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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. **347**

01/17/2023 Authored by Howard, Jordan, Frazier, Pursell, Her and others
The bill was read for the first time and referred to the Committee on Education Policy
01/30/2023 Adoption of Report: Re-referred to the Committee on Health Finance and Policy
02/06/2023 Adoption of Report: Amended and re-referred to the Committee on Education Finance

1.1 A bill for an act
1.2 relating to education; modifying lead testing and remediation requirements in
1.3 schools; requiring a report; appropriating money; amending Minnesota Statutes
1.4 2022, sections 121A.335; 123B.595, subdivisions 1, 2, 7, 8, 8a, 9.

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

1.6 Section 1. Minnesota Statutes 2022, section 121A.335, is amended to read:

1.7 **121A.335 LEAD IN SCHOOL DRINKING WATER.**

1.8 Subdivision 1. **Model plan.** The commissioners of health and education shall jointly
1.9 develop a model plan to require school districts to accurately and efficiently test for the
1.10 presence of lead in water in public school buildings serving students in kindergarten through
1.11 grade 12. To the extent possible, the commissioners shall base the plan on the standards
1.12 established by the United States Environmental Protection Agency. The plan may be based
1.13 on the technical guidance in the Department of Health's document, "Reducing Lead in
1.14 Drinking Water: A Technical Guidance for Minnesota's School and Child Care Facilities."
1.15 The plan must include recommendations for remediation efforts when testing reveals the
1.16 presence of lead above five parts per billion.

1.17 Subd. 2. **School plans.** (a) By July 1, 2018, the board of each school district or charter
1.18 school must adopt the commissioners' model plan or develop and adopt an alternative plan
1.19 to accurately and efficiently test for the presence of lead in water in school buildings serving
1.20 prekindergarten students and students in kindergarten through grade 12.

1.21 (b) By July 1, 2024, a school district or charter school must revise its plan to include its
1.22 policies and procedures for ensuring consistent water quality throughout the district's or
1.23 charter school's facilities. The plan must document the routine water management strategies

2.1 and procedures used in each building or facility to maintain water quality and reduce exposure
2.2 to lead. A district or charter school must base the plan on the United States Environmental
2.3 Protection Agency's "Ensuring Drinking Water Quality in Schools During and After Extended
2.4 Closures" fact sheet and United States Environmental Protection Agency's "3Ts Toolkit for
2.5 Reducing Lead in Drinking Water in Schools and Child Care Facilities." A district or charter
2.6 school's plan must be publicly available upon request.

2.7 Subd. 3. **Frequency of testing.** (a) The plan under subdivision 2 must include a testing
2.8 schedule for every building serving prekindergarten through grade 12 students. The schedule
2.9 must require that each building be tested at least once every five years. A school district or
2.10 charter school must begin testing school buildings by July 1, 2018, and complete testing of
2.11 all buildings that serve students within five years.

2.12 (b) A school district or charter school that finds lead at a specific location providing
2.13 cooking or drinking water within a facility must formulate, make publicly available, and
2.14 implement a plan that is consistent with established guidelines and recommendations to
2.15 ensure that student exposure to lead is ~~minimized~~ reduced below five parts per billion as
2.16 verified by a retest. This includes, when a school district or charter school finds the presence
2.17 of lead ~~at a level where action should be taken as set by the guidance~~ above five parts per
2.18 billion in any water source fixture that can provide cooking or drinking water, immediately
2.19 shutting off the water ~~source~~ fixture or making it unavailable until the hazard has been
2.20 ~~minimized~~ remediated, as verified by a retest.

2.21 (c) A school district or charter school must test for the presence of lead after completing
2.22 remediation activities required under this section to confirm that the water contains lead at
2.23 a level less than five parts per billion.

2.24 Subd. 4. **Ten-year facilities plan.** A school district may include lead testing and
2.25 remediation as a part of its ten-year facilities plan under section 123B.595.

2.26 Subd. 5. **Reporting.** (a) ~~A school district or charter school that has tested its buildings~~
2.27 ~~for the presence of lead shall make the results of the testing available to the public for review~~
2.28 ~~and must notify parents of the availability of the information.~~ must send parents an annual
2.29 notice that includes the district's or charter school's annual testing and remediation plan,
2.30 information about how to find test results, and a description of remediation efforts on the
2.31 district website. The district or charter school must update the lead testing and remediation
2.32 information on its website at least annually. In addition to the annual notice, the district or
2.33 charter school must include in an official school handbook or official school policy guide

3.1 information on how parents may find the test results and a description of remediation efforts
3.2 on the district or charter school website and how often this information is updated.

