

House Engrossed

~~new school facilities; additional funding~~
(now: new school facilities; base costs)

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HOUSE BILL 2179

AN ACT

AMENDING SECTION 15-2041, ARIZONA REVISED STATUTES; AMENDING SECTION 15-2041, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING SECTION 41-793, ARIZONA REVISED STATUTES; AMENDING SECTION 41-793, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING SECTION 41-1252, ARIZONA REVISED STATUTES; AMENDING SECTION 41-1252, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; RELATING TO NEW SCHOOL FACILITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-2041, Arizona Revised Statutes, is amended to
3 read:

4 15-2041. New school facilities fund; capital plan; reporting
5 requirements

6 A. The new school facilities fund is established consisting of
7 monies appropriated by the legislature and monies credited to the **NEW**
8 **SCHOOL FACILITIES** fund pursuant to section 37-221. The school facilities
9 board shall administer the **NEW SCHOOL FACILITIES** fund and distribute
10 monies, as a continuing appropriation, to school districts for the purpose
11 of constructing new school facilities and for contracted expenses pursuant
12 to section 15-2002, subsection B, paragraphs 2, 3 and 4. On June 30 of
13 each fiscal year, any unobligated contract monies in the new school
14 facilities fund shall be transferred to the capital reserve fund
15 established by section 15-2003.

16 B. The school facilities board shall prescribe a uniform format for
17 use by the school district governing board in developing and annually
18 updating a capital plan that consists of each of the following:

19 1. Enrollment projections for the next five years for elementary
20 schools and eight years for middle and high schools, including a
21 description of the methods used to make the projections.

22 2. A description of new schools or additions to existing schools
23 needed to meet the building adequacy standards prescribed in section
24 15-2011. The description shall include:

25 (a) The grade levels and the total number of pupils that the school
26 or addition is intended to serve.

27 (b) The year in which it is necessary for the school or addition to
28 begin operations.

29 (c) A timeline that shows the planning and construction process for
30 the school or addition.

31 3. Long-term projections of the need for land for new schools.

32 4. Any other necessary information required by the school
33 facilities board to evaluate a school district's capital plan.

34 5. If a school district pays tuition for all or a portion of the
35 school district's high school pupils to another school district, the
36 capital plan shall indicate the number of pupils for which the district
37 pays tuition to another district. If a school district accepts pupils
38 from another school district pursuant to section 15-824, subsection A, the
39 school district shall indicate the projections for this population
40 separately. This paragraph does not apply to a small isolated school
41 district as defined in section 15-901.

42 C. If the capital plan indicates a need for a new school or an
43 addition to an existing school within the next four years or a need for
44 land within the next ten years, the school district shall submit its plan
45 to the school facilities board on or before September 1 and shall request

1 monies from the new school facilities fund for the new construction or
2 land. THE CAPITAL PLAN SHALL INDICATE WHETHER THE SCHOOL DISTRICT INTENDS
3 THE ADDITIONAL SCHOOL SPACE TO BE LIMITED TO MEETING THE MINIMUM ADEQUACY
4 GUIDELINES PRESCRIBED IN SECTION 15-2011 OR WHETHER THE PROJECT WILL BE
5 SUPPLEMENTED BY LOCAL FUNDING. The school facilities board may require a
6 school district to sell land that was previously purchased entirely with
7 monies provided by the school facilities board if the school facilities
8 board determines that the property is no longer needed within the ten-year
9 period specified in this subsection for a new school or no longer needed
10 within that ten-year period for an addition to an existing school. Monies
11 provided for land are in addition to any monies provided pursuant to
12 subsection D of this section.

13 D. The school facilities board shall distribute monies from the new
14 school facilities fund for additional square footage as follows:

15 1. The school facilities board shall review and evaluate the
16 enrollment projections. On or before December 15 of each year, following
17 the submission of the enrollment projections, the school facilities board
18 shall either approve the projections as submitted or revise the
19 projections. In approving or revising the enrollment projections, the
20 school facilities board shall use the average daily membership data
21 available during the current school year. On request from the school
22 facilities board, the department of education shall make available the
23 most recent average daily membership data for use in revising the
24 enrollment projections. In determining new construction requirements, the
25 school facilities board shall determine the net new growth of pupils that
26 will require additional square footage that exceeds the building adequacy
27 standards prescribed in section 15-2011. If the projected growth and the
28 existing number of pupils exceed three hundred fifty pupils who are served
29 in a school district other than the pupil's resident school district, the
30 school facilities board, the receiving school district and the resident
31 school district shall develop a capital facilities plan on how to best
32 serve those pupils. A small isolated school district as defined in
33 section 15-901 is not required to develop a capital facilities plan
34 pursuant to this paragraph.

35 2. If the average daily membership projections indicate that
36 additional space will not be needed within the next ~~two~~ THREE school years
37 in order to meet the ~~building~~ MINIMUM SCHOOL FACILITY adequacy ~~standards~~
38 GUIDELINES prescribed in section 15-2011, the request shall be held for
39 consideration by the school facilities board for possible future funding
40 and the school district shall annually submit an updated plan until the
41 additional space is needed.

42 3. If the average daily membership projections indicate that
43 additional space will be needed within the next ~~two~~ THREE school years in
44 order to meet the ~~building~~ MINIMUM SCHOOL FACILITY adequacy ~~standards~~
45 GUIDELINES prescribed in section 15-2011, the school facilities board

1 shall ~~provide~~ SUBMIT an amount as follows TO THE JOINT COMMITTEE ON
2 CAPITAL REVIEW FOR THE PURPOSES PRESCRIBED IN SECTIONS 41-793 AND 41-1252:

3 (a) Determine the number of pupils requiring additional square
4 footage to meet building adequacy standards. This amount for elementary
5 schools shall not be less than the number of new pupils for whom space
6 will be needed in the next year and shall not exceed the number of new
7 pupils for whom space will be needed in the next five years. This amount
8 for middle and high schools shall not be less than the number of new
9 pupils for whom space will be needed in the next four years and shall not
10 exceed the number of new pupils for whom space will be needed in the next
11 eight years.

