

Senate Study Bill 1098

Bill Text

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1 1 Section 1. NEW SECTION. 256.24 SCHOOL INVESTMENT
1 2 PARTNERSHIPS PILOT PROGRAM.
1 3 The department of education shall establish a school
1 4 investment partnership pilot program to evaluate the
1 5 effectiveness of private participation in the funding and
1 6 management of school infrastructure and nonacademic services.
1 7 The program is intended to shift the responsibility for the
1 8 operation and financing of school facility construction and
1 9 maintenance to the private sector, thereby facilitating the
1 10 focus of public school system resources on enhancing the
1 11 educational experience of the schoolchildren of Iowa. The
1 12 pilot program shall involve six pilot projects, to be
1 13 conducted as follows:
1 14 1. Each project shall pair one or more private investors
1 15 and one or more school districts in a partnership involving
1 16 the shared utilization of school facilities. Private
1 17 investors shall finance the construction of school facilities,
1 18 based on school district specifications, and commit to the
1 19 completion of a fully operational school facility, complete
1 20 with all classroom furnishings and school facility equipment,
1 21 by a mutually agreed-upon date.
1 22 2. All projects shall, where applicable, conform to the
1 23 provisions of chapter 73A as if the school facility
1 24 constructed were a public improvement and as if the private
1 25 investors financing the school facility construction were a
1 26 school corporation.
1 27 3. The private investor shall lease the facility back to
1 28 the school district at monthly payment levels below the
1 29 anticipated cost to the school district had it incurred the
1 30 school facility construction expenses directly, pursuant to a
1 31 lease agreement negotiated at the same time that the agreement
1 32 regarding construction of the school facility is entered into.
1 33 A lease agreement shall typically extend for a twenty-year
1 34 duration, with the option to continue the lease at the end of
1 35 the lease period, and also to permit the purchase of the
2 1 school facility by the school district at the conclusion of
2 2 the lease period at an agreed-upon price. Monthly lease
2 3 payments shall not exceed the present value of an amount
2 4 equivalent to eighty-five percent of the anticipated final
2 5 fair market value of the facility at the conclusion of the
2 6 initial lease term.
2 7 4. The school district shall retain control over all
2 8 decisions related to the education of students within the
2 9 school facility, including the determination of when the
2 10 facility shall and shall not be utilized by the school
2 11 district, the uses to which the facility shall be put during
2 12 periods when school is in session, and access to the facility
2 13 for after-hours athletic practices, extracurricular
2 14 activities, staff, parent, and teacher meetings, and other
2 15 school-related events.
2 16 5. All costs relating to maintenance of the school
2 17 facility and ongoing furnishings and equipment replacement
2 18 shall be the responsibility of the private investor, along
2 19 with all tax benefits and liabilities relating to the
2 20 construction and maintenance of the facility.
2 21 6. The private investor shall retain the right to contract

2 22 with third parties for use of the school facility during
2 23 periods when the facility is not being utilized by the school
2 24 district. The periods of nonutilization by the school
2 25 district shall be specified in the lease agreement, together
2 26 with the purposes for which the facility shall be used by
2 27 contracting third parties. If a proposed use is determined by
2 28 the school district to be inappropriate for an educational
2 29 facility used by schoolchildren, the proposed use shall not be
2 30 approved by the school district for inclusion in the lease
2 31 agreement. The private investor shall agree to maintain the
2 32 building in the same condition during and after use by a third
2 33 party as the facility is customarily maintained during periods
2 34 of utilization by the school district. Possible third party
2 35 contractors could include, but are not limited to, educational
3 1 enrichment organizations, civic groups, day care facilities,
3 2 religious organizations, community colleges, and governmental
3 3 units.

3 4 7. School districts may submit an application for
3 5 consideration for the pilot program to the department of
3 6 education by September 1, 2002. The department shall select a
3 7 total of six public schools, three located in large school
3 8 districts and three located in small school districts, to
3 9 participate in the pilot program. For purposes of this
3 10 section, a large school district is a district with an actual
3 11 enrollment of five thousand or more pupils, and a small school
3 12 district is a district with an actual enrollment of under two
3 13 thousand pupils. The department shall notify all applicant
3 14 school districts of the selected applicants within thirty days
3 15 after application submission. An application may be
3 16 considered which would involve a collaborative association of
3 17 more than one public school in a school district, or more than
3 18 one school district applying for the construction of a
3 19 regional facility if the actual enrollment of the combined
3 20 school districts falls within the definition of a large or a
3 21 small school district pursuant to this section.

