

1 H.542

2 Introduced by Representative Conlon of Cornwall

3 Referred to Committee on

4 Date:

5 Subject: Education; conservation and development; polychlorinated biphenyls;
6 testing

7 Statement of purpose of bill as introduced: This bill proposes to terminate
8 ongoing Agency of Natural Resources (ANR) indoor air quality testing for
9 polychlorinated biphenyls (PCBs) in public schools and approved and
10 recognized independent schools that were constructed or renovated before
11 1980. The bill would continue to require the State of Vermont to pay the costs
12 of the investigation, remediation, and removal of PCBs at schools where ANR
13 completed indoor air quality monitoring and the school tested positive for the
14 presence of PCBs in excess of the State school action levels.

~~An act relating to terminating testing of schools in Vermont for
polychlorinated biphenyls~~

*An act relating to testing of schools in Vermont for polychlorinated
biphenyls*

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

2 ~~SEC. 1. TERMINATION OF TESTING OF SCHOOLS IN VERMONT~~

3 FOR POLYCHLORINATED BIPHENYLS (PCBs)

4 (a)(1) Except as provided for under subdivision (2) of this subsection and
5 notwithstanding the requirement under 2021 Acts and Resolves No. 74, Sec.
6 E.709.1 for the Agency of Natural Resources (ANR) to conduct indoor air
7 quality testing for PCBs in public schools and approved and recognized
8 independent schools that were constructed or renovated before 1980, ANR
9 shall cease testing for PCBs in public schools and approved and recognized
10 independent schools and shall terminate any scheduled or ongoing testing for
11 PCBs in public schools and approved and recognized independent schools.

12 (2) Where ANR previously completed PCB testing of a public school or
13 an approved and recognized independent school and the school tested positive
14 for the presence of PCBs at a level that requires continued testing under State
15 or federal law, testing for PCBs at the school shall continue and shall be
16 funded by the State.

17 (b)(1) If ANR completed PCB testing at a public school or an approved
18 and recognized independent school prior to the effective date of this act, and
19 the school tested positive for the presence of PCBs in excess of the State
20 school action levels, the State of Vermont, consistent with the requirements of

1 ~~2023 Acts and Resolves No. 78, Sec. C.112, shall pay for the costs of the~~
2 investigation, remediation, and removal of PCBs at the school.

3 (2) If, as a result of ANR testing, a public school or an approved and
4 recognized independent school tested positive for the presence of PCBs in
5 excess of the State school action levels, the school shall not be required to
6 initiate or continue interim remedial measures for the management of PCB
7 exposure at the school, if:

8 (A) the State is not fully funding the interim remedial measures;

9 (B) the most viable and effective form of remediation is the
10 replacement of the school building that tested positive for PCBs; and

11 (C) federal law does not require immediate remediation of the PCBs.

12 (3) Any funds remaining from those monies appropriated to ANR in
13 2021 Acts and Resolves No. 74, Sec. E.709.1; in 2023 Acts and Resolves No.
14 78, Sec. C.112; or in any other appropriation for indoor air quality testing of
15 PCBs in public schools or approved and recognized independent schools shall
16 no longer be used for testing for PCBs and shall be used instead for the costs
17 of the investigation, remediation, and removal of PCBs at a school where ANR
18 conducted testing and the school tested positive for the presence of PCBs in
19 excess of the State school action levels.

20 (4) If the State lacks sufficient funds for the investigation, remediation,
21 and removal of PCBs in schools where ANR testing was positive for the

1 ~~presence of PCBs in excess of the State school action levels, the Secretary of~~
2 Natural Resources shall submit to the House Committees on Education, on
3 Environment, and on Appropriations and the Senate Committees on Education,
4 on Natural Resources and Energy, and on Appropriations the amount of funds
5 that the General Assembly should appropriate to ANR or the Agency of
6 Education to sufficiently fund the investigation, remediation, and removal of
7 PCBs in the schools where ANR testing was positive for the presence of PCBs
8 in excess of the State school action levels.

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

20 C.112.

1 ~~(1) On or before January 15, 2027, the Secretary of Natural Resources,~~
2 ~~after consultation with the Secretary of Education, representatives of schools,~~
3 ~~and other interested parties, shall submit to the House Committees on~~
4 ~~Education, on Environment, and on Appropriations and the Senate Committees~~
5 ~~on Education, on Natural Resources and Energy, and on Appropriations a~~
6 ~~long-term remediation plan for the remediation of PCB contamination in~~
7 ~~public schools and approved and recognized independent schools in the State.~~

(d)(1) On or before January 15, 2027, the Secretary of Natural Resources,
after consultation with the Secretary of Education, representatives of schools,
and other interested parties, shall submit to the House Committees on
Education, on Environment, and on Appropriations and the Senate Committees
on Education, on Natural Resources and Energy, and on Appropriations a
long-term remediation plan for the remediation of PCB contamination in
public schools and approved and recognized independent schools in the State.