12 (b) Multiply the number of pupils determined in subdivision (a) of
13 this paragraph by the square footage per pupil. The square footage per
14 pupil is ninety square feet per pupil for preschool children with
15 disabilities, kindergarten programs and grades one through six, one
16 hundred square feet for grades seven and eight, one hundred thirty-four
17 square feet for a school district that provides instruction in grades nine
18 through twelve for fewer than one thousand eight hundred pupils and one
19 hundred twenty-five square feet for a school district that provides
20 instruction in grades nine through twelve for at least one thousand eight
21 hundred pupils. The total number of pupils in grades nine through twelve
22 in the district shall determine the square footage factor to use for net
23 new pupils. The school facilities board may modify the square footage
24 requirements prescribed in this subdivision for particular schools based
25 on any of the following factors:

26 (i) The number of pupils served or projected to be served by the
27 school district.

28 (ii) Geographic factors.

29 (iii) Grade configurations other than those prescribed in this
30 subdivision.

31 (iv) Compliance with minimum school facility adequacy requirements
32 established pursuant to section 15-2011.

33 (c) Multiply the product obtained in subdivision (b) of this
34 paragraph by the cost per square foot. The cost per square foot is \$90
35 for preschool children with disabilities, kindergarten programs and grades
36 one through six, \$95 for grades seven and eight and \$110 for grades nine
37 through twelve. The cost per square foot shall be adjusted annually for
38 construction market considerations based on an index identified or
39 developed by the joint legislative budget committee as necessary but not
40 less than once each year. The school facilities board shall multiply the
41 cost per square foot by 1.05 for any school district located in a rural
42 area. The school facilities board may only modify the base cost per
43 square foot prescribed in this subdivision for particular schools based on
44 geographic conditions or site conditions OR IF THE SCHOOL DISTRICT ELECTED
45 IN THE PROJECT CAPITAL PLAN TO LIMIT THE PROJECT ONLY TO A SCOPE NECESSARY

1 TO MEET THE MINIMUM SCHOOL FACILITY ADEQUACY GUIDELINES PRESCRIBED IN
2 SECTION 15-2011 AND THE COST PER SQUARE FOOT OF FUNDING IS DETERMINED BY
3 THE SCHOOL FACILITIES BOARD TO BE INADEQUATE TO COVER THE TOTAL COST
4 REQUIRED. For the purposes of this subdivision, "rural area" means an
5 area outside a thirty-five-mile radius of a boundary of a municipality
6 with a population of more than fifty thousand persons.

7 (d) Once the school district governing board obtains approval from
8 the school facilities board for new facility construction monies,
9 additional portable or modular square footage created for the express
10 purpose of providing temporary space for pupils until the completion of
11 the new facility and any additional space funded by the school district
12 shall not be included by the school facilities board for the purpose of
13 new construction funding calculations. On completion of the new facility
14 construction project, any additional space funded by the school district
15 shall be included as prescribed by this chapter and, if the portable or
16 modular facilities continue in use, the portable or modular facilities
17 shall be included as prescribed by this chapter, unless the school
18 facilities board approves their continued use for the purpose of providing
19 temporary space for pupils until the completion of the next new facility
20 that has been approved for funding from the new school facilities fund.

21 4. For projects approved after December 31, 2001, and
22 notwithstanding paragraph 3 of this subsection, a unified school district
23 that does not have a high school is not eligible to receive high school
24 space as prescribed by section 15-2011 and this section unless the unified
25 district qualifies for geographic factors prescribed by paragraph 3,
26 subdivision (b), item (ii) of this subsection.

27 5. If a career technical education district leases a building from
28 a school district, that building shall be included in the school
29 district's square footage calculation for the purposes of new construction
30 pursuant to this section.

31 6. If a school district leases a building to another entity, that
32 building shall be included in the school district's square footage
33 calculation for purposes of new construction pursuant to this section.

34 7. A school district shall qualify for monies from the new school
35 facilities fund for additional square footage in a fiscal year only if the
36 school facilities board has approved or revised its enrollment projection
37 under paragraph 1 of this subsection on or before December 15 of the prior
38 fiscal year.

39 E. Monies for architectural and engineering fees, project
40 management services and preconstruction services shall be distributed on
41 the completion of the analysis by the school facilities board of the
42 school district's request. After receiving monies pursuant to this
43 subsection, the school district shall submit a design development plan for
44 the school or addition to the school facilities board before any monies
45 for construction are distributed. If the school district's request meets

1 the building adequacy standards, the school facilities board may review
2 and comment on the district's plan with respect to the efficiency and
3 effectiveness of the plan in meeting state square footage and facility
4 standards before distributing the remainder of the monies. If the school
5 facilities board modifies the cost per square foot as prescribed in
6 subsection D, paragraph 3, subdivision (c) of this section, the school
7 facilities board may deduct the cost of project management services and
8 preconstruction services from the required cost per square foot. The
9 school facilities board may decline to fund the project if the square
10 footage is no longer required due to revised enrollment projections. The
11 school facilities board may decline a portion of the funding if a portion
12 of the square footage is no longer needed due to revised enrollment
13 projections.

14 F. The school facilities board shall distribute the monies needed
15 for land for new schools so that land may be purchased at a price that is
16 less than or equal to fair market value and in advance of the construction
17 of the new school. If necessary, the school facilities board may
18 distribute monies for land to be leased for new schools if the duration of
19 the lease exceeds the life expectancy of the school facility by at least
20 fifty percent. A school district shall not use land purchased or
21 partially purchased with monies provided by the school facilities board
22 for a purpose other than a site for a school facility without obtaining
23 prior written approval from the school facilities board. A school
24 district shall not lease, sell or take any action that would diminish the
25 value of land purchased or partially purchased with monies provided by the
26 school facilities board without obtaining prior written approval from the
27 school facilities board. The proceeds derived through the sale of any
28 land purchased or partially purchased, or the sale of buildings funded or
29 partially funded, with monies provided by the school facilities board
30 shall be returned to the state fund from which it was appropriated and to
31 any other participating entity on a proportional basis. Except as
32 provided in section 15-342, paragraph 33, if a school district acquires
33 real property by donation at an appropriate school site approved by the
34 school facilities board, the school facilities board shall distribute an
35 amount equal to twenty percent of the fair market value of the donated
36 real property that can be used for academic purposes. The school district
37 shall place the monies in the unrestricted capital outlay fund and
38 increase the unrestricted capital budget limit by the amount of monies
39 placed in the fund. Monies distributed under this subsection shall be
40 distributed from the new school facilities fund. A school district that
41 receives monies from the new school facilities fund for a donation of land
42 pursuant to section 15-342, paragraph 33 shall not receive monies from the
43 school facilities board for the donation of real property pursuant to this
44 subsection. A school district shall not pay a consultant a percentage of
45 the value of any of the following:

1 1. Donations of real property, services or cash from any of the
2 following:

3 (a) Entities that have offered to provide construction services to
4 the school district.

