

REFERENCE TITLE: school facilities; replacement; renovation; funding

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
Second Regular Session  
2022

# HB 2180

Introduced by  
Representative Udall

AN ACT

AMENDING SECTIONS 15-342, 41-5702, 41-5711, 41-5731 AND 41-5741, ARIZONA  
REVISED STATUTES; RELATING TO SCHOOL CAPITAL FINANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-342, Arizona Revised Statutes, is amended to  
3 read:

4 15-342. Discretionary powers

5 The governing board may:

6 1. Expel pupils for misconduct.

7 2. Exclude from grades one through eight children under six years  
8 of age.

9 3. Make such separation of groups of pupils as it deems advisable.

10 4. Maintain such special schools during vacation as deemed  
11 necessary for the benefit of the pupils of the school district.

12 5. Allow a superintendent or principal or representatives of the  
13 superintendent or principal to travel for a school purpose, as determined  
14 by a majority vote of the board. The board may allow members and  
15 members-elect of the board to travel within or without the school district  
16 for a school purpose and receive reimbursement. Any expenditure for  
17 travel and subsistence pursuant to this paragraph shall be as provided in  
18 title 38, chapter 4, article 2. The designated post of duty referred to  
19 in section 38-621 shall be construed, for school district governing board  
20 members, to be the member's actual place of residence, as opposed to the  
21 school district office or the school district boundaries. Such  
22 expenditures shall be a charge against the budgeted school district  
23 funds. The governing board of a school district shall prescribe  
24 procedures and amounts for reimbursement of lodging and subsistence  
25 expenses. Reimbursement amounts shall not exceed the maximum amounts  
26 established pursuant to section 38-624, subsection C.

27 6. Construct or provide in rural districts housing facilities for  
28 teachers and other school employees that the board determines are  
29 necessary to operate the school.

30 7. Sell or lease to the state, a county, a city, another school  
31 district or a tribal government agency any school property required for a  
32 public purpose if the sale or lease of the property will not affect the  
33 normal operations of a school within the school district.

34 8. Annually budget and spend monies for membership in an  
35 association of school districts within this state.

36 9. Enter into leases or lease-purchase agreements for school  
37 buildings or grounds, or both, as lessor or as lessee, for periods of less  
38 than twenty years subject to voter approval for construction of school  
39 buildings as prescribed in section 15-341, subsection A, paragraph 7.

40 10. Subject to title 41, chapter 56, sell school sites or enter  
41 into leases or lease-purchase agreements for school buildings and grounds,  
42 as lessor or as lessee, for a period of twenty years or more, but not to  
43 exceed ninety-nine years, if authorized by a vote of the school district  
44 electors in an election called by the governing board as provided in  
45 section 15-491, except that authorization by the school district electors

1 in an election is not required if one of the following requirements is  
2 met:

3 (a) The market value of the school property is less than \$50,000 or  
4 the property is procured through a renewable energy development agreement,  
5 an energy performance contract, which among other items includes a  
6 renewable energy power service agreement, or a simplified energy  
7 performance contract pursuant to section 15-213.01.

8 (b) The buildings and sites are completely funded with monies  
9 distributed by the ~~school facilities~~ division OF SCHOOL FACILITIES within  
10 the department of administration or at the direction of the school  
11 facilities oversight board, or its predecessor.

12 (c) The transaction involves the sale of improved or unimproved  
13 property pursuant to an agreement with the school facilities oversight  
14 board in which the school district agrees to sell the improved or  
15 unimproved property and transfer the proceeds of the sale to the school  
16 facilities oversight board in exchange for monies from the school  
17 facilities oversight board for the acquisition of a more suitable school  
18 site. For a sale of property acquired by a school district before July 9,  
19 1998, a school district shall transfer to the school facilities oversight  
20 board that portion of the proceeds that equals the cost of the acquisition  
21 of a more suitable school site. If there are any remaining proceeds after  
22 the transfer of monies to the school facilities oversight board, a school  
23 district shall only use those remaining proceeds for future land purchases  
24 approved by the school facilities oversight board, or for capital  
25 improvements not funded by the school facilities oversight board for any  
26 existing or future facility.

27 (d) The transaction involves the sale of improved or unimproved  
28 property pursuant to a formally adopted plan and the school district uses  
29 the proceeds of this sale to purchase other property that will be used for  
30 similar purposes as the property that was originally sold if the sale  
31 proceeds of the improved or unimproved property are used within two years  
32 after the date of the original sale to purchase the replacement  
33 property. If the sale proceeds of the improved or unimproved property are  
34 not used within two years after the date of the original sale to purchase  
35 replacement property, the sale proceeds shall be used toward paying any  
36 outstanding bonded indebtedness. If any sale proceeds remain after paying  
37 for outstanding bonded indebtedness, or if the district has no outstanding  
38 bonded indebtedness, sale proceeds shall be used to reduce the district's  
39 primary tax levy. A school district shall not use this subdivision unless  
40 all of the following conditions exist:

41 (i) The school district is the sole owner of the improved or  
42 unimproved property that the school district intends to sell.

43 (ii) The school district did not purchase the improved or  
44 unimproved property that the school district intends to sell with monies  
45 that were distributed pursuant to title 41, chapter 56.

1 (iii) The transaction does not violate section 15-341,  
2 subsection G.

3 11. Review the decision of a teacher to promote a pupil to a grade  
4 or retain a pupil in a grade in a common school or to pass or fail a pupil  
5 in a course in high school. The pupil has the burden of proof to overturn  
6 the decision of a teacher to promote, retain, pass or fail the pupil. In  
7 order to sustain the burden of proof, the pupil shall demonstrate to the  
8 governing board that the pupil has mastered the academic standards adopted  
9 by the state board of education pursuant to sections 15-701 and 15-701.01.  
10 If the governing board overturns the decision of a teacher pursuant to  
11 this paragraph, the governing board shall adopt a written finding that the  
12 pupil has mastered the academic standards. Notwithstanding title 38,  
13 chapter 3, article 3.1, the governing board shall review the decision of a  
14 teacher to promote a pupil to a grade or retain a pupil in a grade in a  
15 common school or to pass or fail a pupil in a course in high school in  
16 executive session unless a parent or legal guardian of the pupil or the  
17 pupil, if emancipated, disagrees that the review should be conducted in  
18 executive session and then the review shall be conducted in an open  
19 meeting. If the review is conducted in executive session, the board shall  
20 notify the teacher of the date, time and place of the review and shall  
21 allow the teacher to be present at the review. If the teacher is not  
22 present at the review, the board shall consult with the teacher before  
23 making its decision. Any request, including the written request as  
24 provided in section 15-341, the written evidence presented at the review  
25 and the written record of the review, including the decision of the  
26 governing board to accept or reject the teacher's decision, shall be  
27 retained by the governing board as part of its permanent records.

28 12. Provide transportation or site transportation loading and  
29 unloading areas for any child or children if deemed for the best interest  
30 of the district, whether within or without the district, county or state.

31 13. Enter into intergovernmental agreements and contracts with  
32 school districts or other governing bodies as provided in section 11-952.  
33 Intergovernmental agreements and contracts between school districts or  
34 between a school district and other governing bodies as provided in  
35 section 11-952 are exempt from competitive bidding under the procurement  
36 rules adopted by the state board of education pursuant to section 15-213.

37 14. Include in the curricula it prescribes for high schools in the  
38 school district career and technical education, vocational education and  
39 technology education programs and career and technical, vocational and  
40 technology program improvement services for the high schools, subject to  
41 approval by the state board of education. The governing board may  
42 contract for the provision of career and technical, vocational and  
43 technology education as provided in section 15-789.

44 15. Suspend a teacher or administrator from the teacher's or  
45 administrator's duties without pay for a period of time of not to exceed

1 ten school days, if the board determines that suspension is warranted  
2 pursuant to section 15-341, subsection A, paragraph 21 or 22.

3 16. Dedicate school property within an incorporated city or town to  
4 that city or town or within a county to that county for use as a public  
5 right-of-way if both of the following apply:

6 (a) Pursuant to an ordinance adopted by the city, town or county,  
7 there will be conferred on the school district privileges and benefits  
8 that may include benefits related to zoning.

9 (b) The dedication will not affect the normal operation of any  
10 school within the district.

11 17. Enter into option agreements for the purchase of school sites.

12 18. Donate surplus or outdated learning materials, educational  
13 equipment and furnishings to nonprofit community organizations if the  
14 governing board determines that the anticipated cost of selling the  
15 learning materials, educational equipment or furnishings equals or exceeds  
16 the estimated market value of the materials.

17 19. Prescribe policies to assess reasonable fees for students to  
18 use district-provided parking facilities. The fees are to be applied by  
19 the district solely against costs incurred in operating or securing the  
20 parking facilities. Any policy adopted by the governing board pursuant to  
21 this paragraph shall include a fee waiver provision in appropriate cases  
22 of need or economic hardship.

23 20. Establish alternative education programs that are consistent  
24 with the laws of this state to educate pupils, including pupils who have  
25 been reassigned pursuant to section 15-841, subsection E or F.

26 21. Require a period of silence to be observed at the commencement  
27 of the first class of the day in the schools. If a governing board  
28 chooses to require a period of silence to be observed, the teacher in  
29 charge of the room in which the first class is held shall announce that a  
30 period of silence not to exceed one minute in duration will be observed  
31 for meditation, and during that time no activities shall take place and  
32 silence shall be maintained.