3.3 ~~School districts and charter schools must follow the actions outlined in guidance from~~
3.4 ~~the commissioners of health and education.~~ (b) If a test conducted under subdivision 3,
3.5 paragraph (a), reveals the presence of lead above a level where action should be taken as
3.6 ~~set by the guidance~~ five parts per billion, the school district or charter school must, within
3.7 30 days of receiving the test result, either remediate the presence of lead to below ~~the level~~
3.8 ~~set in guidance~~ five parts per billion, verified by retest, or directly notify parents of the test
3.9 result. ~~The school district or charter school must make the water source unavailable until~~
3.10 ~~the hazard has been minimized.~~

3.11 (c) Starting July 1, 2024, school districts and charter schools must report their test results
3.12 and remediation activities to the commissioner of health in the form and manner determined
3.13 by the commissioner in consultation with school districts and charter schools, by July 1 of
3.14 each year. The commissioner of health must post, and annually update, the test results and
3.15 remediation efforts on the department website, by school site.

3.16 (d) A district or charter school must maintain a record of lead testing results and
3.17 remediation activities for at least 15 years.

3.18 Subd. 6. **Public water system.** (a) A district or charter school is not financially
3.19 responsible for remediation of documented elevated lead levels in drinking water caused
3.20 by the presence of lead infrastructure owned by a public water supply utility providing water
3.21 to the school facility, such as lead service lines, meters, galvanized service lines downstream
3.22 of lead, or lead connectors. The district or charter school must communicate with the public
3.23 water system regarding its documented significant contribution to lead contamination in
3.24 school drinking water and request from the public water system a plan for reducing the lead
3.25 contamination.

3.26 (b) If the infrastructure is jointly owned by a district or charter school and a public water
3.27 supply utility, the district or charter school must attempt to coordinate any needed
3.28 replacements of lead service lines with the public water supply utility.

3.29 (c) A district or charter school may defer its remediation activities under this section
3.30 until after the elevated lead level in the public water system's infrastructure is remediated
3.31 and postremediation testing does not detect an elevated lead level in the drinking water that
3.32 passes through that infrastructure. A district or charter school may also defer its remediation
3.33 activities if the public water supply exceeds the federal Safe Drinking Water Act lead action
3.34 level or is in violation of the Safe Drinking Water Act Lead and Copper Rule.

4.1 Subd. 7. Commissioner recommendations. By January 1, 2026, and every five years
4.2 thereafter, the commissioner of health must report to the legislative committees having
4.3 jurisdiction over health and kindergarten through grade 12 education any recommended
4.4 changes to this section. The recommendations must be based on currently available scientific
4.5 evidence regarding the effects of lead in drinking water.

4.6 EFFECTIVE DATE. This section is effective July 1, 2023.

4.7 Sec. 2. Minnesota Statutes 2022, section 123B.595, subdivision 1, is amended to read:

4.8 Subdivision 1. **Long-term facilities maintenance revenue.** ~~(a) For fiscal year 2017~~
4.9 ~~only, long-term facilities maintenance revenue equals the greater of (1) the sum of (i) \$193~~
4.10 ~~times the district's adjusted pupil units times the lesser of one or the ratio of the district's~~
4.11 ~~average building age to 35 years, plus the cost approved by the commissioner for indoor~~
4.12 ~~air quality, fire alarm and suppression, and asbestos abatement projects under section~~
4.13 ~~123B.57, subdivision 6, with an estimated cost of \$100,000 or more per site, plus (ii) for a~~
4.14 ~~school district with an approved voluntary prekindergarten program under section 124D.151,~~
4.15 ~~the cost approved by the commissioner for remodeling existing instructional space to~~
4.16 ~~accommodate prekindergarten instruction, or (2) the sum of (i) the amount the district would~~
4.17 ~~have qualified for under Minnesota Statutes 2014, section 123B.57, Minnesota Statutes~~
4.18 ~~2014, section 123B.59, and Minnesota Statutes 2014, section 123B.591, and (ii) for a school~~
4.19 ~~district with an approved voluntary prekindergarten program under section 124D.151, the~~
4.20 ~~cost approved by the commissioner for remodeling existing instructional space to~~
4.21 ~~accommodate prekindergarten instruction.~~

