A bill for an act

relating to education; allowing the use of health and safety revenue to fund the costs associated with school district playground safety, accessibility, safe surfacing, play and fitness equipment and related inspections, design, installation, and ongoing maintenance; amending Minnesota Statutes 2008, section 123B.57, subdivisions 1, 2, 6.

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

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

Subdivision 1. **Health and safety program.** (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, and the funding of measures to improve playground safety and accessibility. The application must include a health and safety program adopted by the school district board. The program must include the estimated cost, per building, of the program by fiscal year. 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) Health and safety projects with an estimated cost of $500,000 or more per site, approved after February 1, 2003, 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, 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.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 2. Minnesota Statutes 2008, section 123B.57, subdivision 2, is amended to read:

Subd. 2. **Contents of program.** A district must adopt a health and safety program. The program must include plans, where applicable, for hazardous substance removal, fire and life safety code repairs, regulated facility and equipment violations, ~~and~~ health, safety, and environmental management, including indoor air quality management, and the funding of measures to improve playground safety and accessibility.

(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.

(g) A plan to fund the costs associated with school district playground safety, accessibility, safe surfacing, play and fitness equipment and related inspections, design, installation, and ongoing maintenance.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 3. Minnesota Statutes 2008, section 123B.57, subdivision 6, is amended to read:

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, and costs associated with school district playground safety, accessibility, safe surfacing, play and fitness equipment and, notwithstanding paragraph (b), related inspections, design, installation, and ongoing maintenance. 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.

(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).

EFFECTIVE DATE. This section is effective July 1, 2009.