5 (b) Entities that have been contracted to provide construction
6 services to the school district.

7 (c) Entities that build residential units in that school district.

8 (d) Entities that develop land for residential use in that school
9 district.

10 2. Monies received from the school facilities board on behalf of
11 the school district.

12 3. Monies paid by the school facilities board on behalf of the
13 school district.

14 G. In addition to distributions to school districts based on pupil
15 growth projections, a school district may submit an application to the
16 school facilities board for monies from the new school facilities fund if
17 one or more school buildings have outlived their useful life. If the
18 school facilities board determines that the school district needs to build
19 a new school building for these reasons, the school facilities board shall
20 remove the square footage computations that represent the building from
21 the computation of the school district's total square footage for purposes
22 of this section. If the square footage recomputation reflects that the
23 school district no longer meets building adequacy standards, the school
24 district qualifies for a distribution of monies from the new school
25 construction formula in an amount determined pursuant to subsection D of
26 this section. The school facilities board may only modify the base cost
27 per square foot prescribed in this subsection under extraordinary
28 circumstances for geographic factors or site conditions.

29 H. School districts that receive monies from the new school
30 facilities fund shall establish a district new school facilities fund and
31 shall use the monies in the district new school facilities fund only for
32 the purposes prescribed in this section. By October 15 of each year, each
33 school district shall report to the school facilities board the projects
34 funded at each school in the previous fiscal year with monies from the
35 district new school facilities fund and shall provide an accounting of the
36 monies remaining in the new school facilities fund at the end of the
37 previous fiscal year.

38 I. If a school district has surplus monies received from the new
39 school facilities fund, the school district may use the surplus monies
40 only for capital purposes for the project for up to one year after
41 completion of the project. If the school district possesses surplus
42 monies from the new school construction project that have not been
43 expended within one year of the completion of the project, the school
44 district shall return the surplus monies to the school facilities board
45 for deposit in the new school facilities fund.

1 J. The board's consideration of any application filed after
2 December 31 of the year in which the property becomes territory in the
3 vicinity of a military airport or ancillary military facility as defined
4 in section 28-8461 for monies to fund the construction of new school
5 facilities proposed to be located in territory in the vicinity of a
6 military airport or ancillary military facility shall include, if after
7 notice is transmitted to the military airport pursuant to section 15-2002
8 and before the public hearing the military airport provides comments and
9 an analysis concerning compatibility of the proposed school facilities
10 with the high noise or accident potential generated by military airport or
11 ancillary military facility operations that may have an adverse effect on
12 public health and safety, consideration and an analysis of the comments
13 and an analysis provided by the military airport before making a final
14 determination.

15 K. If a school district uses its own project manager for new school
16 construction, the members of the school district governing board and the
17 project manager shall sign an affidavit stating that the members and the
18 project manager understand and will follow the minimum adequacy
19 requirements prescribed in section 15-2011.

20 L. The school facilities board shall establish a separate account
21 in the new school facilities fund designated as the litigation account to
22 pay attorney fees, expert witness fees and other costs associated with
23 litigation in which the school facilities board pursues the recovery of
24 damages for deficiencies correction that resulted from alleged
25 construction defects or design defects that the school facilities board
26 believes caused or contributed to a failure of the school building to
27 conform to the building adequacy requirements prescribed in section
28 15-2011. Attorney fees paid pursuant to this subsection shall not exceed
29 the market rate for similar types of litigation. On or before December 1
30 of each year, the school facilities board shall report to the joint
31 committee on capital review the costs associated with current and
32 potential litigation that may be paid from the litigation account.

33 M. Until the state board of education and the auditor general adopt
34 rules pursuant to section 15-213, subsection J, the school facilities
35 board may allow school districts to contract for construction services and
36 materials through the qualified select bidders list method of project
37 delivery for new school facilities pursuant to this section.

38 N. The school facilities board shall submit electronically a report
39 on project management services and preconstruction services to the
40 governor, the president of the senate and the speaker of the house of
41 representatives by December 31 of each year. The report shall compare
42 projects that use project management and preconstruction services with
43 those that do not. The report shall address cost, schedule and other
44 measurable components of a construction project. School districts,
45 construction-manager-at-risk firms and project management firms that

1 participate in a school facilities board funded project shall provide the
2 information required by the school facilities board in relation to this
3 report.

4 O. If a school district constructs new square footage according to
5 section 15-342, paragraph 33, the school facilities board shall review the
6 design plans and location of any new school facility submitted by school
7 districts and another party to determine whether the design plans comply
8 with the adequacy standards prescribed in section 15-2011 and the square
9 footage per pupil requirements pursuant to subsection D, paragraph 3,
10 subdivision (b) of this section. When the school district qualifies for a
11 distribution of monies from the new school facilities fund according to
12 this section, the school facilities board shall distribute monies to the
13 school district from the new school facilities fund for the square footage
14 constructed under section 15-342, paragraph 33 at the same cost per square
15 foot established by this section that was in effect at the time of the
16 beginning of the construction of the school facility. Before the school
17 facilities board distributes any monies pursuant to this subsection, the
18 school district shall demonstrate to the school facilities board that the
19 facilities to be funded pursuant to this section meet the minimum adequacy
20 standards prescribed in section 15-2011. The agreement entered into
21 pursuant to section 15-342, paragraph 33 shall set forth the procedures
22 for the allocation of these funds to the parties that participated in the
23 agreement.

24 P. Accommodation schools are not eligible for monies from the new
25 school facilities fund.

26 Q. If the school facilities board approves a school district for
27 funding from the new school facilities fund and the full legislative
28 appropriation is not available to the school district in the fiscal year
29 following the approval by the school facilities board, the school district
30 may use any legally available monies to pay for the land or the new
31 construction project approved by the school facilities board and may
32 reimburse the fund from which the monies were used in subsequent years
33 with legislative appropriations when those appropriations are made
34 available by this state.