4.22 ~~(b) For fiscal year 2018 only, long-term facilities maintenance revenue equals the greater~~
4.23 ~~of (1) the sum of (i) \$292 times the district's adjusted pupil units times the lesser of one or~~
4.24 ~~the ratio of the district's average building age to 35 years, plus (ii) the cost approved by the~~
4.25 ~~commissioner for indoor air quality, fire alarm and suppression, and asbestos abatement~~
4.26 ~~projects under section 123B.57, subdivision 6, with an estimated cost of \$100,000 or more~~
4.27 ~~per site, plus (iii) for a school district with an approved voluntary prekindergarten program~~
4.28 ~~under section 124D.151, the cost approved by the commissioner for remodeling existing~~
4.29 ~~instructional space to accommodate prekindergarten instruction, or (2) the sum of (i) the~~
4.30 ~~amount the district would have qualified for under Minnesota Statutes 2014, section 123B.57,~~
4.31 ~~Minnesota Statutes 2014, section 123B.59, and Minnesota Statutes 2014, section 123B.591,~~
4.32 ~~and (ii) for a school district with an approved voluntary prekindergarten program under~~
4.33 ~~section 124D.151, the cost approved by the commissioner for remodeling existing~~
4.34 ~~instructional space to accommodate prekindergarten instruction.~~

5.1 ~~(e)~~ (a) For fiscal year ~~2019~~ 2024 and later, long-term facilities maintenance revenue
5.2 equals the greater of:

5.3 (1) the sum of (i) \$380 times the district's adjusted pupil units times the lesser of one or
5.4 the ratio of the district's average building age to 35 years, ~~plus~~ (ii) the cost approved by the
5.5 commissioner for indoor air quality, fire alarm and suppression, and asbestos abatement
5.6 projects under section 123B.57, subdivision 6, with an estimated cost of \$100,000 or more
5.7 per site, ~~plus~~ (iii) for a school district with an approved voluntary prekindergarten program
5.8 under section 124D.151, the cost approved by the commissioner for remodeling existing
5.9 instructional space to accommodate prekindergarten instruction, and (iv) the costs for
5.10 remediation of lead in the school's drinking water, including the cost of filters; or

5.11 (2) the sum of (i) the amount the district would have qualified for under Minnesota
5.12 Statutes 2014, section 123B.57, Minnesota Statutes 2014, section 123B.59, and Minnesota
5.13 Statutes 2014, section 123B.591, and (ii) for a school district with an approved voluntary
5.14 prekindergarten program under section 124D.151, the cost approved by the commissioner
5.15 for remodeling existing instructional space to accommodate prekindergarten instruction.

5.16 ~~(d)~~ (b) Notwithstanding ~~paragraphs~~ paragraph (a), ~~(b)~~, ~~and (c)~~, a school district that
5.17 qualified for eligibility under Minnesota Statutes 2014, section 123B.59, subdivision 1,
5.18 paragraph (a), for fiscal year 2010 remains eligible for funding under this section as a district
5.19 that would have qualified for eligibility under Minnesota Statutes 2014, section 123B.59,
5.20 subdivision 1, paragraph (a), for fiscal year 2017 and later.

5.21 **EFFECTIVE DATE.** This section is effective July 1, 2023.

5.22 Sec. 3. Minnesota Statutes 2022, section 123B.595, subdivision 2, is amended to read:

5.23 Subd. 2. **Long-term facilities maintenance revenue for a charter school.** ~~(a) For fiscal~~
5.24 ~~year 2017 only, long-term facilities maintenance revenue for a charter school equals \$34~~
5.25 ~~times the adjusted pupil units.~~

5.26 ~~(b) For fiscal year 2018 only, long-term facilities maintenance revenue for a charter~~
5.27 ~~school equals \$85 times the adjusted pupil units.~~

5.28 ~~(c)~~ (e) For fiscal year ~~2019~~ 2024 and later, long-term facilities maintenance revenue for a
5.29 charter school equals the sum of \$132 times the adjusted pupil units for that year, plus the
5.30 costs approved by the commissioner of health for remediation of lead in the school's drinking
5.31 water, including the cost of filters.

5.32 **EFFECTIVE DATE.** This section is effective July 1, 2023.