33 22. Require students to wear uniforms.

34 23. Exchange unimproved property or improved property, including  
35 school sites, if the governing board determines that the improved property  
36 is unnecessary for the continued operation of the school district without  
37 requesting authorization by a vote of the school district electors and if  
38 the governing board determines that the exchange is necessary to protect  
39 the health, safety or welfare of pupils or if the governing board  
40 determines that the exchange is based on sound business principles for  
41 either:

42 (a) Unimproved or improved property of equal or greater value.

43 (b) Unimproved property that the owner contracts to improve if the  
44 value of the property ultimately received by the school district is of  
45 equal or greater value.

1           24. For common and high school pupils, assess reasonable fees for  
2 optional extracurricular activities and programs conducted when the common  
3 or high school is not in session, except that fees shall not be charged  
4 for pupils' access to or use of computers or related materials. For high  
5 school pupils, the governing board may assess reasonable fees for fine  
6 arts and vocational education courses and for optional services, equipment  
7 and materials offered to the pupils beyond those required to successfully  
8 complete the basic requirements of any other course, except that fees  
9 shall not be charged for pupils' access to or use of computers or related  
10 materials. Fees assessed pursuant to this paragraph shall be adopted at a  
11 public meeting after notice has been given to all parents of pupils  
12 enrolled at schools in the district and shall not exceed the actual costs  
13 of the activities, programs, services, equipment or materials. The  
14 governing board shall authorize principals to waive the assessment of all  
15 or part of a fee assessed pursuant to this paragraph if it creates an  
16 economic hardship for a pupil. For the purposes of this paragraph,  
17 "extracurricular activity" means any optional, noncredit, educational or  
18 recreational activity that supplements the education program of the  
19 school, whether offered before, during or after regular school hours.

20           25. Notwithstanding section 15-341, subsection A, paragraphs 7 and  
21 9, construct school buildings and purchase or lease school sites, without  
22 a vote of the school district electors, if the buildings and sites are  
23 totally funded from one or more of the following:

24           (a) Monies in the unrestricted capital outlay fund, except that the  
25 estimated cost shall not exceed \$250,000 for a district that uses section  
26 15-949.

27           (b) Monies distributed at the direction of the school facilities  
28 oversight board established by section 41-5701.02 or by the ~~school~~  
29 ~~facilities~~ division OF SCHOOL FACILITIES within the department of  
30 administration pursuant to title 41, chapter 56.

31           (c) Monies specifically donated for the purpose of constructing  
32 school buildings.

33 This paragraph does not eliminate the requirement for an election to raise  
34 revenues for a capital outlay override pursuant to section 15-481 or a  
35 bond election pursuant to section 15-491.

36           26. Conduct a background investigation that includes a fingerprint  
37 check conducted pursuant to section 41-1750, subsection G for certificated  
38 personnel and personnel who are not paid employees of the school district,  
39 as a condition of employment. A school district may release the results  
40 of a background check to another school district for employment purposes.  
41 The school district may charge the costs of fingerprint checks to its  
42 fingerprinted employee, except that the school district may not charge the  
43 costs of fingerprint checks for personnel who are not paid employees of  
44 the school district.

1           27. Unless otherwise prohibited by law, sell advertising as  
2 follows:

3           (a) Advertisements shall be age appropriate and not promote any  
4 substance that is illegal for minors such as alcohol, tobacco and drugs or  
5 gambling. Advertisements shall comply with the state sex education policy  
6 of abstinence.

7           (b) Advertising approved by the governing board for the exterior of  
8 school buses may appear only on the sides of the bus in the following  
9 areas:

10           (i) The signs shall be below the seat level rub rail and not extend  
11 above the bottom of the side windows.

12           (ii) The signs shall be at least three inches from any required  
13 lettering, lamp, wheel well or reflector behind the service door or stop  
14 signal arm.

15           (iii) The signs shall not extend from the body of the bus so as to  
16 allow a handhold or present a danger to pedestrians.

17           (iv) The signs shall not interfere with the operation of any door  
18 or window.

19           (v) The signs shall not be placed on any emergency doors.

20           (c) The school district shall establish an advertisement fund that  
21 is composed of revenues from the sale of advertising. The monies in an  
22 advertisement fund are not subject to reversion.

23           28. Assess reasonable damage deposits to pupils in grades seven  
24 through twelve for using textbooks, musical instruments, band uniforms or  
25 other equipment required for academic courses. The governing board shall  
26 adopt policies on any damage deposits assessed pursuant to this paragraph  
27 at a public meeting called for this purpose after providing notice to all  
28 parents of pupils in grades seven through twelve in the school district.  
29 Principals of individual schools within the district may waive the damage  
30 deposit requirement for any textbook or other item if the payment of the  
31 damage deposit would create an economic hardship for the pupil. The  
32 school district shall return the full amount of the damage deposit for any  
33 textbook or other item if the pupil returns the textbook or other item in  
34 reasonably good condition within the time period prescribed by the  
35 governing board. For the purposes of this paragraph, "in reasonably good  
36 condition" means the textbook or other item is in the same or a similar  
37 condition as it was when the pupil received it, plus ordinary wear and  
38 tear.

39           29. Notwithstanding section 15-1105, expend surplus monies in the  
40 civic center school fund for maintenance and operations or unrestricted  
41 capital outlay if sufficient monies are available in the fund after  
42 meeting the needs of programs established pursuant to section 15-1105.

43           30. Notwithstanding section 15-1143, spend surplus monies in the  
44 community school program fund for maintenance and operations or  
45 unrestricted capital outlay if sufficient monies are available in the fund

1 after meeting the needs of programs established pursuant to section  
2 15-1142.

3 31. Adopt guidelines to standardize the format of the school report  
4 cards required by section 15-746 for schools within the district.

5 32. Adopt policies that require parental notification when a law  
6 enforcement officer interviews a pupil on school grounds. Policies  
7 adopted pursuant to this paragraph shall not impede a peace officer from  
8 performing the peace officer's duties. If the school district governing  
9 board adopts a policy that requires parental notification:

10 (a) The policy may provide reasonable exceptions to the parental  
11 notification requirement.

12 (b) The policy shall set forth whether and under what circumstances  
13 a parent may be present when a law enforcement officer interviews the  
14 pupil, including reasonable exceptions to the circumstances under which a  
15 parent may be present when a law enforcement officer interviews the pupil,  
16 and shall specify a reasonable maximum time after a parent is notified  
17 that an interview of a pupil by a law enforcement officer may be delayed  
18 to allow the parent to be present.

19 33. Enter into voluntary partnerships with any party to finance  
20 with monies other than school district monies and cooperatively design  
21 school facilities that comply with the adequacy standards prescribed in  
22 section 41-5711 and the square footage per pupil requirements pursuant to  
23 section 41-5741, subsection D, paragraph 3, subdivision (b). The design  
24 plans and location of any such school facility shall be submitted to the  
25 school facilities oversight board for approval pursuant to section  
26 41-5741, subsection ~~Q~~ Q. If the school facilities oversight board  
27 approves the design plans and location of any such school facility, the  
28 party in partnership with the school district may cause to be constructed  
29 and the district may begin operating the school facility before monies are  
30 distributed at the direction of the school facilities oversight board  
31 pursuant to section 41-5741. Monies distributed from the new school  
32 facilities fund to a school district in a partnership with another party  
33 to finance and design the school facility shall be paid to the school  
34 district pursuant to section 41-5741. The school district shall reimburse  
35 the party in partnership with the school district from the monies paid to  
36 the school district pursuant to section 41-5741, in accordance with the  
37 voluntary partnership agreement. Before the school facilities oversight  
38 board directs the distribution of any monies pursuant to this subsection,  
39 the school district shall demonstrate to the school facilities oversight  
40 board that the facilities to be funded pursuant to section 41-5741,  
41 subsection ~~Q~~ Q meet the minimum adequacy standards prescribed in section  
42 41-5711. If the cost to construct the school facility exceeds the amount  
43 that the school district receives from the new school facilities fund, the  
44 partnership agreement between the school district and the other party  
45 shall specify that, except as otherwise provided by the other party, any



1 such excess costs shall be the responsibility of the school district. The  
 2 school district governing board shall adopt a resolution in a public  
 3 meeting that an analysis has been conducted on the prospective effects of  
 4 the decision to operate a new school with existing monies from the school  
 5 district's maintenance and operations budget and how this decision may  
 6 affect other schools in the school district. If a school district  
 7 acquires land by donation at an appropriate school site approved by the  
 8 school facilities oversight board and a school facility is financed and  
 9 built on the land pursuant to this paragraph, the school facilities  
 10 oversight board shall direct the distribution of an amount equal to twenty  
 11 percent of the fair market value of the land that can be used for academic  
 12 purposes. The school district shall place the monies in the unrestricted  
 13 capital outlay fund and increase the unrestricted capital budget limit by  
 14 the amount of the monies placed in the fund. Monies distributed under  
 15 this paragraph shall be distributed from the new school facilities fund  
 16 pursuant to section 41-5741. If a school district acquires land by  
 17 donation at an appropriate school site approved by the school facilities  
 18 oversight board and a school facility is financed and built on the land  
 19 pursuant to this paragraph, the school district shall not receive monies  
 20 for the donation of real property pursuant to section 41-5741, subsection

21 ~~F~~ I. It is unlawful for:

22 (a) A county, city or town to require as a condition of any land  
 23 use approval that a landowner or landowners that entered into a  
 24 partnership pursuant to this paragraph provide any contribution, donation  
 25 or gift, other than a site donation, to a school district. This  
 26 subdivision only applies to the property in the voluntary partnership  
 27 agreement pursuant to this paragraph.