(2) On or before January 15, 2027, the Commissioner of Health shall
review and update the Commissioner's assessment of the health impacts on
students and staff of airborne PCBs in public schools and approved and
recognized independent schools in the State and shall submit the
Commissioner's updated assessment to the House Committees on Education,
on Environment, and on Appropriations and the Senate Committees on
Education, on Natural Resources and Energy, and on Appropriations

1 ~~(e) Beginning on January 15, 2027, and annually thereafter, the Secretary~~
2 ~~of Natural Resources, after consultation with the Secretary of Education and~~
3 ~~the Secretary of Administration, shall submit to the House Committees on~~
4 ~~Education, on Environment, and on Appropriations and the Senate Committees~~
5 ~~on Education, on Natural Resources and Energy, and on Appropriations a~~
6 ~~report regarding ANR's indoor air quality testing for PCBs in public schools~~
7 ~~and approved and recognized independent schools. The report shall include:~~
8 ~~(1) the status of PCB testing in public schools and approved and~~
9 ~~recognized independent schools, including:~~
10 ~~(A) the number of schools tested;~~
11 ~~(B) the number of schools that remain to be tested;~~
12 ~~(C) the number of schools where testing indicated the presence of~~
13 ~~PCBs in excess of the State school action levels;~~
14 ~~(D) the remedial measures taken at schools that tested in excess of~~
15 ~~the State school action levels;~~
16 ~~(E) remedial measures to be implemented at schools that tested in~~
17 ~~excess of the State school action level; and~~
18 ~~(F) the amount of State funds expended for the testing, investigation,~~
19 ~~remediation, or removal of PCBs.~~

1 ~~(2) the amount of the funds that remain at the ANR or the Agency of~~
2 Education for testing or for grants to schools for the investigation,
3 remediation, and removal of PCBs; and

4 (3) an estimate of additional funds necessary to complete the
5 investigation, remediation, and removal of PCBs at schools that tested in
6 excess of the State school action levels.

7 Sec. 2. EFFECTIVE DATE

8 ~~This act shall take effect on passage.~~

*Sec. 1. 2021 Acts and Resolves No. 74, Sec. E.709.1, as amended by 2022
Acts and Resolves No. 166, Sec. 8, and 2023 Acts and Resolves No. 78, Sec.
C.111, is further amended to read:*

Sec. E.709.1 ENVIRONMENTAL CONTINGENCY FUND;

*POLYCHLORINATED BIPHENYLS (PCBs) TESTING
IN SCHOOLS*

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

constructed or renovated before 1980. All schools subject to this subsection shall test for PCBs on or before ~~July 1, 2027~~ August 1, 2035.

Sec. 2. 10 V.S.A. § 6618a is added to read:

§ 6618a. SCHOOL POLYCHLORINATED BIPHENYL PROGRAM FUND

(a) There is created the School Polychlorinated Biphenyl Program Fund to be administered by the Secretary of Natural Resources to provide funding for the investigation, mitigation, and remediation of polychlorinated biphenyls (PCBs) at schools in Vermont. The Fund shall consist of:

(1) Reimbursements from a school for work related to a grant issued by the State for PCB investigation, mitigation, and remediation when that school recovers money from litigation or other awards. The reimbursement shall be limited to the amount of the grant awarded to the school or the amount of the recovery, whichever is less.

(2) Any litigation recovery by the State for the costs of addressing PCB contamination in schools, less attorney's fees and costs.

(3) Monies from time to time transferred to the Fund by the General Assembly.

(4) Other gifts, donations, or other monies received from any source, public or private, dedicated for deposit into the Fund and approved by the Secretary of Administration.

(b)(1) The Secretary of Natural Resources shall administer a program to issue grants to school districts to pay the costs, to the extent funds are available, of the following activities in order of the priority listed:

(A)(i) PCB investigations that are a part of a facilities master plan;

or

(ii) indoor air quality testing of a school initiated voluntarily by a school district, provided that the school district notified the Secretary of Natural Resources of the testing and the school district conducts the testing according to the Department of Environmental Conservation's standards for testing;

(B) the development of PCB management plans;

(C) the costs of mitigation when results exceed the immediate action level;

(D) the costs of implementing any approved corrective action plan when, after mitigation efforts, the concentrations in the school exceed the immediate action level; and

(E) the costs of implementing a corrective action plan as a part of a school construction project.

