

CHAPTER 423E

SCHOOL INFRASTRUCTURE FUNDING FORMULA

[P]

Chapter transferred from ch 422E in Code 2005 pursuant to
 Code editor directive; 2003 Acts, 1st Ex, ch 2, §203, 205
 [SP] Chapter repealed June 30, 2023; see §423E.7

423E.1	Authorization — rate of tax — use of revenues. Repealed by 2008 Acts, ch 1134, §33.	423E.4	Secure an advanced vision for education fund distribution formula.
423E.2	Imposition by county. Repealed by 2008 Acts, ch 1134, §34.	423E.5	Bonding.
423E.3	Collection of tax.	423E.6	School infrastructure safety fund.
		423E.7	Repeal.

423E.1 Authorization — rate of tax — use of revenues. Repealed by 2008 Acts, ch 1134, § 33. See chapter 423F.

423E.2 Imposition by county. Repealed by 2008 Acts, ch 1134, § 34. See chapter 423F.

423E.3 Collection of tax.

1. The tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the sales price from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the sales price from the sale of equipment by the state department of transportation, or on the sales price from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the sales price from the sale of natural gas or electric energy is subject to a franchise fee or user fee during the period the franchise or user fee is imposed.

2. The tax is applicable to transactions within the county where it is imposed and shall be collected by all persons required to collect state sales or local excise taxes. The amount of the sale, for purposes of determining the amount of the tax, does not include the amount of any state sales taxes or excise taxes or other local option sales or excise taxes. A tax permit other than the state tax permit required under section 423.36 shall not be required by local authorities.

3. a. (1) If more than one school district, or a portion of a school district, is located within the county, tax receipts shall be remitted to each school district or portion of a school district in which the county tax is imposed in a pro rata share based upon the ratio which the actual enrollment for the school district that attends school in the county bears to the total combined actual enrollments for all school districts that attend school in the county.

(2) The combined actual enrollment for a county, for purposes of this section, shall be determined for each county by the department of management based on the actual enrollment figures reported by October 15 to the department of management by the department of education pursuant to section 257.6, subsection 1. The combined actual enrollment count shall be forwarded to the director of revenue by March 1, annually, for purposes of supplying estimated tax payment figures and making estimated tax payments pursuant to this section for the following fiscal year.

b. Notwithstanding the amount of tax receipts credited to the account within the secure an advanced vision for education fund maintained in the name of a school district, the amount of tax receipts the school district shall receive from the tax imposed in the county shall be determined as provided in section 423E.4, subsection 1.

98 Acts, ch 1130, §3, 6
 C99, §422E.3

99 Acts, ch 151, §37 – 39, 89; 99 Acts, ch 156, §17 – 19, 23; 2001 Acts, ch 116, §16; 2002 Acts, ch 1151, §13; 2003 Acts, ch 145, §286; 2003 Acts, ch 157, §5 – 7, 11; 2003 Acts, ch 178, §114, 121; 2003 Acts, ch 179, §142; 2003 Acts, 1st Ex, ch 2, §193, 203, 205; 2004 Acts, ch 1175, §254 C2005, §423E.3

2005 Acts, ch 3, §71; 2005 Acts, ch 140, §15, 16, 27, 32; 2006 Acts, ch 1010, §105; 2006 Acts, ch 1152, §53; 2008 Acts, ch 1134, §15 – 17; 2008 Acts, ch 1191, §96

423E.4 Secure an advanced vision for education fund distribution formula.

1. The moneys credited in a fiscal year to the secure an advanced vision for education fund shall be distributed as follows:

a. A school district that is located in whole or in part in a county that voted on and approved prior to April 1, 2003, the local sales and services tax for school infrastructure purposes and that has a sales tax capacity per student above the guaranteed school infrastructure amount shall receive for the remainder of the unextended term of the tax an amount equal to its pro rata share of the local sales and services tax receipts as provided in section 423E.3, subsection 3, paragraph “a”, unless the school board passes a resolution by October 1, 2003, agreeing to receive a distribution pursuant to paragraph “b”, subparagraph (1).

b. (1) A school district that is located in whole or in part in a county that voted on and approved prior to April 1, 2003, the local sales and services tax for school infrastructure purposes and that has a sales tax capacity per student below its guaranteed school infrastructure amount shall receive for the remainder of the unextended term of the tax an amount equal to its pro rata share of the local sales and services tax receipts as provided in section 423E.3, subsection 3, paragraph “a”, plus an amount equal to its supplemental school infrastructure amount, unless the school district passes a resolution by October 1, 2003, agreeing to receive only an amount equal to its pro rata share as provided in section 423E.3, subsection 3, paragraph “a”, in all subsequent years.