28 (b) A county, city or town to require as a condition of any land  
 29 use approval that the landowner or landowners located within the  
 30 geographic boundaries of the school subject to the voluntary partnership  
 31 pursuant to this paragraph provide any donation or gift to the school  
 32 district except as provided in the voluntary partnership agreement  
 33 pursuant to this paragraph.

34 (c) A community facilities district established pursuant to title  
 35 48, chapter 4, article 6 to be used for reimbursement of financing the  
 36 construction of a school pursuant to this paragraph.

37 (d) A school district to enter into an agreement pursuant to this  
 38 paragraph with any party other than a master planned community party. Any  
 39 land area consisting of at least three hundred twenty acres that is the  
 40 subject of a development agreement with a county, city or town entered  
 41 into pursuant to section 9-500.05 or 11-1101 shall be deemed to be a  
 42 master planned community. For the purposes of this subdivision, "master  
 43 planned community" means a land area consisting of at least three hundred  
 44 twenty acres, which may be noncontiguous, that is the subject of a zoning  
 45 ordinance approved by the governing body of the county, city or town in

1 which the land is located that establishes the use of the land area as a  
2 planned area development or district, planned community development or  
3 district, planned unit development or district or other land use category  
4 or district that is recognized in the local ordinance of such county, city  
5 or town and that specifies the use of such land is for a master planned  
6 development.

7 34. Enter into an intergovernmental agreement with a presiding  
8 judge of the juvenile court to implement a law-related education program  
9 as defined in section 15-154. The presiding judge of the juvenile court  
10 may assign juvenile probation officers to participate in a law-related  
11 education program in any school district in the county. The cost of  
12 juvenile probation officers who participate in the program implemented  
13 pursuant to this paragraph shall be funded by the school district.

14 35. Offer to sell outdated learning materials, educational  
15 equipment or furnishings at a posted price commensurate with the value of  
16 the items to pupils who are currently enrolled in that school district  
17 before those materials are offered for public sale.

18 36. If the school district is a small school district as defined in  
19 section 15-901, and if allowed by federal law, opt out of federal grant  
20 opportunities if the governing board determines that the federal  
21 requirements impose unduly burdensome reporting requirements.

22 37. Prescribe and enforce policies and procedures for the emergency  
23 administration of inhalers by trained employees of the school district and  
24 nurses who are under contract with the school district pursuant to section  
25 15-158.

26 38. Develop policies and procedures to allow principals to budget  
27 for or assist with budgeting federal, state and local monies.

28 39. Subject to article IX, section 7, constitution of Arizona, the  
29 laws pertaining to travel and subsistence, gifts, grants, including  
30 federal grants, or devises and policies adopted by the department of  
31 education, provide food and beverages at school district events, including  
32 official school functions and trainings.

33 Sec. 2. Section 41-5702, Arizona Revised Statutes, is amended to  
34 read:

35 41-5702. Powers and duties; staffing; reporting requirements

36 A. The division shall:

37 1. Assess school facilities and equipment deficiencies and approve  
38 the distribution of grants as appropriate.

39 2. Maintain a database of school facilities to allow for the  
40 administration of the new school facilities formula and the building  
41 renewal grant fund. The facilities listed in the database must include  
42 all buildings that are owned by school districts. The division shall  
43 ensure that the database is updated on at least an annual basis. Each  
44 school district shall report to the division not later than September 1 of  
45 each year information as required by the division to administer the

1 building renewal grant fund and by the school facilities oversight board  
 2 to compute new school facilities formula distributions, including the  
 3 nature and cost of major repairs, renovations or physical improvements to  
 4 or replacement of building systems or equipment that were made in the  
 5 previous year and that were paid for either with local monies or monies  
 6 provided from the building renewal grant fund. Each school district shall  
 7 report any school or school buildings that have been closed, that are  
 8 vacant or partially used pursuant to section 15-119 and that have been  
 9 leased to another entity or that operate as a charter school. The  
 10 division shall develop guidelines and definitions for the reporting  
 11 prescribed in this paragraph and may review or audit the information, or  
 12 both, to confirm the information submitted by a school district.  
 13 Notwithstanding any other provision of this chapter, if a school district  
 14 converts space that is listed in the database maintained pursuant to this  
 15 paragraph to space that will be used for administrative purposes, the  
 16 school district is responsible for any costs associated with converting,  
 17 maintaining and replacing that space. If a building is significantly  
 18 upgraded or remodeled, the division shall adjust the age of that school  
 19 facility in the database as follows:

20 (a) Determine the building capacity value as follows:

21 (i) Multiply the student capacity of the building by the per pupil  
 22 square foot capacity established by section 41-5741.

23 (ii) Multiply the product determined in item (i) of this  
 24 subdivision by the cost per square foot established by section 41-5741.

25 (b) Divide the cost of the renovation by the building capacity  
 26 value determined in subdivision (a) of this paragraph.

27 (c) Multiply the quotient determined in subdivision (b) of this  
 28 paragraph by the currently listed age of the building in the database.

29 (d) Subtract the product determined in subdivision (c) of this  
 30 paragraph from the currently listed age of the building in the database,  
 31 rounded to the nearest whole number. If the result is a negative number,  
 32 use zero.

33 3. Inspect, contract with a third party to inspect or certify  
 34 school district self-inspections of school buildings at least once every  
 35 five years to ensure compliance with the building adequacy standards  
 36 prescribed in section 41-5711, the accuracy of the reporting of vacant and  
 37 partially used buildings pursuant to this subsection and routine  
 38 preventive maintenance guidelines as prescribed in this section with  
 39 respect to constructing new buildings and maintaining existing buildings.  
 40 The division shall randomly select twenty school districts every thirty  
 41 months and provide for them to be inspected pursuant to this paragraph.

42 4. Develop prototypical elementary and high school designs. The  
 43 division shall review the design differences between the schools with the  
 44 highest academic productivity scores and the schools with the lowest  
 45 academic productivity scores. The division shall also review the results

1 of a valid and reliable survey of parent quality rating in the highest  
2 performing schools and the lowest performing schools in this state. The  
3 survey of parent quality rating shall be administered by the department of  
4 education. The division shall consider the design elements of the schools  
5 with the highest academic productivity scores and parent quality ratings  
6 in the development of elementary and high school designs. The division  
7 shall develop separate school designs for elementary, middle and high  
8 schools with varying pupil capacities.

9 5. Develop application forms, reporting forms and procedures to  
10 carry out the requirements of this article, including developing and  
11 implementing policies and procedures to:

12 (a) Ensure that the division and the school facilities oversight  
13 board, as applicable, notify school districts in a uniform manner of the  
14 services and funding available for school districts from the board or the  
15 division for facility construction, renovation and repair projects. The  
16 policies and procedures shall require the division and the board to  
17 provide at least one annual communication to school districts in a manner  
18 prescribed by the division and shall require each school district to  
19 develop and maintain a list of persons who are responsible for facilities  
20 management at that school district.

21 (b) Establish a project eligibility assessment for all projects  
22 submitted for building renewal grant funding or emergency deficiencies  
23 correction funding, including establishing standardized criteria for  
24 project eligibility. Before the division formally approves a project, the  
25 staff of the division may review the costs and scope of the proposed  
26 project with persons and entities that have submitted bids on the project.

27 (c) Ensure that the division and the school facilities oversight  
28 board maintain standardized documentation of all projects submitted to the  
29 board and the division for consideration to receive services or a  
30 financial award from the board or the division. The board and the  
31 division shall maintain standardized documentation of any project awarded  
32 monies by the board or the division, including records of payments to  
33 school districts in a manner prescribed by the division. The standardized  
34 documentation shall include the following as part of the eligibility  
35 determination criteria:

36 (i) Whether the problem that the proposed project intends to  
37 address caused the building or facility to fall below the minimum school  
38 facility adequacy guidelines prescribed in section 41-5711.

39 (ii) Whether the school district performed the routine preventive  
40 maintenance required by section 41-5731 on the building or facility.

41 (d) Require a school district to submit contact information for  
42 each proposed project, including the name, email address and telephone  
43 number of persons who are responsible for facilities management at the  
44 school district.