6.1 Sec. 4. Minnesota Statutes 2022, section 123B.595, subdivision 7, is amended to read:

6.2 Subd. 7. **Long-term facilities maintenance equalization revenue.** ~~(a) For fiscal year~~
6.3 ~~2017 only, a district's long-term facilities maintenance equalization revenue equals the lesser~~
6.4 ~~of (1) \$193 times the adjusted pupil units or (2) the district's revenue under subdivision 1.~~

6.5 ~~(b) For fiscal year 2018 only, a district's long-term facilities maintenance equalization~~
6.6 ~~revenue equals the lesser of (1) \$292 times the adjusted pupil units or (2) the district's~~
6.7 ~~revenue under subdivision 1.~~

6.8 ~~(c)~~ (a) For fiscal year ~~2019~~ 2024 and later, a district's long-term facilities maintenance
6.9 equalization revenue equals the lesser of (1) \$380 times the adjusted pupil units or (2) the
6.10 district's revenue under subdivision 1.

6.11 ~~(d)~~ (b) Notwithstanding ~~paragraphs~~ paragraph ~~(a) to (c)~~, a district's long-term facilities
6.12 maintenance equalization revenue must not be less than the lesser of the district's long-term
6.13 facilities maintenance revenue or the amount of aid the district received for fiscal year 2015
6.14 under Minnesota Statutes 2014, section 123B.59, subdivision 6.

6.15 **EFFECTIVE DATE.** This section is effective July 1, 2023.

6.16 Sec. 5. Minnesota Statutes 2022, section 123B.595, subdivision 8, is amended to read:

6.17 Subd. 8. **Long-term facilities maintenance equalized levy.** ~~(a) For fiscal year 2017~~
6.18 ~~and later, A district's long-term facilities maintenance equalized levy equals the district's~~
6.19 ~~long-term facilities maintenance equalization revenue minus the greater of:~~

6.20 (1) the lesser of the district's long-term facilities maintenance equalization revenue or
6.21 the amount of aid the district received for fiscal year 2015 under Minnesota Statutes 2014,
6.22 section 123B.59, subdivision 6; or

6.23 (2) the district's long-term facilities maintenance equalization revenue times the greater
6.24 of (i) zero or (ii) one minus the ratio of its adjusted net tax capacity per adjusted pupil unit
6.25 in the year preceding the year the levy is certified to 123 percent of the state average adjusted
6.26 net tax capacity per adjusted pupil unit for all school districts in the year preceding the year
6.27 the levy is certified.

6.28 (b) For purposes of this subdivision, "adjusted net tax capacity" means the value described
6.29 in section 126C.01, subdivision 2, paragraph (b).

6.30 **EFFECTIVE DATE.** This section is effective July 1, 2023.

7.1 Sec. 6. Minnesota Statutes 2022, section 123B.595, subdivision 8a, is amended to read:

7.2 Subd. 8a. **Long-term facilities maintenance unequalized levy.** ~~For fiscal year 2017~~
7.3 ~~and later,~~ A district's long-term facilities maintenance unequalized levy equals the difference
7.4 between the district's revenue under subdivision 1 and the district's equalization revenue
7.5 under subdivision 7.

7.6 **EFFECTIVE DATE.** This section is effective July 1, 2023.

7.7 Sec. 7. Minnesota Statutes 2022, section 123B.595, subdivision 9, is amended to read:

7.8 Subd. 9. **Long-term facilities maintenance equalized aid.** ~~For fiscal year 2017 and~~
7.9 ~~later,~~ A district's long-term facilities maintenance equalized aid equals its long-term facilities
7.10 maintenance equalization revenue minus its long-term facilities maintenance equalized levy
7.11 times the ratio of the actual equalized amount levied to the permitted equalized levy.

7.12 **EFFECTIVE DATE.** This section is effective July 1, 2023.

7.13 Sec. 8. **APPROPRIATION.**

7.14 Subdivision 1. **Department of Education.** The sums indicated in this section are
7.15 appropriated from the general fund to the Department of Education in the fiscal years
7.16 designated.

7.17 Subd. 2. **Lead remediation.** (a) For transfer to the commissioner of health for grants to
7.18 American Indian Tribal contract schools for lead remediation activities:

7.19 \$ 2024

7.20 \$ 2025

7.21 (b) A Tribal contract or grant school that receives revenue under Minnesota Statutes,
7.22 section 124D.83, is eligible for a grant under this subdivision. Grants must be used to test
7.23 drinking water for the presence of lead or to reduce or eliminate lead in the drinking water
7.24 at the school site. An applicant for a grant must submit to the commissioner a plan to test
7.25 for lead or the results of any testing performed in the previous five years and a description
7.26 of how grant funds will be used.

7.27 (c) The base for fiscal year 2026 and later is \$.....

7.28 **EFFECTIVE DATE.** This section is effective July 1, 2023.