

A bill for an act
relating to education finance; clarifying the health and safety revenue program;
amending Minnesota Statutes 2008, section 123B.57.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 123B.57, is amended to read:

123B.57 ~~CAPITAL EXPENDITURE~~; HEALTH AND SAFETY.

Subdivision 1. **Health and safety program budget.** (a) To receive health and safety revenue for any fiscal year a district must submit to the commissioner an application for aid and levy by the date determined by the commissioner. ~~The application may be for hazardous substance removal, fire and life safety code repairs, labor and industry regulated facility and equipment violations, and health, safety, and environmental management, including indoor air quality management.~~ The application must include a health and safety program budget adopted by the school district board. The program budget must include the estimated cost, ~~per building~~, of the program by fiscal year: separated into the following categories:

(1) physical hazards;

(2) hazardous substances;

(3) health, safety, and environmental management;

(4) asbestos;

(5) fire and life safety; and

(6) indoor air quality.

(b) The health and safety budget may include contingency amounts determined by the local school board for each uniform financial accounting and reporting standards (UFARS) category. The authority for a contingency amount cancels unless that amount

has been converted to a qualifying project by the date determined by the commissioner when the contingency amount was first approved.

(c) Upon approval through the adoption of a resolution by each of an intermediate district's member school district boards and the approval of the Department of Education, a school district may include its proportionate share of the costs of health and safety projects for an intermediate district in its application.

~~(b)~~ (d) Health and safety projects with an estimated cost of \$500,000 or more per site, approved after February 1, 2003, that are not eligible for health and safety revenue: ~~Health and safety projects with an estimated cost of \$500,000 or more per site, approved after February 1, 2003, but~~ that meet all other requirements for health and safety funding, are eligible for alternative facilities bonding and levy revenue according to section 123B.59. A school board shall not separate portions of a single project into components to qualify for health and safety revenue, and shall not combine unrelated projects into a single project to qualify for alternative facilities bonding and levy revenue.

Subd. 2. ~~Contents of Health and safety program.~~ To qualify for health and safety revenue, a district must adopt have a board-approved health and safety program policy. The program policy must include written plans, where applicable, for ~~hazardous substance removal, fire and life safety code repairs, regulated facility and equipment violations, and compliance with federal, state, and local health, safety, and environmental management regulations, including nonregulated best practices such as playground safety, ergonomics, and indoor air quality management.~~

~~(a) A hazardous substance plan must contain provisions for the removal or encapsulation of asbestos from school buildings or property, asbestos-related repairs, cleanup and disposal of polychlorinated biphenyls found in school buildings or property, and cleanup, removal, disposal, and repairs related to storing heating fuel or transportation fuels such as alcohol, gasoline, fuel, oil, and special fuel, as defined in section 296A.01. If a district has already developed a plan for the removal or encapsulation of asbestos as required by the federal Asbestos Hazard Emergency Response Act of 1986, the district may use a summary of that plan, which includes a description and schedule of response actions, for purposes of this section. The plan must also contain provisions to make modifications to existing facilities and equipment necessary to limit personal exposure to hazardous substances, as regulated by the federal Occupational Safety and Health Administration under Code of Federal Regulations, title 29, part 1910, subpart Z; or is determined by the commissioner to present a significant risk to district staff or student health and safety as a result of foreseeable use, handling, accidental spill, exposure, or contamination.~~

~~(b) A fire and life safety plan must contain a description of the current fire and life safety code violations, a plan for the removal or repair of the fire and life safety hazard, and a description of safety preparation and awareness procedures to be followed until the hazard is fully corrected.~~

~~(c) A facilities and equipment violation plan must contain provisions to correct health and safety hazards as provided in Department of Labor and Industry standards pursuant to section 182.655.~~

~~(d) A health, safety, and environmental management plan must contain a description of training, record keeping, hazard assessment, and program management as defined in section 123B.56.~~

~~(e) A plan to test for and mitigate radon produced hazards.~~

~~(f) A plan to monitor and improve indoor air quality.~~

Subd. 3. **Health and safety revenue.** A district's health and safety revenue for a fiscal year equals the district's alternative facilities levy under section 123B.59, subdivision 5, paragraph (b), plus the greater of zero or:

(1) the sum of (a) the total approved cost of the district's hazardous substance plan for fiscal years 1985 through 1989, plus (b) the total approved cost of the district's health and safety program for fiscal year 1990 through the fiscal year to which the levy is attributable, excluding expenditures funded with bonds issued under section 123B.59 or 123B.62, or chapter 475; certificates of indebtedness or capital notes under section 123B.61; levies under section 123B.58, 123B.59, 123B.63, or 126C.40, subdivision 1 or 6; and other federal, state, or local revenues, minus

(2) the sum of (a) the district's total hazardous substance aid and levy for fiscal years 1985 through 1989 under sections 124.245 and 275.125, subdivision 11c, plus (b) the district's health and safety revenue under this subdivision, for years before the fiscal year to which the levy is attributable.