35 Sec. 2. Section 15-2041, Arizona Revised Statutes, as amended by
36 section 1 of this act, is amended to read:

37 15-2041. New school facilities fund; capital plan; reporting
38 requirements

39 A. The new school facilities fund is established consisting of
40 monies appropriated by the legislature and monies credited to the new
41 school facilities fund pursuant to section 37-221. The school facilities
42 board shall administer the new school facilities fund and distribute
43 monies, as a continuing appropriation, to school districts for the purpose
44 of constructing new school facilities and for contracted expenses pursuant
45 to section 15-2002, subsection B, paragraphs 2, 3 and 4. On June 30 of

1 each fiscal year, any unobligated contract monies in the new school
2 facilities fund shall be transferred to the capital reserve fund
3 established by section 15-2003.

4 B. The school facilities board shall prescribe a uniform format for
5 use by the school district governing board in developing and annually
6 updating a capital plan that consists of each of the following:

7 1. Enrollment projections for the next five years for elementary
8 schools and eight years for middle and high schools, including a
9 description of the methods used to make the projections.

10 2. A description of new schools or additions to existing schools
11 needed to meet the building adequacy standards prescribed in section
12 15-2011. The description shall include:

13 (a) The grade levels and the total number of pupils that the school
14 or addition is intended to serve.

15 (b) The year in which it is necessary for the school or addition to
16 begin operations.

17 (c) A timeline that shows the planning and construction process for
18 the school or addition.

19 3. Long-term projections of the need for land for new schools.

20 4. Any other necessary information required by the school
21 facilities board to evaluate a school district's capital plan.

22 5. If a school district pays tuition for all or a portion of the
23 school district's high school pupils to another school district, the
24 capital plan shall indicate the number of pupils for which the district
25 pays tuition to another district. If a school district accepts pupils
26 from another school district pursuant to section 15-824, subsection A, the
27 school district shall indicate the projections for this population
28 separately. This paragraph does not apply to a small isolated school
29 district as defined in section 15-901.

30 C. If the capital plan indicates a need for a new school or an
31 addition to an existing school within the next four years or a need for
32 land within the next ten years, the school district shall submit its plan
33 to the school facilities board on or before September 1 and shall request
34 monies from the new school facilities fund for the new construction or
35 land. The capital plan shall indicate whether the school district intends
36 the additional school space to be limited to meeting the minimum adequacy
37 guidelines prescribed in section ~~15-2011~~ 41-5711 or whether the project
38 will be supplemented by local funding. The school facilities board may
39 require a school district to sell land that was previously purchased
40 entirely with monies provided by the school facilities board if the school
41 facilities board determines that the property is no longer needed within
42 the ten-year period specified in this subsection for a new school or no
43 longer needed within that ten-year period for an addition to an existing
44 school. Monies provided for land are in addition to any monies provided
45 pursuant to subsection D of this section.

1 D. The school facilities board shall distribute monies from the new
2 school facilities fund for additional square footage as follows:

3 1. The school facilities board shall review and evaluate the
4 enrollment projections. On or before December 15 of each year, following
5 the submission of the enrollment projections, the school facilities board
6 shall either approve the projections as submitted or revise the
7 projections. In approving or revising the enrollment projections, the
8 school facilities board shall use the average daily membership data
9 available during the current school year. On request from the school
10 facilities board, the department of education shall make available the
11 most recent average daily membership data for use in revising the
12 enrollment projections. In determining new construction requirements, the
13 school facilities board shall determine the net new growth of pupils that
14 will require additional square footage that exceeds the building adequacy
15 standards prescribed in section 15-2011. If the projected growth and the
16 existing number of pupils exceed three hundred fifty pupils who are served
17 in a school district other than the pupil's resident school district, the
18 school facilities board, the receiving school district and the resident
19 school district shall develop a capital facilities plan on how to best
20 serve those pupils. A small isolated school district as defined in
21 section 15-901 is not required to develop a capital facilities plan
22 pursuant to this paragraph.

23 2. If the average daily membership projections indicate that
24 additional space will not be needed within the next three school years in
25 order to meet the minimum school facility adequacy guidelines prescribed
26 in section 15-2011, the request shall be held for consideration by the
27 school facilities board for possible future funding and the school
28 district shall annually submit an updated plan until the additional space
29 is needed.

30 3. If the average daily membership projections indicate that
31 additional space will be needed within the next three school years in
32 order to meet the minimum school facility adequacy guidelines prescribed
33 in section 15-2011, the ~~school facilities board~~ DIVISION OF SCHOOL
34 FACILITIES shall submit an amount as follows to the joint committee on
35 capital review for the purposes prescribed in sections 41-793 and 41-1252:

36 (a) Determine the number of pupils requiring additional square
37 footage to meet building adequacy standards. This amount for elementary
38 schools shall not be less than the number of new pupils for whom space
39 will be needed in the next year and shall not exceed the number of new
40 pupils for whom space will be needed in the next five years. This amount
41 for middle and high schools shall not be less than the number of new
42 pupils for whom space will be needed in the next four years and shall not
43 exceed the number of new pupils for whom space will be needed in the next
44 eight years.

1 (b) Multiply the number of pupils determined in subdivision (a) of
2 this paragraph by the square footage per pupil. The square footage per
3 pupil is ninety square feet per pupil for preschool children with
4 disabilities, kindergarten programs and grades one through six, one
5 hundred square feet for grades seven and eight, one hundred thirty-four
6 square feet for a school district that provides instruction in grades nine
7 through twelve for fewer than one thousand eight hundred pupils and one
8 hundred twenty-five square feet for a school district that provides
9 instruction in grades nine through twelve for at least one thousand eight
10 hundred pupils. The total number of pupils in grades nine through twelve
11 in the district shall determine the square footage factor to use for net
12 new pupils. The school facilities board may modify the square footage
13 requirements prescribed in this subdivision for particular schools based
14 on any of the following factors:

15 (i) The number of pupils served or projected to be served by the
16 school district.

17 (ii) Geographic factors.

18 (iii) Grade configurations other than those prescribed in this
19 subdivision.

20 (iv) Compliance with minimum school facility adequacy requirements
21 established pursuant to section 15-2011.