(2) A school district that is located in whole or in part in a county that voted on and approved on or after April 1, 2003, the local sales and services tax for school infrastructure purposes shall receive an amount equal to its pro rata share of the local sales and services tax receipts as provided in section 423E.3, subsection 3, paragraph “a”, not to exceed its guaranteed school infrastructure amount. However, if the school district’s pro rata share is less than its guaranteed school infrastructure amount, the district shall receive an additional amount equal to its supplemental school infrastructure amount.

(3) A school district that is located in whole or in part in a county that voted on and approved the extension of the local sales and services tax for school infrastructure purposes pursuant to section 423E.2, subsection 5, Code 2007, on or after April 1, 2003, shall receive for any extended period an amount equal to its pro rata share of the local sales and services tax receipts as provided in section 423E.3, subsection 3, paragraph “a”, not to exceed its guaranteed school infrastructure amount. However, if the school district’s pro rata share is less than its guaranteed school infrastructure amount, the district shall receive an additional amount equal to its supplemental school infrastructure amount.

c. In the case of a school district located in more than one county, the amount to be distributed to the school district shall be separately computed for each county based upon the school district’s actual enrollment that attends school in the county.

2. a. The director of revenue by August 15 of each fiscal year shall compute the guaranteed school infrastructure amount for each school district, each school district’s sales tax capacity per student for each county, the statewide tax revenues per student, and the supplemental school infrastructure amount for the fiscal year.

b. For purposes of distributions under subsection 1:

(1) “*Guaranteed school infrastructure amount*” means for a school district the statewide tax revenues per student, multiplied by the quotient of the tax rate percent imposed in the county, divided by one percent and multiplied by the quotient of the number of quarters the tax is imposed during the fiscal year divided by four quarters.

(2) “*Sales tax capacity per student*” means for a school district the estimated amount of revenues that a school district would receive if a local sales and services tax for school

infrastructure purposes was imposed at one percent in the county pursuant to section 423E.2, Code 2007, divided by the school district's actual enrollment as determined in section 423E.3, subsection 3, paragraph "a".

(3) "*Statewide tax revenues per student*" means the amount determined by estimating the total revenues that would be generated by a one percent local option sales and services tax for school infrastructure purposes if imposed by all the counties during the entire fiscal year and dividing this estimated revenue amount by the sum of the combined actual enrollment for all counties as determined in section 423E.3, subsection 3, paragraph "a", subparagraph (2).

(4) "*Supplemental school infrastructure amount*" means the guaranteed school infrastructure amount for the school district less its pro rata share of local sales and services tax for school infrastructure purposes as provided in section 423E.3, subsection 3, paragraph "a".

3. a. For the purposes of distribution under subsection 1, paragraph "b", subparagraph (1), a school district with a sales tax capacity per student below its guaranteed school infrastructure amount shall use the amount equal to the guaranteed school infrastructure amount less the pro rata share amount in accordance with section 423E.3, subsection 3, paragraph "a", for the purpose of paying principal and interest on outstanding bonds previously issued for school infrastructure purposes as defined in section 423E.1, subsection 3, Code 2007. Any money remaining after the payment of all principal and interest on outstanding bonds previously issued for infrastructure purposes may be used for any authorized infrastructure purpose of the school district. If a majority of the voters in the school district approves the use of revenue pursuant to a revenue purpose statement in an election held after July 1, 2003, in the school district pursuant to section 423E.2, Code Supplement 2007, the school district may use the amount for the purposes specified in its revenue purpose statement.

b. Nothing in this section shall prevent a school district from using its sales tax capacity per student or guaranteed school infrastructure amount to pay principal and interest on obligations issued pursuant to section 423E.5.

4. In the case of a deficiency in the fund to pay the supplemental school infrastructure amounts in full, the amount available in the fund less the sales and services tax revenues for school infrastructure purposes attributed to each school district should be allocated first to increase the school district with the lowest sales tax capacity per student to an amount equal to the school district or school districts with the next lowest sales tax capacity per student and then increase the school districts to an amount equal to the school district or school districts with the next lowest sales tax capacity per student and continue on in this manner until money is no longer available or all school districts reach their guaranteed school infrastructure amount.