Subd. 4. **Health and safety levy.** To receive health and safety revenue, a district may levy an amount equal to the district's health and safety revenue as defined in subdivision 3 multiplied by the lesser of one, or the ratio of the quotient derived by dividing the adjusted net tax capacity of the district for the year preceding the year the levy is certified by the adjusted marginal cost pupil units in the district for the school year to which the levy is attributable, to \$2,935.

Subd. 5. **Health and safety aid.** A district's health and safety aid is the difference between its health and safety revenue and its health and safety levy. If a district does not levy the entire amount permitted, health and safety aid must be reduced in proportion to

the actual amount levied. Health and safety aid may not be reduced as a result of reducing a district's health and safety levy according to section 123B.79.

Subd. 6. **Uses of health and safety revenue.** (a) Health and safety revenue may be used ~~only for approved expenditures necessary to correct fire and life safety hazards, or for the removal or encapsulation of asbestos from school buildings or property owned or being acquired by the district, asbestos-related repairs, cleanup and disposal of polychlorinated biphenyls found in school buildings or property owned or being acquired by the district, or the cleanup, removal, disposal, and repairs related to storing heating fuel or transportation fuels such as alcohol, gasoline, fuel oil, and special fuel, as defined in section 296A.01, Minnesota occupational safety and health administration regulated facility and equipment hazards, indoor air quality mold abatement, upgrades or replacement of mechanical ventilation systems to meet American Society of Heating, Refrigerating and Air Conditioning Engineers standards and State Mechanical Code, Department of Health Food Code and swimming pool hazards excluding depth correction, and health, safety, and environmental management. Testing and calibration activities are permitted for existing mechanical ventilation systems at intervals no less than every five years. Health and safety revenue must not be used to finance a lease purchase agreement, installment purchase agreement, or other deferred payments agreement. Health and safety revenue must not be used for the construction of new facilities or the purchase of portable classrooms, for interest or other financing expenses, or for energy efficiency projects under section 123B.65. The revenue may not be used for a building or property or part of a building or property used for postsecondary instruction or administration or for a purpose unrelated to elementary and secondary education~~ any allowable expenditures approved by the school board.

~~(b) Notwithstanding paragraph (a), health and safety revenue must not be used for replacement of building materials or facilities including roof, walls, windows, internal fixtures and flooring, nonhealth and safety costs associated with demolition of facilities, structural repair or replacement of facilities due to unsafe conditions, violence prevention and facility security, ergonomics, building and heating, ventilating and air conditioning supplies, maintenance, and cleaning activities. All assessments, investigations, inventories, and support equipment not leading to the engineering or construction of a project shall be included in the health, safety, and environmental management costs in subdivision 8, paragraph (a).~~

(b) A school board may proceed with an allowable health and safety project whether or not a written order to correct the violation has been received from the local authority responsible for enforcing the health and safety standard.

(c) Notwithstanding paragraph (b), a school board must not proceed with any fire or life safety repair with a cost of more than \$10,000 per site without first receiving approval from the fire marshal.

Subd. 6a. **Prohibited uses.** Health and safety revenue may not be spent on the following:

(1) to finance a lease purchase agreement, installment purchase agreement, or other deferred payments agreement;

(2) for interest payments or other financing expenses;

(3) for any work performed under an energy performance contract or financed through facility or equipment bond proceeds;

(4) for the construction of new facilities;

(5) for the purchase of portable classrooms;

(6) for energy efficiency projects under section 123B.65;

(7) for a building or property, or part of a building or property, used for postsecondary instruction, postsecondary administration, or other purpose unrelated to K-12 education;

(8) for repair or replacement of roofs, exterior walls, or windows;

(9) for demolition costs unrelated to health and safety purposes;

(10) for structural repair or replacement of facilities due to unsafe conditions;

(11) for violence prevention or facility security programs;

(12) for Department of Health licenses or certification required for kitchen staff;

(13) for air conditioning costs; or

(14) for personal protective equipment used in extracurricular activities.

Subd. 7. Proration. In the event that the health and safety aid available for any year is prorated, a district having its aid prorated may levy an additional amount equal to the amount not paid by the state due to proration.

Subd. 8. Health, safety, and environmental management cost. ~~(a)~~ A district's cost for health, safety, and environmental management is limited to the lesser of:

(1) actual cost to implement their plan; or

(2) an amount determined by the commissioner, based on enrollment, building age, and size.

~~(b) The department may contract with regional service organizations, private contractors, Minnesota Safety Council, or state agencies to provide management assistance to school districts for health and safety capital projects. Management assistance is the development of written programs for the identification, recognition and control of hazards, and prioritization and scheduling of district health and safety capital projects.~~

H.F. No. 1176, as introduced - 86th Legislative Session (2009-2010) [09-1878]

6.1 ~~The department shall not exclude private contractors from the opportunity to provide any~~
6.2 ~~health and safety services to school districts.~~

6.3 ~~(c) Notwithstanding paragraph (b), the department may approve revenue, up to~~
6.4 ~~the limit defined in paragraph (a) for districts having an approved health, safety, and~~
6.5 ~~environmental management plan that uses district staff to accomplish coordination and~~
6.6 ~~provided services.~~

6.7 **EFFECTIVE DATE.** This section is effective for revenue for fiscal years 2011
6.8 and later.