22 (c) Multiply the product obtained in subdivision (b) of this
23 paragraph by the cost per square foot. The cost per square foot is \$90
24 for preschool children with disabilities, kindergarten programs and grades
25 one through six, \$95 for grades seven and eight and \$110 for grades nine
26 through twelve. The cost per square foot shall be adjusted annually for
27 construction market considerations based on an index identified or
28 developed by the joint legislative budget committee as necessary but not
29 less than once each year. The school facilities board shall multiply the
30 cost per square foot by 1.05 for any school district located in a rural
31 area. The school facilities board may only modify the base cost per
32 square foot prescribed in this subdivision for particular schools based on
33 geographic conditions or site conditions or if the school district elected
34 in the project capital plan to limit the project only to a scope necessary
35 to meet the minimum school facility adequacy guidelines prescribed in
36 section ~~15-2011~~ 41-5711 and the cost per square foot of funding is
37 determined by the ~~school facilities~~ board to be inadequate to cover the
38 total cost required. For the purposes of this subdivision, "rural area"
39 means an area outside a thirty-five-mile radius of a boundary of a
40 municipality with a population of more than fifty thousand persons.

41 (d) Once the school district governing board obtains approval from
42 the school facilities board for new facility construction monies,
43 additional portable or modular square footage created for the express
44 purpose of providing temporary space for pupils until the completion of
45 the new facility and any additional space funded by the school district

1 shall not be included by the school facilities board for the purpose of
2 new construction funding calculations. On completion of the new facility
3 construction project, any additional space funded by the school district
4 shall be included as prescribed by this chapter and, if the portable or
5 modular facilities continue in use, the portable or modular facilities
6 shall be included as prescribed by this chapter, unless the school
7 facilities board approves their continued use for the purpose of providing
8 temporary space for pupils until the completion of the next new facility
9 that has been approved for funding from the new school facilities fund.

10 4. For projects approved after December 31, 2001, and
11 notwithstanding paragraph 3 of this subsection, a unified school district
12 that does not have a high school is not eligible to receive high school
13 space as prescribed by section 15-2011 and this section unless the unified
14 district qualifies for geographic factors prescribed by paragraph 3,
15 subdivision (b), item (ii) of this subsection.

16 5. If a career technical education district leases a building from
17 a school district, that building shall be included in the school
18 district's square footage calculation for the purposes of new construction
19 pursuant to this section.

20 6. If a school district leases a building to another entity, that
21 building shall be included in the school district's square footage
22 calculation for purposes of new construction pursuant to this section.

23 7. A school district shall qualify for monies from the new school
24 facilities fund for additional square footage in a fiscal year only if the
25 school facilities board has approved or revised its enrollment projection
26 under paragraph 1 of this subsection on or before December 15 of the prior
27 fiscal year.

28 E. Monies for architectural and engineering fees, project
29 management services and preconstruction services shall be distributed on
30 the completion of the analysis by the school facilities board of the
31 school district's request. After receiving monies pursuant to this
32 subsection, the school district shall submit a design development plan for
33 the school or addition to the school facilities board before any monies
34 for construction are distributed. If the school district's request meets
35 the building adequacy standards, the school facilities board may review
36 and comment on the district's plan with respect to the efficiency and
37 effectiveness of the plan in meeting state square footage and facility
38 standards before distributing the remainder of the monies. If the school
39 facilities board modifies the cost per square foot as prescribed in
40 subsection D, paragraph 3, subdivision (c) of this section, the school
41 facilities board may deduct the cost of project management services and
42 preconstruction services from the required cost per square foot. The
43 school facilities board may decline to fund the project if the square
44 footage is no longer required due to revised enrollment projections. The
45 school facilities board may decline a portion of the funding if a portion

1 of the square footage is no longer needed due to revised enrollment
2 projections.

3 F. The school facilities board shall distribute the monies needed
4 for land for new schools so that land may be purchased at a price that is
5 less than or equal to fair market value and in advance of the construction
6 of the new school. If necessary, the school facilities board may
7 distribute monies for land to be leased for new schools if the duration of
8 the lease exceeds the life expectancy of the school facility by at least
9 fifty percent. A school district shall not use land purchased or
10 partially purchased with monies provided by the school facilities board
11 for a purpose other than a site for a school facility without obtaining
12 prior written approval from the school facilities board. A school
13 district shall not lease, sell or take any action that would diminish the
14 value of land purchased or partially purchased with monies provided by the
15 school facilities board without obtaining prior written approval from the
16 school facilities board. The proceeds derived through the sale of any
17 land purchased or partially purchased, or the sale of buildings funded or
18 partially funded, with monies provided by the school facilities board
19 shall be returned to the state fund from which it was appropriated and to
20 any other participating entity on a proportional basis. Except as
21 provided in section 15-342, paragraph 33, if a school district acquires
22 real property by donation at an appropriate school site approved by the
23 school facilities board, the school facilities board shall distribute an
24 amount equal to twenty percent of the fair market value of the donated
25 real property that can be used for academic purposes. The school district
26 shall place the monies in the unrestricted capital outlay fund and
27 increase the unrestricted capital budget limit by the amount of monies
28 placed in the fund. Monies distributed under this subsection shall be
29 distributed from the new school facilities fund. A school district that
30 receives monies from the new school facilities fund for a donation of land
31 pursuant to section 15-342, paragraph 33 shall not receive monies from the
32 school facilities board for the donation of real property pursuant to this
33 subsection. A school district shall not pay a consultant a percentage of
34 the value of any of the following:

35 1. Donations of real property, services or cash from any of the
36 following:

37 (a) Entities that have offered to provide construction services to
38 the school district.

39 (b) Entities that have been contracted to provide construction
40 services to the school district.

41 (c) Entities that build residential units in that school district.

42 (d) Entities that develop land for residential use in that school
43 district.

44 2. Monies received from the school facilities board on behalf of
45 the school district.

1 3. Monies paid by the school facilities board on behalf of the
2 school district.

3 G. In addition to distributions to school districts based on pupil
4 growth projections, a school district may submit an application to the
5 school facilities board for monies from the new school facilities fund if
6 one or more school buildings have outlived their useful life. If the
7 school facilities board determines that the school district needs to build
8 a new school building for these reasons, the school facilities board shall
9 remove the square footage computations that represent the building from
10 the computation of the school district's total square footage for purposes
11 of this section. If the square footage recomputation reflects that the
12 school district no longer meets building adequacy standards, the school
13 district qualifies for a distribution of monies from the new school
14 construction formula in an amount determined pursuant to subsection D of
15 this section. The school facilities board may only modify the base cost
16 per square foot prescribed in this subsection under extraordinary
17 circumstances for geographic factors or site conditions.

