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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

EIGHTY-FIFTH  
SESSION

**HOUSE FILE No. 3190**

February 18, 2008

Authored by Hilstrom, Davnie, Greiling, Heidgerken and Peterson, S.

The bill was read for the first time and referred to the Committee on E-12 Education

March 6, 2008

By motion, recalled and re-referred to the Committee on Finance

1.1 A bill for an act  
1.2 relating to education finance; setting criteria for allowable uses of health  
1.3 and safety revenue; amending Minnesota Statutes 2006, section 123B.57,  
1.4 subdivisions 1, 2, 6, 8, by adding a subdivision.

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

1.6 Section 1. Minnesota Statutes 2006, section 123B.57, subdivision 1, is amended to read:

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

- 1.15 (1) physical hazards;  
1.16 (2) hazardous substances;  
1.17 (3) environmental, health, and safety management;  
1.18 (4) asbestos;  
1.19 (5) fire and life safety; and  
1.20 (6) indoor air quality.

1.21 (b) The health and safety budget may include contingency amounts determined by  
1.22 the local school board for each Uniform Financial Accounting and Reporting Standards  
1.23 project category. Contingency amounts shall be converted to qualifying projects by the  
1.24 date determined by the commissioner or the approval shall be rescinded.

2.1 (c) Health and safety projects with an estimated cost of \$10,000 or more per site  
 2.2 shall be itemized within the health and safety budget and include the name of the facility.  
 2.3 Health and safety projects with an estimated cost of less than \$10,000 per site, including  
 2.4 multisite or districtwide projects where the total cost could exceed \$10,000, may be  
 2.5 reported as combined projects.

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

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

2.18 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2010.

2.19 Sec. 2. Minnesota Statutes 2006, section 123B.57, subdivision 2, is amended to read:

2.20 Subd. 2. ~~Contents of Health and safety program.~~ (a) To qualify for health and  
 2.21 safety revenue, a district must adopt a health and safety program. The program must  
 2.22 include written plans, where applicable, for hazardous substance removal, fire and life  
 2.23 safety code repairs, regulated facility and equipment violations, and compliance with  
 2.24 applicable health, safety, and environmental management regulations, including a plan to  
 2.25 monitor and improve indoor air quality management. Evidence of program adoption by  
 2.26 the school board is required for levy approval.

2.27 (b) Written plans for environmental, health, and safety compliance must be made  
 2.28 available to the local authority having jurisdiction for review. Approval of health and  
 2.29 safety funding by the commissioner shall not be contingent on compliance status. The  
 2.30 commissioner may provide management assistance, as described in subdivision 8, but will  
 2.31 not be responsible for the identification of hazards, choice of control options, evaluation of  
 2.32 written plans, or district compliance with environmental, health, and safety regulations.

2.33 ~~(a) A hazardous substance plan must contain provisions for the removal or~~  
 2.34 ~~encapsulation of asbestos from school buildings or property, asbestos-related repairs,~~  
 2.35 ~~cleanup and disposal of polychlorinated biphenyls found in school buildings or property,~~

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

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

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

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

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

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

3.25 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2010.

3.26 Sec. 3. Minnesota Statutes 2006, section 123B.57, subdivision 6, is amended to read:

3.27 Subd. 6. **Uses of health and safety revenue.** (a) Health and safety revenue  
 3.28 may be used ~~only~~ for any allowable expenditures approved ~~expenditures necessary to~~  
 3.29 ~~correct fire and life safety hazards, or for the removal or encapsulation of asbestos from~~  
 3.30 ~~school buildings or property owned or being acquired by the district, asbestos-related~~  
 3.31 ~~repairs, cleanup and disposal of polychlorinated biphenyls found in school buildings or~~  
 3.32 ~~property owned or being acquired by the district, or the cleanup, removal, disposal, and~~  
 3.33 ~~repairs related to storing heating fuel or transportation fuels such as alcohol, gasoline,~~  
 3.34 ~~fuel oil, and special fuel, as defined in section 296A.01, Minnesota occupational safety~~  
 3.35 ~~and health administration regulated facility and equipment hazards, indoor air quality~~