- 1 (e) Require a school district to provide justification for each  
2 proposed project, including all of the following:
- 3 (i) The school district's use or planned use of the facility.
  - 4 (ii) A detailed description of the problem and the school  
5 district's recommended solution.
  - 6 (iii) Any completed professional study regarding the proposed  
7 project.
  - 8 (iv) Any citation or report from government entities.
  - 9 (v) The estimated cost of the proposed project, with documentation.
  - 10 (vi) The project category.
  - 11 (vii) A description of any local funding that will be used for the  
12 proposed project.
  - 13 (viii) Documentation on associated insurance coverage, if  
14 applicable.
  - 15 (f) Require that an initial application not be considered complete  
16 until all necessary information is submitted.
  - 17 (g) Allow a school district to submit an incomplete application and  
18 request technical assistance from the staff of the board if the school  
19 district is unable to provide sufficient information in the initial  
20 application.
  - 21 (h) If applicable, require that a complete application be received  
22 by the board at least fifteen business days before the next regularly  
23 scheduled board meeting in order for the application to be considered at  
24 that meeting. An incomplete application may be considered at that meeting  
25 if both the staff of the board and the superintendent of the school  
26 district deem the project critical.
  - 27 (i) Allow the staff of the board or the division, as applicable, to  
28 notify a school district in writing before review by the board or division  
29 that the proposed project does not meet eligibility criteria prescribed in  
30 this chapter. The written notification shall include documentation to  
31 support the determination that the proposed project does not meet the  
32 eligibility criteria prescribed in this chapter. The school district may  
33 directly appeal the determination of ineligibility to the director of the  
34 division. The school district may directly appeal the director's  
35 determination of ineligibility to the board.
  - 36 (j) Prohibit the staff of the board or division from requesting  
37 that a school district withdraw a project application from review by the  
38 board or division if the initial review determines that the proposed  
39 project may be ineligible for monies pursuant to this chapter.
- 40 6. Submit electronically an annual report on or before December 15  
41 to the speaker of the house of representatives, the president of the  
42 senate, the superintendent of public instruction, the secretary of state  
43 and the governor that includes the following information:
- 44 (a) A detailed description of the amount of monies distributed by  
45 the division under this chapter in the previous fiscal year.

1 (b) A list of each capital project that received monies from the  
2 division under this chapter during the previous fiscal year, a brief  
3 description of each project that was funded and a summary of the  
4 division's reasons for distributing monies for the project.

5 (c) A summary of the findings and conclusions of the building  
6 maintenance inspections conducted pursuant to this article during the  
7 previous fiscal year.

8 (d) A summary of the findings of common design elements and  
9 characteristics of the highest performing schools and the lowest  
10 performing schools based on academic productivity, including the results  
11 of the parent quality rating survey. For the purposes of this  
12 subdivision, "academic productivity" means academic year advancement per  
13 calendar year as measured with student-level data using the statewide  
14 nationally standardized norm-referenced achievement test.

15 7. On or before December 1 of each year, report electronically to  
16 the joint committee on capital review the amounts necessary to fulfill the  
17 requirements of section 41-5721 for the following three fiscal years. In  
18 developing the amounts necessary for this report, the division shall use  
19 the most recent average daily membership data available. On request from  
20 the division, the department of education shall make available the most  
21 recent average daily membership data for use in calculating the amounts  
22 necessary to fulfill the requirements of section 41-5721 for the following  
23 three fiscal years. The division shall provide copies of the report to  
24 the president of the senate, the speaker of the house of representatives  
25 and the governor.

26 8. On or before June 15 of each year, submit electronically  
27 detailed information regarding demographic assumptions and a proposed  
28 construction schedule for individual projects approved in the current  
29 fiscal year and expected project approvals for the upcoming fiscal year to  
30 the joint committee on capital review for its review. A copy of the  
31 report shall also be submitted electronically to the governor's office of  
32 strategic planning and budgeting. The joint legislative budget committee  
33 staff, the governor's office of strategic planning and budgeting staff and  
34 the division staff shall agree on the format of the report.

35 9. Every two years, provide school districts with information on  
36 improving and maintaining the indoor environmental quality in school  
37 buildings.

38 10. Adopt rules regarding the validation of adjacent ways projects  
39 pursuant to paragraph 11 of this subsection.

40 11. Validate proposed adjacent ways projects that are submitted by  
41 school districts as prescribed in section 15-995 pursuant to rules adopted  
42 by the division under paragraph 10 of this subsection.

43 12. Submit a monthly report to the school facilities oversight  
44 board that details each adjacent ways project validated pursuant to  
45 paragraph 11 of this subsection.

1           13. Brief the joint committee on capital review at least once each  
2 year regarding the use of monies from all of the following:

3           (a) The emergency deficiencies correction fund established by  
4 section 41-5721.

5           (b) The building renewal grant fund established by section 41-5731.

6           (c) The new school facilities fund established by section 41-5741.

7           B. The school facilities oversight board or the division may  
8 contract for the following services in compliance with the procurement  
9 practices prescribed in chapter 23 of this title:

10           1. Private services.

11           2. Construction project management services.

12           ~~3. Assessments for school buildings to determine if the buildings~~  
13 ~~have outlived their useful life pursuant to section 41-5741, subsection~~  
14 ~~G or have been condemned.~~

15           ~~4.~~ 3. Services related to land acquisition and development of a  
16 school site.

17           C. The school facilities oversight board shall:

18           1. Review and approve student population projections submitted by  
19 school districts to determine to what extent school districts are entitled  
20 to monies to construct new facilities pursuant to section 41-5741. The  
21 board shall make a final determination within five months after receiving  
22 an application from a school district for monies from the new school  
23 facilities fund.

24           2. Certify that plans for new school facilities meet the building  
25 adequacy standards prescribed in section 41-5711.

26           3. Review and approve or reject requests submitted by school  
27 districts to take actions pursuant to section 15-341, subsection G.

28           4. On or before December 15 of each year, electronically submit a  
29 report to the speaker of the house of representatives, the president of  
30 the senate, the superintendent of public instruction, the secretary of  
31 state and the governor that includes the following information:

32           (a) A detailed description of the amount of monies the board  
33 distributed under this chapter in the previous fiscal year.

34           (b) A list of each capital project that received monies from the  
35 board under this chapter during the previous fiscal year, a brief  
36 description of each project that was funded and a summary of the board's  
37 reasons for distributing monies for the project.

38           (c) A summary of the findings and conclusions of the building  
39 maintenance inspections conducted pursuant to this article during the  
40 previous fiscal year.

41           5. On or before December 1 of each year, electronically report to  
42 the joint committee on capital review the amounts necessary to fulfill the  
43 requirements of section 41-5741 for the following three fiscal years. In  
44 developing the amounts necessary for this report, the board shall use the  
45 most recent average daily membership data available. On request from the

1 board, the department of education shall make available the most recent  
2 average daily membership data for use in calculating the amounts necessary  
3 to fulfill the requirements of section 41-5741 for the following three  
4 fiscal years. The board shall provide copies of the report to the  
5 president of the senate, the speaker of the house of representatives and  
6 the governor.

7 6. Adopt minimum school facility adequacy guidelines to provide the  
8 minimum quality and quantity of school buildings and the facilities and  
9 equipment necessary and appropriate to enable pupils to achieve the  
10 educational goals of the Arizona state schools for the deaf and the blind.  
11 The board shall establish minimum school facility adequacy guidelines  
12 applicable to the Arizona state schools for the deaf and the blind.

13 7. On or before June 15 of each year, electronically submit to the  
14 joint committee on capital review for its review detailed information  
15 regarding demographic assumptions, a proposed construction schedule and  
16 new school construction cost estimates for individual projects approved in  
17 the current fiscal year and expected project approvals for the upcoming  
18 fiscal year. A copy of the report shall also be submitted electronically  
19 to the governor's office of strategic planning and budgeting. The joint  
20 legislative budget committee staff, the governor's office of strategic  
21 planning and budgeting staff and the board staff shall agree on the format  
22 of the report.

23 8. On or before December 31 of each year, report to the joint  
24 legislative budget committee on all class B bond approvals by school  
25 districts in that year. Each school district shall report to the board on  
26 or before December 1 of each year information required by the board for  
27 the report prescribed in this paragraph.

28 D. The director of the division shall serve as the director of the  
29 school facilities oversight board. The director may hire and fire  
30 necessary staff subject to chapter 4, article 4 of this title and as  
31 approved by the legislature in the budget. The staff of the school  
32 facilities oversight board is exempt from chapter 4, articles 5 and 6 of  
33 this title. The director:

34 1. Shall analyze applications for monies submitted to the board and  
35 to the division by school districts.

36 2. Shall assist the board and the division in developing forms and  
37 procedures for distributing and reviewing applications and distributing  
38 monies to school districts.

39 3. May review or audit, or both, the expenditure of monies by a  
40 school district for deficiencies corrections and new school facilities.

41 4. Shall assist the board and the division in preparing the board's  
42 and division's annual reports.

43 5. Shall research and provide reports on issues of general interest  
44 to the board and the division.



1           6. May aid school districts in developing reasonable and  
2 cost-effective school designs in order to avoid statewide duplicated  
3 efforts and unwarranted expenditures in the area of school design.

4           7. May assist school districts in facilitating the development of  
5 multijurisdictional facilities.

6           8. Shall assist the board and the division in any other appropriate  
7 matter or method as directed by the division and the members of the board.

8           9. Shall establish procedures to ensure compliance with the notice  
9 and hearing requirements prescribed in section 15-905. The notice and  
10 hearing procedures adopted by the board shall include the requirement,  
11 with respect to the board's consideration of any application filed after  
12 July 1, 2001 or after December 31 of the year in which the property  
13 becomes territory in the vicinity of a military airport or ancillary  
14 military facility as defined in section 28-8461 for monies to fund the  
15 construction of new school facilities proposed to be located in territory  
16 in the vicinity of a military airport or ancillary military facility, that  
17 the military airport receive notification of the application by first  
18 class mail at least thirty days before any hearing concerning the  
19 application.

20           10. May expedite any request for monies in which the local match  
21 was not obtained for a project that received preliminary approval by the  
22 state board for school capital facilities.

23           11. Shall expedite any request for monies in which the school  
24 district governing board submits an application that shows an immediate  
25 need for a new school facility.