18 H. School districts that receive monies from the new school
19 facilities fund shall establish a district new school facilities fund and
20 shall use the monies in the district new school facilities fund only for
21 the purposes prescribed in this section. By October 15 of each year, each
22 school district shall report to the school facilities board the projects
23 funded at each school in the previous fiscal year with monies from the
24 district new school facilities fund and shall provide an accounting of the
25 monies remaining in the new school facilities fund at the end of the
26 previous fiscal year.

27 I. If a school district has surplus monies received from the new
28 school facilities fund, the school district may use the surplus monies
29 only for capital purposes for the project for up to one year after
30 completion of the project. If the school district possesses surplus
31 monies from the new school construction project that have not been
32 expended within one year of the completion of the project, the school
33 district shall return the surplus monies to the school facilities board
34 for deposit in the new school facilities fund.

35 J. The board's consideration of any application filed after
36 December 31 of the year in which the property becomes territory in the
37 vicinity of a military airport or ancillary military facility as defined
38 in section 28-8461 for monies to fund the construction of new school
39 facilities proposed to be located in territory in the vicinity of a
40 military airport or ancillary military facility shall include, if after
41 notice is transmitted to the military airport pursuant to section 15-2002
42 and before the public hearing the military airport provides comments and
43 an analysis concerning compatibility of the proposed school facilities
44 with the high noise or accident potential generated by military airport or
45 ancillary military facility operations that may have an adverse effect on

1 public health and safety, consideration and an analysis of the comments
2 and an analysis provided by the military airport before making a final
3 determination.

4 K. If a school district uses its own project manager for new school
5 construction, the members of the school district governing board and the
6 project manager shall sign an affidavit stating that the members and the
7 project manager understand and will follow the minimum adequacy
8 requirements prescribed in section 15-2011.

9 L. The school facilities board shall establish a separate account
10 in the new school facilities fund designated as the litigation account to
11 pay attorney fees, expert witness fees and other costs associated with
12 litigation in which the school facilities board pursues the recovery of
13 damages for deficiencies correction that resulted from alleged
14 construction defects or design defects that the school facilities board
15 believes caused or contributed to a failure of the school building to
16 conform to the building adequacy requirements prescribed in section
17 15-2011. Attorney fees paid pursuant to this subsection shall not exceed
18 the market rate for similar types of litigation. On or before December 1
19 of each year, the school facilities board shall report to the joint
20 committee on capital review the costs associated with current and
21 potential litigation that may be paid from the litigation account.

22 M. Until the state board of education and the auditor general adopt
23 rules pursuant to section 15-213, subsection J, the school facilities
24 board may allow school districts to contract for construction services and
25 materials through the qualified select bidders list method of project
26 delivery for new school facilities pursuant to this section.

27 N. The school facilities board shall submit electronically a report
28 on project management services and preconstruction services to the
29 governor, the president of the senate and the speaker of the house of
30 representatives by December 31 of each year. The report shall compare
31 projects that use project management and preconstruction services with
32 those that do not. The report shall address cost, schedule and other
33 measurable components of a construction project. School districts,
34 construction-manager-at-risk firms and project management firms that
35 participate in a school facilities board funded project shall provide the
36 information required by the school facilities board in relation to this
37 report.

38 O. If a school district constructs new square footage according to
39 section 15-342, paragraph 33, the school facilities board shall review the
40 design plans and location of any new school facility submitted by school
41 districts and another party to determine whether the design plans comply
42 with the adequacy standards prescribed in section 15-2011 and the square
43 footage per pupil requirements pursuant to subsection D, paragraph 3,
44 subdivision (b) of this section. When the school district qualifies for a
45 distribution of monies from the new school facilities fund according to

1 this section, the school facilities board shall distribute monies to the
2 school district from the new school facilities fund for the square footage
3 constructed under section 15-342, paragraph 33 at the same cost per square
4 foot established by this section that was in effect at the time of the
5 beginning of the construction of the school facility. Before the school
6 facilities board distributes any monies pursuant to this subsection, the
7 school district shall demonstrate to the school facilities board that the
8 facilities to be funded pursuant to this section meet the minimum adequacy
9 standards prescribed in section 15-2011. The agreement entered into
10 pursuant to section 15-342, paragraph 33 shall set forth the procedures
11 for the allocation of these funds to the parties that participated in the
12 agreement.

13 P. Accommodation schools are not eligible for monies from the new
14 school facilities fund.

15 Q. If the school facilities board approves a school district for
16 funding from the new school facilities fund and the full legislative
17 appropriation is not available to the school district in the fiscal year
18 following the approval by the school facilities board, the school district
19 may use any legally available monies to pay for the land or the new
20 construction project approved by the school facilities board and may
21 reimburse the fund from which the monies were used in subsequent years
22 with legislative appropriations when those appropriations are made
23 available by this state.

24 Sec. 3. Section 41-793, Arizona Revised Statutes, is amended to
25 read:

26 41-793. Building systems; capital improvement plans

27 A. The department of administration, **THE SCHOOL FACILITIES BOARD**,
28 the Arizona board of regents and the department of transportation shall
29 each be considered as a separate building system. Subject to approval by
30 the joint committee on capital review, the director of the department of
31 administration shall establish additional building systems for the purpose
32 of computing and funding building renewal. Subject to approval by the
33 joint committee on capital review, each building system shall designate an
34 agency that is responsible for computing building renewal needs for each
35 fiscal year pursuant to the formula approved by the committee and for
36 allocating appropriated building renewal monies within the building
37 system.

38 B. The agency responsible for each building system established
39 pursuant to subsection A of this section shall prepare each year a capital
40 improvement plan that contains proposals for state spending on land
41 acquisition, capital projects, energy systems, energy management systems
42 and building renewal for the building system. Copies of the plan shall be
43 submitted to the governor no later than October 15. Each plan shall
44 include:

1 1. A detailed list of all land acquisition and capital projects
2 that are recommended to be undertaken or continued for the building system
3 during the next fiscal year, an explanation as to the need for each
4 acquisition or project, the effect of the recommended acquisition or
5 capital project on the future operating expenses of this state,
6 recommendations as to the priority of recommended acquisitions or capital
7 projects and the means of financing those acquisitions or projects.

