not reconstruction.

- The Agency requests a new section charging JFO with developing a recommendation for funding the remaining work needed complete the testing, mitigation and remediation in all Vermont schools built or renovated before 1980 necessary to ensure indoor air concentrations are below the action levels established by Health.

Recommended language below.

#### Sec. X. PCB TESTING AND REMEDIATION IN SCHOOLS

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

(b) It is the intent of the General Assembly that ANR shall seek to hold the manufacturers of PCBs liable under 10 V.S.A. § 6615 for the cost of PCB investigation, remediation, and removal in schools. Prior to any judgment or settlement under which PCB manufacturers pay for PCB investigation, remediation, and removal in schools, it is the intent of the General Assembly as signified by 2023 Acts and Resolves No. 78, Sec. C.112, that the State of Vermont shall pay for the costs of investigation, remediation, and removal of PCBs at any school where testing under 2021 Acts and Resolves No. 74, Sec. E.709.1 exceeded the State school action levels. When a judgement or settlement is reached under which PCB manufacturers pay for PCB investigation, remediation, and removal in schools, any funds received under the judgment or settlement related to PCBs in schools shall first be used to reimburse the State for the costs ~~it paid to schools for the costs of related to~~ investigation, remediation, and removal of PCBs at schools that exceeded the State school action levels. Any reimbursed monies shall be deposited into the ~~Education~~ Fund from which the money was spent.

(c)(1) Beginning on July 1, 2024, and every month thereafter, the Secretary of Education, in consultation with the Secretary of Natural Resources, shall report to the Secretary of ~~Natural Resources~~ Administration the following information regarding the funds appropriated to the

Agency of Education in 2023 Acts and Resolves No. 78, Sec. C.112 for grants for investigation, remediation, and removal of PCBs at schools that test at levels exceeding the State school action levels:

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

(B) whether the remaining funds 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 Education estimates the remaining funds will be insufficient to award grants to the remaining schools that will be required to complete investigation, remediation, and removal of PCBs.

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

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

(d)(1) If the Secretary of Education reports under subsection (c) of this section that there is \$4,000,000.00 or less of funds remaining ~~for grants to schools~~ 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 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 school action levels and the [Agency of Education](#)State lacks sufficient funds for [a grant for the investigation, remediation, and removal of PCBs in the school](#), the Secretary of Education 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 Education to sufficiently fund investigation, remediation, and removal of PCBs in the school.

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

[\[Insert JFO study / recommendations\]](#)

Sec. Y. EFFECTIVE DATE

Sec. X (PCB testing and remediation in schools) of this act shall take effect on passage.