26           12. Shall determine administrative completeness within one month  
27 after receiving an application from a school district for monies from the  
28 new school facilities fund.

29           13. Shall provide technical support to school districts as  
30 requested by school districts in connection with constructing new school  
31 facilities and maintaining existing school facilities and may contract  
32 directly with construction project managers pursuant to subsection B of  
33 this section. This paragraph does not restrict a school district from  
34 contracting with a construction project manager using district or state  
35 resources.

36           E. When appropriate, the board and the division shall review and  
37 use the statewide school facilities inventory and needs assessment  
38 conducted by the joint committee on capital review and issued in  
39 July, 1995.

40           F. The school facilities oversight board shall contract with one or  
41 more private building inspectors to complete an initial assessment of  
42 school facilities and equipment and shall inspect each school building in  
43 this state at least once every five years to ensure compliance with  
44 section 41-5711. A copy of the inspection report, together with any

1 recommendations for building maintenance, shall be provided to the school  
2 facilities oversight board and the governing board of the school district.

3 G. The division or the board, as applicable, may consider  
4 appropriate combinations of facilities or uses in assessing and curing  
5 deficiencies pursuant to subsection A, paragraph 1 of this section and in  
6 certifying plans for new school facilities pursuant to subsection C,  
7 paragraph 2 of this section.

8 H. The board shall not award any monies to fund new facilities that  
9 are financed by class A bonds that are issued by the school district.

10 I. The board or the division shall not distribute monies to a  
11 school district for replacing or repairing facilities if the costs  
12 associated with the replacement or repair are covered by insurance or a  
13 performance or payment bond.

14 J. The division may contract for construction services and  
15 materials that are necessary to correct existing deficiencies in school  
16 district facilities. The division may procure the construction services  
17 necessary pursuant to this subsection by any method, including  
18 construction-manager-at-risk, design-build, design-bid-build or  
19 job-order-contracting as provided by chapter 23 of this title. The  
20 construction planning and services performed pursuant to this subsection  
21 are exempt from section 41-791.01.

22 K. The division may enter into agreements with school districts to  
23 allow division staff and contractors access to school property for the  
24 purposes of performing the construction services necessary pursuant to  
25 subsection J of this section.

26 L. Each school district shall develop routine preventive  
27 maintenance guidelines for its facilities. The guidelines shall include  
28 plumbing systems, electrical systems, heating, ventilation and air  
29 conditioning systems, special equipment and other systems and for roofing  
30 systems shall recommend visual inspections performed by district staff for  
31 signs of structural stress and weakness. The guidelines shall be  
32 submitted to the division for review and approval. If on inspection by  
33 the division it is determined that a school district facility was  
34 inadequately maintained pursuant to the school district's routine  
35 preventive maintenance guidelines, the school district shall return the  
36 building to compliance with the school district's routine preventive  
37 maintenance guidelines.

38 M. The ~~board and the~~ division may temporarily transfer monies, or,  
39 if applicable, **THE BOARD MAY** direct the division to transfer monies,  
40 between the emergency deficiencies correction fund established by section  
41 41-5721 and the new school facilities fund established by section 41-5741  
42 if all of the following conditions are met:

43 1. The transfer is necessary to avoid a temporary shortfall in the  
44 fund into which the monies are transferred.



1           2. The buildings are in compliance with federal, state and local  
2 building and fire codes and laws that apply to the particular building,  
3 except that a school with an aggregate area of less than five thousand  
4 square feet is subject to permitting and inspection by a local fire  
5 marshal and is only subject to regulation or inspection by the office of  
6 the state fire marshal if the county, city or town in which the school is  
7 located does not employ a local fire marshal. An existing school building  
8 is not required to comply with current requirements for new buildings  
9 unless this compliance is specifically mandated by law or by the building  
10 or fire code of the jurisdiction where the building is located.

11           3. The building systems, including roofs, plumbing, telephone  
12 systems, electrical systems, heating systems and cooling systems, are in  
13 working order and are capable of being properly maintained.

14           4. The buildings are structurally sound.

15           C. The standards that shall be used by the board to determine  
16 whether a school building meets the minimum adequate gross square footage  
17 requirements are as follows:

18           1. For a school district that provides instruction to pupils in  
19 programs for preschool children with disabilities, kindergarten programs  
20 and grades one through six, eighty square feet per pupil in programs for  
21 preschool children with disabilities, kindergarten programs and grades one  
22 through six.

23           2. For a school district that provides instruction to up to eight  
24 hundred pupils in grades seven and eight, eighty-four square feet per  
25 pupil in grades seven and eight.

26           3. For a school district that provides instruction to more than  
27 eight hundred pupils in grades seven and eight, eighty square feet per  
28 pupil in grades seven and eight or sixty-seven thousand two hundred square  
29 feet, whichever is more.

30           4. For a school district that provides instruction to up to four  
31 hundred pupils in grades nine through twelve, one hundred twenty-five  
32 square feet per pupil in grades nine through twelve.

33           5. For a school district that provides instruction to more than  
34 four hundred and up to one thousand pupils in grades nine through twelve,  
35 one hundred twenty square feet per pupil in grades nine through twelve or  
36 fifty thousand square feet, whichever is more.

37           6. For a school district that provides instruction to more than one  
38 thousand and up to one thousand eight hundred pupils in grades nine  
39 through twelve, one hundred twelve square feet per pupil in grades nine  
40 through twelve or one hundred twenty thousand square feet, whichever is  
41 more.

42           7. For a school district that provides instruction to more than one  
43 thousand eight hundred pupils in grades nine through twelve, ninety-four  
44 square feet per pupil in grades nine through twelve or two hundred one  
45 thousand six hundred square feet, whichever is more.

1 D. The board may modify the square footage requirements prescribed  
2 in subsection C of this section or modify the amount of monies awarded to  
3 cure the square footage deficiency pursuant to this section for particular  
4 school districts based on extraordinary circumstances for any of the  
5 following considerations:

- 6 1. The number of pupils served by the school district.
- 7 2. Geographic factors.
- 8 3. Grade configurations other than those prescribed in subsection C  
9 of this section.

10 E. In measuring the square footage per pupil requirements of  
11 subsection C of this section, the board shall:

12 1. Use the projected one hundredth day average daily membership for  
13 the current school year.

14 2. For each school, use the lesser of either:

15 (a) Total gross square footage.

16 (b) Student capacity multiplied by the appropriate square footage  
17 per pupil prescribed by subsection C of this section.

18 3. Consider the total space available in all schools in use in the  
19 school district, except that the board shall allow an exclusion of the  
20 square footage for certain schools and the pupils within the schools'  
21 boundaries if the school district demonstrates to the board's satisfaction  
22 unusual or excessive busing of pupils or unusual attendance boundary  
23 changes between schools.

24 4. Compute the gross square footage of all buildings by measuring  
25 from exterior wall to exterior wall. Square footage used solely for  
26 district administration, storage of vehicles and other nonacademic  
27 purposes shall be excluded from the net square footage.

28 5. Include all portable and modular buildings.

29 6. Include in the net square footage new construction funded wholly  
30 or partially by the board based on the square footage funded by the  
31 board. If the new construction is to exceed the square footage funded by  
32 the board, the excess square footage shall not be included in the net  
33 square footage if any of the following applies:

34 (a) The excess square footage was constructed before July 1, 2002  
35 or funded by a class B bond, impact aid revenue bond or capital outlay  
36 override approved by the voters after August 1, 1998 and before June 30,  
37 2002 or funded from unrestricted capital outlay expended before June 30,  
38 2002.

39 (b) The excess square footage of new school facilities does not  
40 exceed twenty-five percent of the minimum square footage requirements  
41 pursuant to subsection C of this section.

42 (c) The excess square footage of expansions to school facilities  
43 does not exceed twenty-five percent of the minimum square footage  
44 requirements pursuant to subsection C of this section.

1           7. Exclude square footage built under a developer agreement  
2 according to section 15-342, paragraph 33 until the board provides funding  
3 for the square footage under section 41-5741, subsection ~~Q~~ Q.

4           8. Include square footage that a school district has leased to  
5 another entity.

6           F. The board shall adopt rules establishing minimum school facility  
7 adequacy guidelines. The guidelines shall provide the minimum quality and  
8 quantity of school buildings and facilities and equipment necessary and  
9 appropriate to enable pupils to achieve the academic standards pursuant to  
10 section 15-203, subsection A, paragraphs 12 and 13 and sections 15-701 and  
11 15-701.01. At a minimum, the board shall address all of the following in  
12 developing these guidelines:

13           1. School sites.

14           2. Classrooms.

15           3. Libraries and media centers, or both.

16           4. Cafeterias.

17           5. Auditoriums, multipurpose rooms or other multiuse space.

18           6. Technology.

19           7. Transportation.

20           8. Facilities for science, arts and physical education.

21           9. Other facilities and equipment that are necessary and  
22 appropriate to achieve the academic standards prescribed pursuant to  
23 section 15-203, subsection A, paragraphs 12 and 13 and sections 15-701 and  
24 15-701.01.

25           10. Appropriate combinations of facilities or uses listed in this  
26 section.

27           G. The board may convene subcommittees as needed on specific  
28 issues, including school facility safety standards. Notwithstanding any  
29 other law, a school district that receives grant monies from the building  
30 renewal grant fund established by section 41-5731 or monies from the new  
31 school facilities fund established by section 41-5741 shall consider  
32 school facility safety standards when completing approved projects or  
33 constructing new school facilities with monies received from those funds.

