

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 492

Introduced by Harms, 48

Read first time January 17, 2007

Committee: Education

A BILL

1 FOR AN ACT relating to public schools; to adopt the Education
2 Facilities State Aid Act; to define terms; to prescribe
3 duties; to provide for procedures; to create the
4 Education Facilities Review Board; to require the
5 adoption of standards; to prescribe a calculation; and to
6 authorize rules and regulations.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) Sections 1 to 9 of this act shall be known
2 and may be cited as the Education Facilities State Aid Act.

3 (2) For purposes of the Education Facilities State Aid
4 Act:

5 (a) Adjusted valuation has the same meaning as found in
6 section 79-1003;

7 (b) Average daily membership has the same meaning as
8 found in section 79-1003;

9 (c) Capital construction project means any project for
10 new construction, renovation, improvement, expansion, or remodeling
11 of school district or educational service unit facilities;

12 (d) Data year means the school fiscal year immediately
13 preceding the year in which the education facilities state aid is
14 to be paid;

15 (e) Department means the State Department of Education;

16 (f) Education facilities state aid means the amount
17 of assistance paid to a school district pursuant to Education
18 Facilities State Aid Act; and

19 (g) Learning community has the same meaning as found in
20 section 79-2101.

21 Sec. 2. Beginning in 2008, not later than June 1 of each
22 year, eligible school districts may submit an application to the
23 department for education facilities state aid. Such application
24 shall include the information described in section 3 of this act.
25 A school district not submitting an application prior to such date

1 is not eligible for education facilities state aid for the ensuing
2 fiscal year. No school district shall receive education facilities
3 state aid for a capital construction project unless the capital
4 construction project has been reviewed and approved by the State
5 Board of Education.

6 Sec. 3. A school district seeking approval for a capital
7 construction project shall submit an application for approval to
8 the Education Facilities Review Board. The application shall be on
9 a form developed by the State Department of Education and shall
10 include the following documents and information:

11 (1) Copies of public notices of intent to construct
12 the capital construction project described in the application,
13 including a copy of any notice sent to another political
14 subdivision which has overlapping or contiguous boundaries to the
15 boundaries of the applicant school district or educational service
16 unit;

17 (2) Any formal written response provided to the applicant
18 in response to the notices described in subdivision (1) of this
19 section;

20 (3) Copies of any agreements for use or joint use of the
21 proposed capital construction project which have been drafted and
22 are pending at the time of the application, including agreements
23 with other political subdivisions or private parties;

24 (4) A report examining the need for the physical facility
25 and the demand for public services which the proposed capital

1 construction project will provide. The report shall:

2 (a) Provide information about the physical condition
3 and current use of any existing facility which the proposed
4 capital construction project would replace. Reports from regulatory
5 agencies regarding the physical condition of the facility may be
6 submitted;

7 (b) Describe any existing public facilities with similar
8 uses which are located in political subdivisions with overlapping
9 or contiguous boundaries. Supportive endorsements or proposals from
10 such political subdivisions may be submitted; and

11 (c) Examine the potential for alternative service
12 delivery systems or technology which are currently in use for
13 servicing public service needs or which may be adapted to serve the
14 same need for public services;

15 (5) Documentation of the anticipated amount and role of
16 private, federal, state, and local funding in such proposed capital
17 construction project and any potential impact of the project on
18 the type or amount of federal or state aid which the applicant may
19 receive; and

20 (6) Copies of public documents describing any proposed or
21 available debt or bond financing for the project and any public
22 reports provided by bond counsel or the bond agent which are
23 relevant to rating the applicant's credit rating for debt financing
24 purposes.

25 Sec. 4. The Education Facilities Review Board is created.

1 The review board shall be composed of six members. The Commissioner
2 of Education shall be a member of the review board and shall serve
3 as chairperson. On or before September 18, 2007, the State Board of
4 Education, by a resolution adopted with the assent of a majority
5 of its members, shall appoint the remaining five members of the
6 review board, one each for terms of one, two, three, four, and
7 five years respectively. As the term of each member expires, a
8 successor shall be appointed in the same manner for a term of five
9 years. Three members of the review board shall at all times be
10 laypersons, and two members shall at all times be persons holding
11 teachers' certificates issued by the authority of the State of
12 Nebraska. Vacancies in the membership of the review board shall be
13 filled for the unexpired term by appointment in the same manner
14 as the original appointment to membership. Members of the review
15 board shall serve without compensation but shall be reimbursed for
16 expenses necessarily incurred in the performance of their duties,
17 as provided in sections 81-1174 to 81-1177 and paid from funds
18 appropriated by the Legislature to the office of the State Board of
19 Education. The State Board of Education shall adopt and promulgate
20 rules and regulations for the review board to carry out its duties
21 as provided by law.