(2) To the extent that funds are available, grants to school districts that are required to conduct investigation, mitigation, or remediation of PCB contamination in a school after Agency of Natural Resources testing shall be

in an amount sufficient to pay for 100 percent of the costs at the school of investigation, remediation, or removal required by the Agency of Natural Resources Investigation and Remediation of Contaminated Properties Rule.

(c) Notwithstanding any contrary provisions of 32 V.S.A. chapter 7, subchapter 5, unexpended balances and interest earned by the Fund shall be retained in the Fund from year to year.

(d) If a school district in the State recovers money from litigation or other award for work covered under a grant issued under this section, the school district shall reimburse the State the amount of the recovery or the amount of the grant awarded to the school district under subsection (b) of this section, whichever amount is less.

(e) In addition to any other remedy, the State may recover from a manufacturer of PCBs monies expended or awarded by the State for PCB investigation, testing, assessment, remediation, or removal of PCBs in a school above the relevant action level.

Sec. 3. 16 V.S.A. § 3445 is amended to read:

§ 3445. APPROVAL AND FUNDING OF SCHOOL CONSTRUCTION

PROJECTS

(a) Construction aid.

(1) Preliminary application for construction aid. A school district eligible for assistance under section 3447 of this title that intends to construct

or purchase a new school, or make extensive additions or alterations to its existing school, and desires to avail itself of State school construction aid shall submit a written preliminary application to the Secretary. A preliminary application shall include information required by the Agency by rule and shall specify the need for and purpose of the project.

(2) Approval of preliminary application.

(A) When reviewing a preliminary application for approval, the Secretary shall consider:

(i) regional educational opportunities and needs, including school building capacities across school district boundaries, and available infrastructure in neighboring communities;

(ii) economic efficiencies;

(iii) the suitability of an existing school building to continue to meet educational needs; and

(iv) statewide educational initiatives.

(B) The Secretary may approve a preliminary application if:

(i)(I) the project or part of the project fulfills a need occasioned by:

(aa) conditions that threaten the health or safety of students or employees;

(bb) facilities that are inadequate to provide programs required by State or federal law or regulation;

(cc) excessive energy use resulting from the design of a building or reliance on fossil fuels or electric space heat; or

(dd) deterioration of an existing building; or

(II) the project results in consolidation of two or more school buildings and will serve the educational needs of students in a more cost-effective and educationally appropriate manner as compared to individual projects constructed separately;

(ii) the need addressed by the project cannot reasonably be met by another means;

(iii) the proposed type, kind, quality, size, and estimated cost of the project are suitable for the proposed curriculum and meet all legal standards;

(iv) the applicant achieves the level of “proficiency” in the school district quality standards regarding facilities management adopted by rule by the Agency; and

(v) the applicant has completed a facilities master planning process that:

(I) engages robust community involvement;

(II) considers regional solutions;

(III) evaluates environmental contaminants; and

(IV) produces a facilities master plan that unites the applicant's vision statement, educational needs, enrollment projections, renovation needs, and construction projects; and

(vi) if the applicant school district is applying for construction aid for a school building that was constructed or renovated before 1980, the applicant has completed indoor air quality testing for polychlorinated biphenyls that was conducted according to the Department of Environmental Conservation's standards for testing.

(3) Priorities. Following approval of a preliminary application and provided that the district has voted funds or authorized a bond for the total estimated cost of a project, the Agency, with the advice of the State Aid for School Construction Advisory Board, shall assign points to the project as prescribed by rule of the Agency so that the project can be placed on a priority list based on the number of points received.

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*Sec. 4. AGENCY OF NATURAL RESOURCES REPORT ON FUNDING
FOR PCB TESTING OF SCHOOLS*

On or before January 15, 2027, the Agency of Natural Resources, in consultation with the Agency of Education, shall submit to the Senate Committee on Education and the House Committee on Education:

(1) an estimate of the additional cost to the State to complete testing, mitigation, and remediation for polychlorinated biphenyls at public schools and approved and recognized independent schools that were constructed or renovated before 1980; and

(2) a plan to fund the costs estimated necessary to complete testing, mitigation, and remediation.

Sec. 5. REPEAL

2023 Acts and Resolves No. 78, Sec. C.112(b)(1) and (2) (State funding of grants for investigation, remediation, and removal of PCB contamination at a school) is repealed.

Sec. 6. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 3 (approval and funding of school construction projects) shall take effect on July 2, 2026.