4.1 ~~mold abatement, upgrades or replacement of mechanical ventilation systems to meet~~  
4.2 ~~American Society of Heating, Refrigerating and Air Conditioning Engineers standards and~~  
4.3 ~~State Mechanical Code, Department of Health Food Code and swimming pool hazards~~  
4.4 ~~excluding depth correction, and health, safety, and environmental management. Testing~~  
4.5 ~~and calibration activities are permitted for existing mechanical ventilation systems at~~  
4.6 ~~intervals no less than every five years. Health and safety revenue must not be used to~~  
4.7 ~~finance a lease purchase agreement, installment purchase agreement, or other deferred~~  
4.8 ~~payments agreement. Health and safety revenue must not be used for the construction~~  
4.9 ~~of new facilities or the purchase of portable classrooms, for interest or other financing~~  
4.10 ~~expenses, or for energy efficiency projects under section 123B.65. The revenue may not~~  
4.11 ~~be used for a building or property or part of a building or property used for postsecondary~~  
4.12 ~~instruction or administration or for a purpose unrelated to elementary and secondary~~  
4.13 ~~education by the school district board.~~

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

4.23 ~~(b) Allowable expenditures include all reasonable costs to maintain safe and secure~~  
4.24 ~~schools. Health and safety revenue may be used to:~~

4.25 ~~(1) comply with applicable environmental, health, and safety standards enforced by~~  
4.26 ~~the following regulatory agencies:~~

4.27 ~~(i) United States Occupational Safety and Health Administration (OSHA);~~

4.28 ~~(ii) United States Environmental Protection Agency (EPA);~~

4.29 ~~(iii) Minnesota Department of Labor and Industry (MDOLI);~~

4.30 ~~(iv) Minnesota Occupational Safety and Health Administration (MNOSHA);~~

4.31 ~~(v) Minnesota Pollution Control Agency (MPCA);~~

4.32 ~~(vi) Minnesota Department of Health (MDH);~~

4.33 ~~(vii) Minnesota Department of Public Safety (MDPS);~~

4.34 ~~(viii) Minnesota Department of Transportation (MnDOT); and~~

4.35 ~~(ix) counties and cities;~~

- 5.1 (2) train staff on safe work practices, accident and injury prevention, and emergency  
5.2 procedures;
- 5.3 (3) provide personal protective equipment to students and staff;
- 5.4 (4) identify, assess, and control:
- 5.5 (i) fire and life safety hazards;
- 5.6 (ii) physical hazards;
- 5.7 (iii) ergonomic hazards;
- 5.8 (iv) hazardous materials and hazardous wastes;
- 5.9 (v) hazardous infectious agents;
- 5.10 (vi) asbestos hazards, including replacement of asbestos-containing building  
5.11 materials and affected nonasbestos components including, but not limited to, carpet,  
5.12 ceiling grid, lights, and diffusers;
- 5.13 (vii) playground hazards, including repair and replacement of equipment and impact  
5.14 surfacing to comply with United States Consumer Product Safety Commission (USCPSC)  
5.15 guidelines. The evaluator does not have to be a district employee. The cost to seal wooden  
5.16 play sets that might leach chromated copper arsenate (CCA) is also allowable; and
- 5.17 (viii) security hazards, including access control systems and monitoring equipment;
- 5.18 (5) manage aboveground and underground storage tanks used for storing heating  
5.19 fuel or transportation fuels such as alcohol, gasoline, fuel oil, used oil, or special fuel, as  
5.20 defined in section 296A.01, including tightness testing, cleanup of any petroleum product  
5.21 spills, and repair or replacement of the tank and piping;
- 5.22 (6) monitor and improve indoor air quality, including assessments, testing, removal,  
5.23 replacement of mold-damaged building materials, balancing and commissioning of  
5.24 HVAC systems, duct cleaning, HVAC filter replacements, and upgrades or replacement of  
5.25 HVAC system components to comply with current standards established by the American  
5.26 Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) and state  
5.27 mechanical codes;
- 5.28 (7) provide local or buildingwide humidification and dehumidification;
- 5.29 (8) prepare for emergencies, including emergency communications equipment such  
5.30 as public address systems, cellular phones, walkie-talkies, repeaters, antennas, pagers,  
5.31 and parent notification systems; emergency response equipment such as automated  
5.32 external defibrillators, flashlights, and first aid supplies; and communication of emergency  
5.33 procedures;
- 5.34 (9) correct Department of Health Food Code violations;