22 Sec. 5. On or before December 31, 2007, the State Board
23 of Education shall establish standards for determining whether
24 to approve or disapprove capital construction projects under the
25 Education Facilities State Aid Act. Such standards shall include:

1 (1) Whether the school district or educational service
2 unit has communicated with other political subdivisions (a)
3 contiguous to the applicant or (b) having public facilities of
4 the same type being proposed within fifteen miles of the proposed
5 facilities, concerning joint use of the facility, if feasible;

6 (2) Whether the project will efficiently serve the
7 residents of the geographical area;

8 (3) Whether the project allows multiple uses by different
9 governmental entities, nonprofit entities, or the general public,
10 if feasible;

11 (4) Whether there is a demonstrated need for the project,
12 including the condition of current facilities and the population to
13 be served;

14 (5) Whether the project has a long-term benefit for
15 the geographical area, based upon projections of population,
16 economic conditions of the area, and the strategic plans for
17 public facilities for the area; and

18 (6) Whether the school district is able to demonstrate
19 that the identified needs cannot be met by the use of alternative
20 service delivery systems or technology which is currently in use or
21 which may be adapted to serve such needs.

22 Sec. 6. (1) The decision of the Education Facilities
23 Review Board to approve or disapprove a capital construction
24 project shall be based upon the applicable standards established
25 pursuant to section 5 of this act. If the review board finds that

1 the project meets such standards, it shall approve the project. If
2 the review board finds that one or more standards have not been
3 met, it may disapprove the project or make recommendations for
4 further action by the applicant. The review board shall not make
5 its decision subject to any condition not directly related to such
6 standards, and any condition or modification shall bear a direct
7 rational relationship to the capital construction project.

8 (2) The decision of the review board may be appealed
9 to the State Board of Education, by the applicant or by any
10 political subdivision which has intervened in the matter before
11 the review board, and the appeal shall be in accordance with the
12 Administrative Procedure Act.

13 Sec. 7. Using the data submitted by eligible school
14 districts pursuant to section 2 of this act, the department
15 shall calculate each district's education facilities state aid as
16 follows:

17 (1) The department shall calculate each eligible
18 school district's adjusted valuation per student by dividing the
19 district's adjusted valuation from the data year by the district's
20 average daily membership from the data year;

21 (2) The department shall calculate the statewide average
22 adjusted valuation per student by dividing the unduplicated
23 statewide total adjusted valuation in the data year by the
24 statewide total average daily membership from the data year;

25 (3) The department shall calculate an assistance factor

1 for each eligible school district as follows:

2 (a) A linear transition shall be used such that:

3 (i) Any school district with adjusted valuation per
4 student of one-half or less of the statewide average adjusted
5 valuation per student shall be assigned a preliminary factor of
6 forty percent;

7 (ii) Any school district with adjusted valuation per
8 student equal to the statewide average adjusted valuation per
9 student shall be assigned a preliminary factor of twenty percent;
10 and

11 (iii) Any school district with an adjusted valuation per
12 student of two times the statewide average adjusted valuation per
13 student or more shall be assigned a preliminary factor of zero; and

14 (b) If the school district is a member of a learning
15 community, the preliminary factor shall be adjusted by adding
16 fifteen percent to such preliminary factor to calculate the final
17 factor. If the school district is not a member of a learning
18 community, the final factor shall equal the preliminary factor.

19 (4) The department shall multiply each eligible school
20 district's factor calculated pursuant to subdivision (3) of this
21 section by the district's estimated capital improvement costs for
22 the approved project for the ensuing fiscal year to arrive at each
23 district's target state aid.

24 (5) The department shall calculate the state aid
25 percentage by dividing thirty million dollars by the statewide

1 total target state aid, except that the target state aid percentage
2 shall not be greater than one hundred percent. Each eligible
3 district's target state aid shall equal the district's target state
4 aid multiplied by the state aid percentage.

5 Sec. 8. The department shall certify each eligible school
6 district's education facilities state aid not later than July 15
7 of the year of application. Such amounts shall be distributed in
8 a single payment on the last business day of September of such
9 year. Amounts received by school districts as education facilities
10 state aid shall be deposited in the district's special building
11 fund, be shown as budgeted non-property-tax receipts, and be used
12 for the approved project for which the funds were received. If such
13 approved project is not commenced within one year of receipt of the
14 funds, the funds shall be returned to the state General Fund.

15 Sec. 9. The State Board of Education may adopt and
16 promulgate rules and regulations to carry out the purposes of the
17 Education Facilities State Aid Act.