5. A school district with a certified enrollment of fewer than two hundred fifty pupils in the entire district or certified enrollment of fewer than one hundred pupils in high school shall not expend the supplemental school infrastructure amount received for new construction or for payments for bonds issued for new construction against the supplemental school infrastructure amount without prior application to the department of education and receipt of a certificate of need pursuant to this subsection. However, a certificate of need is not required for the payment of outstanding bonds issued for new construction pursuant to section 296.1, before April 1, 2003. A certificate of need is also not required for repairing schoolhouses or buildings, equipment, technology, or transportation equipment for transporting students as provided in section 298.3, or for construction necessary for compliance with the federal Americans With Disabilities Act pursuant to 42 U.S.C. § 12101 – 12117. In determining whether a certificate of need shall be issued or denied, the department shall consider all of the following:

- a. Enrollment trends in the grades that will be served at the new construction site.
- b. The infeasibility of remodeling, reconstructing, or repairing existing buildings.
- c. The fire and health safety needs of the school district.
- d. The distance, convenience, cost of transportation, and accessibility of the new construction site to the students to be served at the new construction site.

e. Availability of alternative, less costly, or more effective means of serving the needs of the students.

f. The financial condition of the district, including the effect of the decline of the budget guarantee and unspent balance.

g. Broad and long-term ability of the district to support the facility and the quality of the academic program.

h. Cooperation with other educational entities including other school districts, area education agencies, postsecondary institutions, and local communities.

6. Notwithstanding subsection 1 or any other provision to the contrary, a school district that is located in whole or in part in a county that has not previously imposed the local sales and services tax for school infrastructure, and which votes on and approves the tax at a rate of one percent after January 1, 2007, and before July 1, 2007, shall receive an amount equal to its pro rata share of the local sales and services tax receipts as provided in section 423E.3, subsection 3, paragraph “a”, for a period corresponding to one-half the duration of the tax authorized by the voters. For the second half of the duration of the tax authorized by the voters, local sales and services tax receipts shall be distributed as otherwise applicable pursuant to subsection 1.

2003 Acts, ch 145, §286; 2003 Acts, ch 157, §8, 11; 2003 Acts, 1st Ex, ch 2, §20 – 25, 203, 205, 209

CS2003, §422E.3A

2004 Acts, ch 1086, §68; 2004 Acts, ch 1175, §255 – 257

C2005, §423E.4

2005 Acts, ch 140, §49; 2005 Acts, ch 179, §96; 2006 Acts, ch 1182, §46, 53; 2008 Acts, ch 1134, §18 – 24; 2008 Acts, ch 1191, §69, 70

[P] Secure an advanced vision for education fund, see §423F.2

423E.5 Bonding.

1. The board of directors of a school district shall be authorized to issue negotiable, interest-bearing school bonds, without election, and utilize tax receipts derived from the sales and services tax for school infrastructure purposes and the supplemental school infrastructure amount distributed pursuant to section 423E.4, subsection 1, paragraph “b”, and revenues received pursuant to section 423F.2, for principal and interest repayment. Proceeds of the bonds issued pursuant to this section shall be utilized solely for school infrastructure needs as school infrastructure is defined in section 423E.1, subsection 3, Code 2007, and section 423F.3. Bonds issued under this section may be sold at public sale as provided in chapter 75, or at private sale, without notice and hearing as provided in section 73A.12. Bonds may bear dates, bear interest at rates not exceeding that permitted by chapter 74A, mature in one or more installments, be in registered form, carry registration and conversion privileges, be payable as to principal and interest at times and places, be subject to terms of redemption prior to maturity with or without premium, and be in one or more denominations, all as provided by the resolution of the board of directors authorizing their issuance. The resolution may also prescribe additional provisions, terms, conditions, and covenants which the board of directors deems advisable, including provisions for creating and maintaining reserve funds, the issuance of additional bonds ranking on a parity with such bonds and additional bonds junior and subordinate to such bonds, and that such bonds shall rank on a parity with or be junior and subordinate to any bonds which may be then outstanding. Bonds may be issued to refund outstanding and previously issued bonds under this section. The bonds are a contractual obligation of the school district, and the resolution issuing the bonds and pledging local option sales and services tax revenues or its share of the revenues distributed pursuant to section 423F.2 to the payment of principal and interest on the bonds is a part of the contract. Bonds issued pursuant to this section shall not constitute indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and shall not be subject to any other law relating to the authorization, issuance, or sale of bonds.