34           H. The board shall consider the facilities and equipment of the  
35 schools with the highest academic productivity scores, as prescribed in  
36 section 41-5702, subsection A, paragraph 6, subdivision (d), and the  
37 highest parent quality ratings in the establishment of the guidelines.

38           I. The board may consider appropriate combinations of facilities or  
39 uses in assessing and curing existing deficiencies pursuant to section  
40 41-5702, subsection A, paragraph 1 and in certifying plans for new school  
41 facilities pursuant to section 41-5702, subsection C, paragraph 2.

42           J. If the board makes any changes to the minimum adequacy  
43 requirements prescribed in this section, the board shall provide a fiscal  
44 impact statement of the effect of the proposed changes to the joint  
45 committee on capital review for review.

1 K. For the purposes of this section, "student capacity" means the  
2 capacity adjusted to include any additions to or deletions of space,  
3 including modular or portable buildings at the school. The board shall  
4 determine the student capacity for each school in conjunction with each  
5 school district, recognizing each school's allocation of space as of July  
6 1, 1998, to achieve the academic standards prescribed pursuant to section  
7 15-203, subsection A, paragraphs 12 and 13 and sections 15-701 and  
8 15-701.01.

9 Sec. 4. Section 41-5731, Arizona Revised Statutes, is amended to  
10 read:

11 41-5731. Building renewal grant fund; rules; definitions

12 A. The building renewal grant fund is established consisting of  
13 monies appropriated to the fund by the legislature. The division shall  
14 administer the fund and distribute monies to school districts for the  
15 purpose of maintaining the adequacy of existing school facilities **EXCEPT**  
16 **AS PROVIDED IN SECTION 41-5741**. Monies in the fund are exempt from the  
17 provisions of section 35-190 relating to lapsing of appropriations.

18 B. The division shall distribute monies from the building renewal  
19 grant fund based on grant requests from school districts to fund primary  
20 building renewal projects. Project requests shall be prioritized by the  
21 division, with priority given to school districts that have provided  
22 routine preventive maintenance on the facility. A school district must  
23 submit a preventive maintenance plan to the division to be eligible to  
24 receive monies from the building renewal grant fund. The division shall  
25 approve only projects that will be completed within twelve months, unless  
26 similar projects on average take longer to complete. A grant issued under  
27 this section expires twelve months after the grant request is approved  
28 unless the division issues an extension, except that if the division  
29 approves a project and determines that similar projects on average take  
30 longer than twelve months to complete, the division shall extend the grant  
31 expiration date based on the average amount of time that similar projects  
32 take to complete. The division shall establish a process by which a  
33 school district may request an extension under this subsection. On  
34 expiration of a grant, a school district shall return any building renewal  
35 grant fund monies that the school district has not spent to the division  
36 for deposit in the building renewal grant fund. The division may spend  
37 monies from the fund for assessments to determine whether a grant from the  
38 fund is warranted under this section.

39 C. School districts that receive monies from the building renewal  
40 grant fund shall use these monies on projects for buildings or any part of  
41 a building in the division's database for any of the following:

- 42 1. Major renovations and repairs to a building that is used for  
43 student instruction or other academic purposes.
- 44 2. Upgrading systems and areas that will maintain or extend the  
45 useful life of the building.

- 1           3. Infrastructure costs.
- 2           D. Monies received from the fund shall not be used for any of the
- 3 following purposes:
- 4           1. New construction.
- 5           2. Remodeling interior space for aesthetic or preferential reasons.
- 6           3. Exterior beautification.
- 7           4. Demolition.
- 8           5. Routine preventive maintenance.
- 9           6. Any project in a building, or part of a building, that is being
- 10 leased to another entity.
- 11           E. Accommodation schools are not eligible for monies from the
- 12 building renewal grant fund. PROJECTS FOR WHICH A SCHOOL DISTRICT
- 13 RECEIVES MONIES FROM THE NEW SCHOOL FACILITIES FUND ESTABLISHED BY SECTION
- 14 41-5741 ARE NOT ELIGIBLE FOR MONIES FROM THE BUILDING RENEWAL GRANT FUND.
- 15           F. If the division or a court of competent jurisdiction determines
- 16 that a school district received monies from the building renewal grant
- 17 fund that must be reimbursed to the division due to legal action
- 18 associated with improper construction by a hired contractor, the school
- 19 district shall reimburse the division an agreed-on amount for deposit ~~into~~
- 20 ~~IN~~ the building renewal grant fund.
- 21           G. The division shall categorize each project that is eligible for
- 22 monies from the building renewal grant fund as either critical or
- 23 noncritical. The division shall adopt policies and procedures to
- 24 prioritize critical projects and to designate critical projects as
- 25 projects that immediately impact student safety or building closures or
- 26 that result in operational disruptions. Critical projects have priority
- 27 over any previously approved noncritical projects.
- 28           H. If the division determines that sufficient monies are not
- 29 available for a noncritical project that the division has approved, the
- 30 division shall notify the school district that submitted the project
- 31 request that monies will be distributed from the building renewal grant
- 32 fund for the project only if the legislature appropriates sufficient
- 33 monies. If sufficient monies are not available in the fiscal year in
- 34 which the project is awarded for a noncritical project, the noncritical
- 35 project does not receive priority in the next fiscal year.
- 36           I. Building renewal grants pursuant to this section shall be used
- 37 only for projects that serve an academic purpose.
- 38           J. The division shall do both of the following:
- 39           1. Implement policies and procedures to require a school district
- 40 to report the preventive maintenance activities completed during the
- 41 previous twelve months for the facility for which the monies are being
- 42 requested.
- 43           2. Submit a monthly report to the school facilities oversight board
- 44 that details how monies from the building renewal grant fund have been
- 45 distributed.



1 K. In addition to establishing a project eligibility assessment  
2 under section 41-5702, subsection A, paragraph 5, subdivision (b), the  
3 division shall adopt rules regarding both of the following:

4 1. The approval of building renewal grants pursuant to this  
5 section.

6 2. Time frames for the division regarding all of the following with  
7 respect to this section:

8 (a) Approving or denying grant requests for critical projects.

9 (b) Notifying an applicant if the applicant's application is  
10 incomplete.

11 (c) Providing regular updates to applicants regarding completed  
12 applications.

13 (d) Distributing monies from the building renewal grant fund.

14 L. The board shall review all policies and procedures that the  
15 division develops to administer this section.

16 M. The division may spend monies from the fund for assessments to  
17 determine ~~if~~ **WHETHER** a grant from the fund is warranted under this  
18 section.

19 N. For the purposes of this section:

20 1. "Primary building renewal projects" means projects that are  
21 necessary for buildings owned by school districts that are required to  
22 meet the minimum adequacy standards for student capacity and that fall  
23 below the minimum school facility adequacy guidelines, as adopted by the  
24 board pursuant to section 41-5711, for school districts that have provided  
25 routine preventive maintenance to the school facility.

26 2. "Routine preventive maintenance" means services that are  
27 performed on a regular schedule at intervals ranging from four times a  
28 year to once every three years, or on the schedule of services recommended  
29 by the manufacturer of the specific building system or equipment, and that  
30 are intended to extend the useful life of a building system and reduce the  
31 need for major repairs.

32 3. "Student capacity" has the same meaning prescribed in section  
33 41-5711.

34 Sec. 5. Section 41-5741, Arizona Revised Statutes, is amended to  
35 read:

36 **41-5741. New school facilities fund; capital plan; reporting**  
37 **requirements**

38 A. The new school facilities fund is established consisting of  
39 monies appropriated by the legislature and monies credited to the new  
40 school facilities fund pursuant to section 37-221. The division shall  
41 administer the new school facilities fund and, at the direction of the  
42 school facilities oversight board, shall distribute monies, as a  
43 continuing appropriation, to school districts for the purpose of:

44 1. Constructing new school facilities.

1           2. ~~and for~~ Contracted expenses pursuant to section 41-5702,  
2 subsection B, paragraphs 2, 3 and 4.

3           3. RENOVATING OR REPLACING A FACILITY OR FACILITIES THAT A SCHOOL  
4 DISTRICT BELIEVES POSE A HEALTH OR SAFETY THREAT TO STUDENTS AND ARE  
5 BEYOND THEIR USEFUL LIFE.

6           B. The school facilities oversight board shall prescribe a uniform  
7 format for use by the school district governing board in developing and  
8 annually updating a capital plan FOR NEW SCHOOL FACILITIES CONSTRUCTION  
9 that consists of each of the following:

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

13          2. A description of new schools or additions to existing schools  
14 needed to meet the building adequacy standards prescribed in section  
15 41-5711. The description shall include:

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

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

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

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

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

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

33          C. If the capital plan PRESCRIBED IN SUBSECTION B OF THIS SECTION  
34 indicates a need for a new school or an addition to an existing school  
35 within the next four years or a need for land within the next ten years,  
36 the school district shall submit its plan to the school facilities  
37 oversight board on or before September 1 and shall request monies from the  
38 new school facilities fund for the new construction or land. The board  
39 may require a school district to sell land that was previously purchased  
40 entirely with monies provided by the board if the board determines that  
41 the property is no longer needed within the ten-year period specified in  
42 this subsection for a new school or no longer needed within that ten-year  
43 period for an addition to an existing school. Monies provided for land  
44 are in addition to any monies provided pursuant to subsection D of this  
45 section.