8 2. Forecasts as to the requirements for land acquisition and
9 capital projects for the building system during the two fiscal years
10 following the fiscal year provided for in paragraph 1 of this subsection
11 and for any additional periods as may be necessary or desirable for an
12 adequate presentation of the capital projects and a schedule for the
13 planning and implementation or construction of those capital projects.

14 3. A report on the status of all ongoing or recently completed land
15 acquisitions and capital projects for the building system, with a summary
16 of monies expended for each acquisition or project.

17 4. A report on the condition, maintenance and utilization of all
18 buildings within the building system that were inspected during the prior
19 fiscal year.

20 5. A report on the building renewal activities undertaken during
21 the past fiscal year, including the specific purposes for which monies
22 were expended, proposed activities for the current fiscal year and a
23 prioritized schedule of renewal projects proposed for the following fiscal
24 year.

25 6. The amount of appropriation required in the following fiscal
26 year for building renewal as determined by the building renewal formula
27 set forth in section 41-793.01.

28 C. On or before June 1 of each year or thirty days after the state
29 legislature adjourns its regular session sine die, whichever is later,
30 each state agency under the department of administration building system
31 and not later than August 1 of each year each agency under the Arizona
32 board of regents building system shall provide to the agency responsible
33 for its building system:

34 1. A detailed list of land acquisition and capital projects the
35 agency seeks to undertake or continue in the next fiscal year, an
36 explanation as to the need for each acquisition or project, the effect of
37 the acquisitions or capital projects on future operating expenses of this
38 state, including energy systems and energy management systems, and other
39 relevant supporting data requested by the agency responsible for the
40 building system.

41 2. Forecasts as to the requirements for land acquisition or capital
42 projects of the agency for the two fiscal years following the fiscal year
43 provided for in paragraph 1 of this subsection and for any additional
44 periods as may be necessary or desirable for the adequate presentation of

1 the capital projects and a schedule for the planning and implementation or
2 construction of those capital projects.

3 3. A report on all ongoing or recently completed land acquisitions
4 and capital projects of the agency, with a summary of monies expended for
5 each acquisition or project, and energy consumption and expenditure
6 information.

7 4. Any other information requested by the agency responsible for
8 the building system.

9 5. A separate list that contains the status of all of its projects
10 reviewed by, approved by or reported to the joint committee on capital
11 review that have not yet been completed. The projects listed shall
12 include third-party and commercial projects reported or reviewed pursuant
13 to section 15-1682.02.

14 D. Each state agency in complying with subsection C, paragraph 1 of
15 this section and the agency responsible for each building system in
16 complying with subsection B, paragraph 1 of this section should give
17 priority to fire and life safety projects.

18 E. The agency responsible for a building system shall inspect the
19 condition, maintenance and utilization of each building within the
20 building system not less than once every four fiscal years and shall
21 report its findings pursuant to subsection B of this section. For
22 purposes of complying with this requirement, the agency responsible for
23 each building system shall inspect approximately fifty percent of its
24 buildings within the first two years of the four-year cycle. The agency
25 shall inspect the other fifty percent of the buildings in the remaining
26 two years of the four-year cycle.

27 F. The governor shall prescribe standard forms in accordance with
28 this section to be used by state agencies in preparing and submitting
29 capital improvement plans. The forms prescribed shall be constructed so
30 as to allow each building system to adequately provide information
31 pertinent to its manner of operation.

32 G. Each plan, forecast and report required for two or more fiscal
33 years in this section shall be delineated separately for each year.

34 Sec. 4. Section 41-793, Arizona Revised Statutes, as amended by
35 section 3 of this act, is amended to read:

36 41-793. Building systems: capital improvement plans

37 A. The department of administration, **INCLUDING** the **DIVISION OF**
38 school facilities ~~board~~, the Arizona board of regents and the department
39 of transportation shall each be considered as a separate building
40 system. Subject to approval by the joint committee on capital review, the
41 director of the department of administration shall establish additional
42 building systems for the purpose of computing and funding building
43 renewal. Subject to approval by the joint committee on capital review,
44 each building system shall designate an agency that is responsible for
45 computing building renewal needs for each fiscal year pursuant to the

1 formula approved by the committee and for allocating appropriated building
2 renewal monies within the building system.

3 B. The agency responsible for each building system established
4 pursuant to subsection A of this section shall prepare each year a capital
5 improvement plan that contains proposals for state spending on land
6 acquisition, capital projects, energy systems, energy management systems
7 and building renewal for the building system. Copies of the plan shall be
8 submitted to the governor no later than October 15. Each plan shall
9 include:

10 1. A detailed list of all land acquisition and capital projects
11 that are recommended to be undertaken or continued for the building system
12 during the next fiscal year, an explanation as to the need for each
13 acquisition or project, the effect of the recommended acquisition or
14 capital project on the future operating expenses of this state,
15 recommendations as to the priority of recommended acquisitions or capital
16 projects and the means of financing those acquisitions or projects.

17 2. Forecasts as to the requirements for land acquisition and
18 capital projects for the building system during the two fiscal years
19 following the fiscal year provided for in paragraph 1 of this subsection
20 and for any additional periods as may be necessary or desirable for an
21 adequate presentation of the capital projects and a schedule for the
22 planning and implementation or construction of those capital projects.

23 3. A report on the status of all ongoing or recently completed land
24 acquisitions and capital projects for the building system, with a summary
25 of monies expended for each acquisition or project.

26 4. A report on the condition, maintenance and utilization of all
27 buildings within the building system that were inspected during the prior
28 fiscal year.

29 5. A report on the building renewal activities undertaken during
30 the past fiscal year, including the specific purposes for which monies
31 were expended, proposed activities for the current fiscal year and a
32 prioritized schedule of renewal projects proposed for the following fiscal
33 year.

34 6. The amount of appropriation required in the following fiscal
35 year for building renewal as determined by the building renewal formula
36 set forth in section 41-793.01.