6.1 (10) correct Department of Health swimming pool violations and bring swimming  
6.2 pools up to code per Minnesota Rules, chapter 4717, excluding depth correction and  
6.3 operational expenses; and

6.4 (11) establish safety committees, including hourly wages of employees and  
6.5 substitutes conducting the work.

6.6 (c) When a district identifies a project where eligibility is unclear, the district may  
6.7 request that the project be given funding consideration. The department may not approve  
6.8 costs that are specifically restricted in subdivision 7. All other reasonable costs that have  
6.9 been approved by the school board and meet the intent of this subdivision must be allowed.

6.10 (d) Project approval is not contingent on written orders from the local authority  
6.11 having jurisdiction. Recognized health and safety hazards should be corrected as soon as  
6.12 possible to prevent injuries.

6.13 (e) Any fire and life safety project that exceeds \$10,000 per site must be reviewed  
6.14 and approved by the state fire marshal school plan reviewer before beginning work.

6.15 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2010.

6.16 Sec. 4. Minnesota Statutes 2006, section 123B.57, is amended by adding a subdivision  
6.17 to read:

6.18 **Subd. 6a. Restrictions on health and safety revenue.** Health and safety revenue  
6.19 may not be used for:

6.20 (1) the finance of a lease purchase agreement, installment purchase agreement, or  
6.21 other deferred payments agreement;

6.22 (2) interest or other financing expenses, or for energy efficiency projects under  
6.23 section 123B.65;

6.24 (3) any work performed under an energy performance contract or with bond  
6.25 proceeds, including facilities and equipment bonds;

6.26 (4) the construction of new facilities;

6.27 (5) the purchase of portable classrooms;

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

6.29 (7) a building or property or part of a building or property used for postsecondary  
6.30 instruction or administration or for a purpose unrelated to elementary and secondary  
6.31 education;

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

6.33 (9) nonhealth and safety costs associated with demolition of facilities;

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

6.35 (11) violence prevention programs;

- 7.1 (12) Department of Health licenses or certification required for kitchen staff;  
 7.2 (13) costs to air condition any portion of a building unless justified by extraordinary  
 7.3 circumstances; and  
 7.4 (14) personal protective equipment used in extracurricular activities.

7.5 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2010.

7.6 Sec. 5. Minnesota Statutes 2006, section 123B.57, subdivision 8, is amended to read:

7.7 Subd. 8. **Health, safety, and environmental management cost.** (a) A district's  
 7.8 cost for health, safety, and environmental management ~~is limited to the lesser of:~~ includes  
 7.9 any activities deemed necessary by the local school board to implement the district's  
 7.10 health, safety, and environmental management programs. These activities include, but  
 7.11 are not limited to, hazard assessment, plan development, training, program management,  
 7.12 and record keeping.

7.13 ~~(1) actual cost to implement their plan; or~~

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

7.16 (b) The department ~~may contract with regional service organizations, private~~  
 7.17 ~~contractors, Minnesota Safety Council, or state agencies to~~ shall provide management  
 7.18 assistance to school districts for health ~~and~~ safety capital projects, and environmental  
 7.19 compliance when requested. Management assistance ~~is~~ includes the development of  
 7.20 written ~~programs~~ plans, policies, and procedures for the ~~identification, recognition and~~  
 7.21 ~~control of hazards, and prioritization and scheduling of district health and safety capital~~  
 7.22 ~~projects.~~ The department shall not exclude private contractors from the opportunity to  
 7.23 provide any health and safety services to school districts.

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

7.28 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2010.