1 D. At the direction of the board, the division shall distribute  
2 monies from the new school facilities fund for additional square footage  
3 **FOR NEW SCHOOL FACILITIES CONSTRUCTION** as follows:

4 1. The board shall review and evaluate the enrollment  
5 projections. On or before December 15 of each year, following the  
6 submission of the enrollment projections, the board shall either approve  
7 the projections as submitted or revise the projections. In approving or  
8 revising the enrollment projections, the board shall use the average daily  
9 membership data available during the current school year. On request from  
10 the board, the department of education shall make available the most  
11 recent average daily membership data for use in revising the enrollment  
12 projections. In determining new construction requirements, the board  
13 shall determine the net new growth of pupils that will require additional  
14 square footage that exceeds the building adequacy standards prescribed in  
15 section 41-5711. If the projected growth and the existing number of  
16 pupils exceed three hundred fifty pupils who are served in a school  
17 district other than the pupil's resident school district, the board, the  
18 receiving school district and the resident school district shall develop a  
19 capital facilities plan on how to best serve those pupils. A small  
20 isolated school district as defined in section 15-901 is not required to  
21 develop a capital facilities plan pursuant to this paragraph.

22 2. If the average daily membership projections indicate that  
23 additional space will not be needed within the next two school years in  
24 order to meet the building adequacy standards prescribed in section  
25 41-5711, the request shall be held for consideration by the board for  
26 possible future funding and the school district shall annually submit an  
27 updated plan until the additional space is needed.

28 3. If the average daily membership projections indicate that  
29 additional space will be needed within the next two school years in order  
30 to meet the building adequacy standards prescribed in section 41-5711, the  
31 board shall provide an amount as follows:

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

41 (b) Multiply the number of pupils determined in subdivision (a) of  
42 this paragraph by the square footage per pupil. The square footage per  
43 pupil is ninety square feet per pupil for preschool children with  
44 disabilities, kindergarten programs and grades one through six, one  
45 hundred square feet for grades seven and eight, one hundred thirty-four

1 square feet for a school district that provides instruction in grades nine  
2 through twelve for fewer than one thousand eight hundred pupils and one  
3 hundred twenty-five square feet for a school district that provides  
4 instruction in grades nine through twelve for at least one thousand eight  
5 hundred pupils. The total number of pupils in grades nine through twelve  
6 in the district shall determine the square footage factor to use for net  
7 new pupils. The board may modify the square footage requirements  
8 prescribed in this subdivision for particular schools based on any of the  
9 following factors:

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

12 (ii) Geographic factors.

13 (iii) Grade configurations other than those prescribed in this  
14 subdivision.

15 (iv) Compliance with minimum school facility adequacy requirements  
16 established pursuant to section 41-5711.

17 (c) Multiply the product obtained in subdivision (b) of this  
18 paragraph by the cost per square foot. The cost per square foot is  
19 \$270.24 for preschool children with disabilities, kindergarten programs  
20 and grades one through six, \$285.30 for grades seven and eight and \$330.30  
21 for grades nine through twelve. The cost per square foot shall be  
22 adjusted annually for construction market considerations based on an index  
23 identified or developed by the joint legislative budget committee as  
24 necessary but not less than once each year. Each annual construction  
25 market adjustment applies to all projects approved by the school  
26 facilities **OVERSIGHT** board under this subsection during that year. The  
27 board shall multiply the cost per square foot by 1.05 for any school  
28 district located in a rural area. The board may only modify the base cost  
29 per square foot prescribed in this subdivision for particular schools  
30 based on geographic conditions or site conditions. Any extra monies  
31 received as a result of a modification based on geographic conditions or  
32 site conditions may be used to address unforeseen costs at any stage of a  
33 project under this section. For the purposes of this subdivision, "rural  
34 area" means an area outside a thirty-five-mile radius of a boundary of a  
35 municipality with a population of more than fifty thousand persons.

36 (d) Once the school district governing board obtains approval from  
37 the board for new facility construction monies, additional portable or  
38 modular square footage created for the express purpose of providing  
39 temporary space for pupils until the completion of the new facility and  
40 any additional space funded by the school district shall not be included  
41 by the board for the purpose of new construction funding calculations. On  
42 completion of the new facility construction project, any additional space  
43 funded by the school district shall be included as prescribed by this  
44 chapter and, if the portable or modular facilities continue in use, the  
45 portable or modular facilities shall be included as prescribed by this

1 chapter, unless the board approves their continued use for the purpose of  
2 providing temporary space for pupils until the completion of the next new  
3 facility that has been approved for funding from the new school facilities  
4 fund.

5 4. For projects approved after December 31, 2001, and  
6 notwithstanding paragraph 3 of this subsection, a unified school district  
7 that does not have a high school is not eligible to receive high school  
8 space as prescribed by section 41-5711 and this section unless the unified  
9 district qualifies for geographic factors prescribed by paragraph 3,  
10 subdivision (b), item (ii) of this subsection.

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

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

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

22 E. THE SCHOOL FACILITIES OVERSIGHT BOARD SHALL PRESCRIBE A UNIFORM  
23 FORMAT FOR USE BY SCHOOL DISTRICT GOVERNING BOARDS IN DEVELOPING A CAPITAL  
24 PLAN FOR CONSTRUCTION TO RENOVATE OR REPLACE SCHOOL FACILITIES. THE  
25 CAPITAL PLAN SHALL INCLUDE BOTH OF THE FOLLOWING:

26 1. THE CONDITION OF THE SCHOOL FACILITY THAT THE SCHOOL DISTRICT IS  
27 PROPOSING TO RENOVATE OR REPLACE, INCLUDING ANY HEALTH AND SAFETY CONCERNS  
28 THAT CAUSE A SIGNIFICANT BURDEN TO THE SCHOOL DISTRICT.

29 2. A DESCRIPTION OF ALL SCHOOL DISTRICT FACILITIES OF THE SAME TYPE  
30 THE SCHOOL DISTRICT IS PROPOSING TO REPLACE OR RENOVATE THAT ARE NOT  
31 CURRENTLY BEING USED FOR EDUCATION FOR PUPILS IN PROGRAMS FOR PRESCHOOL  
32 CHILDREN WITH DISABILITIES, KINDERGARTEN PROGRAMS OR GRADES ONE THROUGH  
33 TWELVE AND THAT ARE WITHIN A FIVE-MILE RADIUS OF THE SCHOOL FACILITY,  
34 INCLUDING SCHOOL DISTRICT FACILITIES THAT ARE OUTSIDE OF THE SCHOOL  
35 DISTRICT'S BOUNDARIES.

36 F. A SCHOOL DISTRICT MAY APPLY TO THE BOARD FOR NEW SCHOOL  
37 FACILITIES FUND MONIES TO RENOVATE OR REPLACE AN EXISTING SCHOOL FACILITY.  
38 ON RECEIPT OF A COMPLETED APPLICATION FROM A SCHOOL DISTRICT FOR MONIES TO  
39 RENOVATE OR REPLACE AN EXISTING SCHOOL FACILITY, THE BOARD SHALL REVIEW  
40 THE APPLICATION. IF IT IS CLEAR FROM THE APPLICATION THAT THE SCHOOL  
41 DISTRICT DOES NOT SATISFY ONE OR MORE OF THE QUALIFICATIONS PRESCRIBED IN  
42 THIS SUBSECTION, THE BOARD SHALL DENY THE APPLICATION. AFTER THE INITIAL  
43 REVIEW, THE BOARD SHALL NOTIFY THE DIVISION, AND THE DIVISION SHALL  
44 PROCURE AN ASSESSMENT IN ACCORDANCE WITH CHAPTER 23 OF THIS TITLE, EXCEPT  
45 THAT THE DIVISION MAY NOT PROCURE AN ASSESSMENT IF THE DIVISION IS ABLE TO

1 DETERMINE WITHOUT AN ASSESSMENT THAT THE SCHOOL DISTRICT DOES NOT SATISFY  
2 ONE OR MORE OF THE QUALIFICATIONS PRESCRIBED IN THIS SUBSECTION. THE  
3 ASSESSMENT SHALL DETERMINE WHETHER THE FACILITY POSES A HEALTH OR SAFETY  
4 THREAT TO STUDENTS, SHALL DETERMINE WHETHER THE FACILITY IS BEYOND ITS  
5 USEFUL LIFE AND SHALL INCLUDE A FACILITY CONDITION INDEX TO DETERMINE  
6 WHETHER THE COST TO REPAIR THE FACILITY IS FIFTY PERCENT OR MORE OVER A  
7 FIVE-YEAR PERIOD THAN THE COST TO RENOVATE OR REPLACE THE FACILITY. THE  
8 DIVISION SHALL SUBMIT THE ASSESSMENT AND THE DIVISION'S RECOMMENDATION TO  
9 THE BOARD, OR, IF THE DIVISION DETERMINES WITHOUT AN ASSESSMENT THAT THE  
10 SCHOOL DISTRICT DOES NOT SATISFY ONE OR MORE OF THE QUALIFICATIONS  
11 PRESCRIBED IN THIS SUBSECTION, THE DIVISION SHALL SUBMIT THIS  
12 DETERMINATION TO THE BOARD, AND THE BOARD SHALL DETERMINE WHETHER THE  
13 FACILITY IS SUITABLE FOR RENOVATION OR REPLACEMENT. AT THE DIRECTION OF  
14 THE BOARD AND SUBJECT TO LEGISLATIVE APPROPRIATION, THE DIVISION SHALL  
15 DISTRIBUTE MONIES FROM THE FUND IN AN AMOUNT DETERMINED BY THE BOARD AFTER  
16 REVIEW OF THE ASSESSMENT IF ALL OF THE FOLLOWING APPLY:

17 1. THE SCHOOL DISTRICT DOES NOT HAVE ACCESS TO UNDERUTILIZED SCHOOL  
18 FACILITIES OF THE SAME TYPE THAT COULD SERVE AS AN ADEQUATE REPLACEMENT  
19 WITHIN A FIVE-MILE RADIUS OF THE SCHOOL FACILITY THAT THE SCHOOL DISTRICT  
20 IS PROPOSING TO RENOVATE OR REPLACE.