37 C. On or before June 1 of each year or thirty days after the state
38 legislature adjourns its regular session sine die, whichever is later,
39 each state agency under the department of administration building system
40 and not later than August 1 of each year each agency under the Arizona
41 board of regents building system shall provide to the agency responsible
42 for its building system:

43 1. A detailed list of land acquisition and capital projects the
44 agency seeks to undertake or continue in the next fiscal year, an
45 explanation as to the need for each acquisition or project, the effect of

1 the acquisitions or capital projects on future operating expenses of this
2 state, including energy systems and energy management systems, and other
3 relevant supporting data requested by the agency responsible for the
4 building system.

5 2. Forecasts as to the requirements for land acquisition or capital
6 projects of the agency for the two fiscal years following the fiscal year
7 provided for in paragraph 1 of this subsection and for any additional
8 periods as may be necessary or desirable for the adequate presentation of
9 the capital projects and a schedule for the planning and implementation or
10 construction of those capital projects.

11 3. A report on all ongoing or recently completed land acquisitions
12 and capital projects of the agency, with a summary of monies expended for
13 each acquisition or project, and energy consumption and expenditure
14 information.

15 4. Any other information requested by the agency responsible for
16 the building system.

17 5. A separate list that contains the status of all of its projects
18 reviewed by, approved by or reported to the joint committee on capital
19 review that have not yet been completed. The projects listed shall
20 include third-party and commercial projects reported or reviewed pursuant
21 to section 15-1682.02.

22 D. Each state agency in complying with subsection C, paragraph 1 of
23 this section and the agency responsible for each building system in
24 complying with subsection B, paragraph 1 of this section should give
25 priority to fire and life safety projects.

26 E. The agency responsible for a building system shall inspect the
27 condition, maintenance and utilization of each building within the
28 building system not less than once every four fiscal years and shall
29 report its findings pursuant to subsection B of this section. For
30 purposes of complying with this requirement, the agency responsible for
31 each building system shall inspect approximately fifty percent of its
32 buildings within the first two years of the four-year cycle. The agency
33 shall inspect the other fifty percent of the buildings in the remaining
34 two years of the four-year cycle.

35 F. The governor shall prescribe standard forms in accordance with
36 this section to be used by state agencies in preparing and submitting
37 capital improvement plans. The forms prescribed shall be constructed so
38 as to allow each building system to adequately provide information
39 pertinent to its manner of operation.

40 G. Each plan, forecast and report required for two or more fiscal
41 years in this section shall be delineated separately for each year.

42 Sec. 5. Section 41-1252, Arizona Revised Statutes, is amended to
43 read:

44 41-1252. Powers and duties; staffing

45 A. The joint committee on capital review shall:

1 1. Develop and approve a uniform formula for computing annual
2 building renewal funding needs and a uniform format for ~~the collection of~~
3 COLLECTING data for the formula pursuant to section 41-793.01.

4 2. Approve building systems for the purposes of computing and
5 funding building renewal pursuant to section 41-793.01 and for preparing
6 capital improvement plans pursuant to section 41-793.

7 3. Review the state capital improvement plan prepared pursuant to
8 section 41-793 and make recommendations to the legislature concerning
9 funding for land acquisition, capital projects and building renewal.

10 4. Review the expenditure of all monies appropriated for land
11 acquisition, capital projects and building renewal, INCLUDING NEW SCHOOL
12 CONSTRUCTION PROJECTS APPROVED BY THE SCHOOL FACILITIES BOARD.

13 B. In making its recommendations to the legislature, the joint
14 committee on capital review should give priority to funding fire and life
15 safety projects.

16 C. Before ~~the release of~~ RELEASING monies for ~~construction of~~
17 CONSTRUCTING a new capital project that has an estimated total cost of
18 more than ~~two hundred fifty thousand dollars~~ \$250,000, the joint committee
19 on capital review shall review the scope, purpose and estimated cost of
20 the project. A construction contract shall not divide a new capital
21 project into projects with an estimated cost of ~~two hundred fifty thousand~~
22 ~~dollars~~ \$250,000 or less for the purpose of evading committee review. The
23 joint committee on capital review may review any capital project
24 regardless of its cost.

25 D. The joint committee on capital review has the powers conferred
26 by law on legislative committees.

27 E. In performing its duties, the joint committee on capital review
28 shall be staffed by the joint legislative budget committee staff.

29 Sec. 6. Section 41-1252, Arizona Revised Statutes, as amended by
30 section 5 of this act, is amended to read:

31 41-1252. Powers and duties; staffing

32 A. The joint committee on capital review shall:

33 1. Develop and approve a uniform formula for computing annual
34 building renewal funding needs and a uniform format for collecting data
35 for the formula pursuant to section 41-793.01.

36 2. Approve building systems for the purposes of computing and
37 funding building renewal pursuant to section 41-793.01 and for preparing
38 capital improvement plans pursuant to section 41-793.

39 3. Review the state capital improvement plan prepared pursuant to
40 section 41-793 and make recommendations to the legislature concerning
41 funding for land acquisition, capital projects and building renewal.

42 4. Review the expenditure of all monies appropriated for land
43 acquisition, capital projects and building renewal, including new school
44 construction projects approved by the school facilities OVERSIGHT board
45 WITHIN THE DEPARTMENT OF ADMINISTRATION'S DIVISION OF SCHOOL FACILITIES.

1 B. In making its recommendations to the legislature, the joint
2 committee on capital review should give priority to funding fire and life
3 safety projects.

4 C. Before releasing monies for constructing a new capital project
5 that has an estimated total cost of more than \$250,000, the joint
6 committee on capital review shall review the scope, purpose and estimated
7 cost of the project. A construction contract shall not divide a new
8 capital project into projects with an estimated cost of \$250,000 or less
9 for the purpose of evading committee review. The joint committee on
10 capital review may review any capital project regardless of its cost.

11 D. The joint committee on capital review has the powers conferred
12 by law on legislative committees.

13 E. In performing its duties, the joint committee on capital review
14 shall be staffed by the joint legislative budget committee staff.

15 Sec. 7. Conditional enactment

16 Section 15-2041, Arizona Revised Statutes, as amended by section 2
17 of this act, section 41-793, Arizona Revised Statutes, as amended by
18 section 4 of this act, and section 41-1252, Arizona Revised Statutes, as
19 amended by section 6 of this act, do not become effective unless House
20 Bill 2555, fifty-fifth legislature, first regular session, relating to
21 school capital finance, becomes law.