2. A school district shall be authorized to enter into a chapter 28E agreement with one or more cities or a county whose boundaries encompass all or a part of the area of the

school district. A city or cities entering into a chapter 28E agreement shall be authorized to expend its designated portion of the revenues for any valid purpose permitted in this chapter or authorized by the governing body of the city. A county entering into a chapter 28E agreement with a school district shall be authorized to expend its designated portion of the revenues to provide property tax relief within the boundaries of the school district located in the county. A school district is also authorized to enter into a chapter 28E agreement with another school district, a community college, or an area education agency which is located partially or entirely in or is contiguous to the county where the school district is located. The school district or community college shall only expend its designated portion of the revenues for infrastructure purposes. The area education agency shall only expend its designated portion of the revenues for infrastructure and maintenance purposes.

3. The governing body of a city may authorize the issuance of bonds which are payable from its designated portion of the revenues to be received under this section, and not from property tax, by following the authorization procedures set forth for cities in section 384.83. A city may pledge irrevocably any amount derived from its designated portions of the revenues to the support or payment of such bonds.

98 Acts, ch 1130, §4, 6

C99, §422E.4

99 Acts, ch 156, §20, 23; 2003 Acts, ch 157, §9, 11; 2003 Acts, 1st Ex, ch 2, §203, 205; 2004 Acts, ch 1175, §258

C2005, §423E.5

2005 Acts, ch 179, §66, 85; 2008 Acts, ch 1134, §26

[SP] 2004 amendment to subsection 1 takes effect June 16, 2005, and applies retroactively to July 1, 2004; 2005 Acts, ch 179, §85

423E.6 School infrastructure safety fund.

1. There shall be distributed from the federal funds allocated to the state of Iowa as described in Conference Committee Report 105-390, accompanying H.R. 2264, making federal appropriations to the United States departments of labor, health and human services, and education, to the state department of education the sum of eight million dollars to establish a school infrastructure safety fund.

2. The funds shall be allocated to the school budget review committee to develop a school infrastructure safety fund grant program, in conjunction with the state fire marshal. For purposes of reviewing grant applications and making recommendations regarding the administration of the program, the state fire marshal shall be considered an additional voting member of the school budget review committee.

3. Top priority in awarding program grants shall be the making of school infrastructure improvements relating to fire and personal safety. School districts eligible for program grants shall have received an order or citation from the state fire marshal, or a fire department chief or fire prevention officer, for one or more fire safety violations regarding a school facility, or in the opinion of the state fire marshal shall be regarded as operating facilities subject to significant fire safety deficiencies. Grant awards shall also be available for defects or violations of the state building code, as adopted pursuant to section 103A.7, revealed during an inspection of school facilities by a local building department, or for improvements consistent with the standards and specifications contained in the state building code regarding ensuring that buildings and facilities are accessible to and functional for persons with disabilities. The school budget review committee shall allocate program funds to school districts which, in its discretion, are determined to be faced with the most severe deficiencies. School districts applying for program grants shall have developed and submitted to the state fire marshal or local building department a written plan to remedy fire or safety defects within a specified time frame. Approval of the written plan by the state fire marshal or local building department shall be obtained prior to receipt of a grant award by a school district.

4. Application forms, submission dates for applications and for written plans to remedy fire or safety defects, and grant award criteria shall be developed by the state department of education, in coordination with the state fire marshal, by rule.

5. The school budget review committee shall submit a progress report of the number and

amount of grants awarded, and fire and safety improvements made, pursuant to the school infrastructure safety fund grant program, to the general assembly by January 1, 2000.

6. If federal rules or regulations are adopted relating to the distribution or utilization of funds allocated to the state department of education pursuant to this section which are inconsistent with the provisions of this section, the state department of education shall adopt rules to comply with the requirements of the federal rules or regulations.

98 Acts, ch 1130, §5, 6

C99, §422E.5

2003 Acts, 1st Ex, ch 2, §203, 205; 2004 Acts, ch 1086, §69

C2005, §423E.6

423E.7 Repeal.

This chapter is repealed June 30, 2023, for fiscal years beginning after that date.

2003 Acts, ch 157, §10, 11

CS2003, §422E.6

2003 Acts, 1st Ex, ch 2, §203, 205

C2005, §423E.7