3 22 8. The department shall coordinate the establishment of
3 23 each pilot program, including the development of criteria to
3 24 be included in a request for proposals for the selection of
3 25 one or more private investors for the program, the selection
3 26 of private investors from among the proposals submitted, the
3 27 development of school facility construction plans and
3 28 specifications by the school district, the provision of a
3 29 dispute resolution process, and oversight with regard to
3 30 potential third-party contractual uses for the facility and
3 31 the terms of lease and lease-purchase agreements entered into
3 32 between the school district and one or more private investors.
3 33 The department shall prepare and submit an annual report to
3 34 the general assembly each year for a five-year period, by
3 35 January 1, regarding the status of each pilot project. The
4 1 report shall include detailed information regarding perceived
4 2 advantages and disadvantages of the program, input from school
4 3 district personnel, students, and parents associated with
4 4 schools constructed pursuant to the program, and private
4 5 investors constructing and maintaining the school facility.

4 6 EXPLANATION

4 7 This bill provides for the establishment of a school
4 8 investment partnership pilot program to evaluate the
4 9 effectiveness of private participation in the funding and
4 10 management of school infrastructure and nonacademic services.
4 11 The bill provides that the purpose of the program is to shift
4 12 responsibility for the operation and financing of school
4 13 facility construction and maintenance to one or more private
4 14 investors, thereby facilitating the focus of public school
4 15 system resources on enhancing the educational experience of
4 16 the schoolchildren of Iowa.

4 17 The bill provides that each pilot project shall pair one or
4 18 more private investors with one or more school districts in a

4 19 partnership involving the shared utilization of school
4 20 facilities. Private investors shall finance the construction
4 21 and furnishing of school facilities based on school district
4 22 specifications, complete with all classroom furnishings and
4 23 equipment, and lease the facility back to the school district
4 24 at monthly payment levels below the anticipated cost to the
4 25 school district had it incurred the school facility
4 26 construction expenses directly. The bill provides that a
4 27 lease agreement shall be entered into, typically extending for
4 28 a 20-year duration, with the option to continue the lease at
4 29 the end of the lease period, and to permit the purchase of the
4 30 school facility by the school district at the conclusion of
4 31 the lease period at an agreed-upon price.

4 32 The bill provides that all pilot projects shall, where
4 33 applicable, conform to the provisions of Code chapter 73A as
4 34 if the school facility constructed were a public improvement
4 35 and the private investors were a school corporation. Code
5 1 chapter 73A contains public notice, opportunity for hearing,
5 2 and appeal provisions regarding contracts for public
5 3 improvements costing at least \$25,000.

5 4 The bill provides that the school district shall retain
5 5 control over all decisions related to the education of
5 6 students within the school facility, and that all costs and
5 7 tax considerations relating to maintenance of the school
5 8 facility shall be the responsibility of the private investor.
5 9 The bill also provides that the private investor shall retain
5 10 the right to contract with third parties for use of the school
5 11 facility during periods when the facility is not being
5 12 utilized by the school district, with the periods available
5 13 for nonschool district use and the purposes to which the
5 14 school facility shall be put specified in the lease. The bill
5 15 provides that if a proposed use is determined by the school
5 16 district to be inappropriate for an educational facility, the
5 17 proposed use shall not be approved by the school district for
5 18 inclusion in the lease agreement, and that the private
5 19 investor shall agree to maintain the building in the same
5 20 condition during and after use by a third-party contractor as
5 21 the facility is customarily maintained during periods of
5 22 utilization by the school district. The bill provides
5 23 examples of potential third-party contractors.

5 24 The bill additionally provides that school districts may
5 25 submit an application for consideration for the pilot program
5 26 to the department of education by September 1, 2002. The bill
5 27 provides that the department shall select a total of six
5 28 public schools, three located in large school districts and
5 29 three located in small school districts, to participate in the
5 30 pilot program. The bill defines a large school district to be
5 31 one with an actual enrollment of 5,000 or more pupils, and a
5 32 small school district to be one with an actual enrollment of
5 33 under 2,000 pupils. The bill provides that the department
5 34 shall notify all applicant school districts of the selected
5 35 applicants within 30 days of application submission, and that
6 1 applications may involve the association of more than one
6 2 public school and public school district. The bill provides
6 3 that the department shall coordinate the establishment of each
6 4 pilot program, including the development of criteria to be
6 5 included in requests for proposals and the selection of
6 6 private investors, the development of school facility
6 7 construction plans and specifications, provision of a dispute
6 8 resolution process, and oversight with regard to potential
6 9 third-party contractual uses for the facility and the terms of
6 10 lease and lease-purchase agreements. The bill provides that
6 11 the department shall submit a report to the general assembly
6 12 by January 1 each year for a five-year period regarding the
6 13 status of each pilot project, which shall include information
6 14 regarding perceived advantages and disadvantages of the
6 15 program, input from school district personnel, students, and

6 16 parents associated with schools constructed pursuant to the
6 17 program, and private investors constructing and maintaining
6 18 the school facility.
6 19 LSB 1840SC 79
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