21 2. THE SCHOOL DISTRICT DOES NOT HAVE SUFFICIENT SCHOOL FACILITIES  
22 OF THE SAME TYPE AND ON THE SAME PROPERTY AS THE PROPOSED PROJECT THAT ARE  
23 BEING UNDERUTILIZED.

24 3. THE ASSESSMENT PROCURED BY THE DIVISION REVEALS THAT THE COST TO  
25 REPAIR THE FACILITY OVER A FIVE-YEAR PERIOD IS AT LEAST FIFTY PERCENT OF  
26 THE COST TO MEET THE MINIMUM SCHOOL FACILITY ADEQUACY GUIDELINES AS  
27 ADOPTED BY THE BOARD PURSUANT TO SECTION 41-5711 AND THAT THE FACILITY  
28 POSES A HEALTH OR SAFETY THREAT TO STUDENTS AND IS BEYOND ITS USEFUL LIFE.

29 4. THE SCHOOL AT WHICH THE FACILITY WILL BE RENOVATED OR REPLACED  
30 BOTH:

31 (a) HAS AN ENROLLMENT OF AT LEAST SEVENTY-FIVE PERCENT OF THE  
32 AMOUNT GENERATED BY THE MINIMUM ADEQUATE GROSS SQUARE FOOTAGE REQUIREMENTS  
33 PRESCRIBED IN SECTION 41-5711.

34 (b) HAS NOT RECEIVED A LETTER GRADE DESIGNATION OF D OR F PURSUANT  
35 TO SECTION 15-241 ON THE THREE MOST RECENT REPORT CARDS.

36 5. THE LEGISLATURE APPROPRIATES A SUFFICIENT AMOUNT OF MONIES FOR  
37 CONSTRUCTION COSTS FOR THE RENOVATION OR REPLACEMENT, INCLUDING COSTS FOR  
38 DEMOLISHING, REMOVING OR MOVING AN EXISTING FACILITY.

39 G. THE BOARD SHALL LIMIT THE SCOPE OF RENOVATION OR REPLACEMENT  
40 PROJECTS UNDER THIS SECTION ACCORDING TO THE FOLLOWING FACTORS:

41 1. THE NUMBER OF PUPILS SERVED OR PROJECTED TO BE SERVED BY THE  
42 SCHOOL AS DETERMINED BY THE DIVISION.

43 2. GEOGRAPHIC FACTORS.

44 3. COMPLIANCE WITH MINIMUM SCHOOL FACILITY ADEQUACY REQUIREMENTS  
45 ESTABLISHED PURSUANT TO SECTION 41-5711.

1           ~~F.~~ H. Monies for architectural and engineering fees, project  
2 management services and preconstruction services shall be distributed on  
3 the completion of the analysis by the board of the school district's  
4 request. After receiving monies pursuant to this subsection, the school  
5 district shall submit a design development plan for the school or addition  
6 to the board before any monies for construction are distributed. If the  
7 school district's request meets the building adequacy standards, the board  
8 may review and comment on the district's plan with respect to the  
9 efficiency and effectiveness of the plan in meeting state square footage  
10 and facility standards before directing the distribution of the remainder  
11 of the monies. If the board modifies the cost per square foot as  
12 prescribed in subsection D, paragraph 3, subdivision (c) of this section,  
13 the board may deduct the cost of project management services and  
14 preconstruction services from the required cost per square foot. The  
15 board may decline to fund the project if the square footage is no longer  
16 required due to revised enrollment projections. The board may decline a  
17 portion of the funding if a portion of the square footage is no longer  
18 needed due to revised enrollment projections.

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

1 for a donation of land pursuant to section 15-342, paragraph 33 shall not  
2 receive monies from the board or the division for the donation of real  
3 property pursuant to this subsection. A school district shall not pay a  
4 consultant a percentage of the value of any of the following:

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

7 (a) Entities that have offered to provide construction services to  
8 the school district.

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

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

12 (d) Entities that develop land for residential use in that school  
13 district.

14 2. Monies received under this chapter on behalf of the school  
15 district.

16 3. Monies paid by or at the direction of the board on behalf of the  
17 school district.

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

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

42 ~~I.~~ K. If a school district has surplus monies received from the  
43 new school facilities fund, the school district may use the surplus monies  
44 only for capital purposes for the project for up to one year after  
45 completion of the project. If the school district possesses surplus



1 monies from the new school construction project that have not been  
 2 expended within one year of the completion of the project, the school  
 3 district shall return the surplus monies to the division for deposit in  
 4 the new school facilities fund.

5 ~~J.~~ L. The board's consideration of any application filed after  
 6 December 31 of the year in which the property becomes territory in the  
 7 vicinity of a military airport or ancillary military facility as defined  
 8 in section 28-8461 for monies to fund the construction of new school  
 9 facilities proposed to be located in territory in the vicinity of a  
 10 military airport or ancillary military facility shall include, if after  
 11 notice is transmitted to the military airport pursuant to section 41-5702  
 12 and before the public hearing the military airport provides comments and  
 13 an analysis concerning compatibility of the proposed school facilities  
 14 with the high noise or accident potential generated by military airport or  
 15 ancillary military facility operations that may have an adverse effect on  
 16 public health and safety, consideration and an analysis of the comments  
 17 and an analysis provided by the military airport before making a final  
 18 determination.

19 ~~K.~~ M. If a school district uses its own project manager for new  
 20 school construction, the members of the school district governing board  
 21 and the project manager shall sign an affidavit stating that the members  
 22 and the project manager understand and will follow the minimum adequacy  
 23 requirements prescribed in section 41-5711.

24 ~~L.~~ N. The division shall establish a separate account in the new  
 25 school facilities fund designated as the litigation account to pay  
 26 attorney fees, expert witness fees and other costs associated with  
 27 litigation in which the board pursues the recovery of damages for  
 28 deficiencies correction that resulted from alleged construction defects or  
 29 design defects that the board believes caused or contributed to a failure  
 30 of the school building to conform to the building adequacy requirements  
 31 prescribed in section 41-5711. Attorney fees paid pursuant to this  
 32 subsection shall not exceed the market rate for similar types of  
 33 litigation. On or before December 1 of each year, the board shall report  
 34 to the joint committee on capital review the costs associated with current  
 35 and potential litigation that may be paid from the litigation account.

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

41 ~~N.~~ P. The board shall submit electronically a report on project  
 42 management services and preconstruction services to the governor, the  
 43 president of the senate and the speaker of the house of representatives by  
 44 December 31 of each year. The report shall compare projects that use  
 45 project management and preconstruction services with those that do not.

1 The report shall address cost, schedule and other measurable components of  
2 a construction project. School districts, construction-manager-at-risk  
3 firms and project management firms that participate in a board-funded  
4 project shall provide the information required by the board in relation to  
5 this report.

6 ~~Q.~~ Q. If a school district constructs new square footage according  
7 to section 15-342, paragraph 33, the board shall review the design plans  
8 and location of any new school facility submitted by school districts and  
9 another party to determine whether the design plans comply with the  
10 adequacy standards prescribed in section 41-5711 and the square footage  
11 per pupil requirements pursuant to subsection D, paragraph 3, subdivision  
12 (b) of this section. When the school district qualifies for a  
13 distribution of monies from the new school facilities fund according to  
14 this section, the board shall direct the division to distribute monies to  
15 the school district from the new school facilities fund for the square  
16 footage constructed under section 15-342, paragraph 33 at the same cost  
17 per square foot established by this section that was in effect at the time  
18 of the beginning of the construction of the school facility. Before the  
19 board directs the division to distribute any monies pursuant to this  
20 subsection, the school district shall demonstrate to the board that the  
21 facilities to be funded pursuant to this section meet the minimum adequacy  
22 standards prescribed in section 41-5711. The agreement entered into  
23 pursuant to section 15-342, paragraph 33 shall set forth the procedures  
24 for the allocation of these funds to the parties that participated in the  
25 agreement.

26 ~~R.~~ R. Accommodation schools are not eligible for monies from the  
27 new school facilities fund.

28 ~~S.~~ S. If the board approves a school district for funding from the  
29 new school facilities fund **FOR NEW SCHOOL FACILITIES CONSTRUCTION** and the  
30 full legislative appropriation is not available to the school district in  
31 the fiscal year following the approval by the board, the school district  
32 may use any legally available monies to pay for the land or the new  
33 construction project approved by the board and may reimburse the fund from  
34 which the monies were used in subsequent years with legislative  
35 appropriations when those appropriations are made available by this state.  
36 **THIS SUBSECTION DOES NOT APPLY TO RENOVATION OR REPLACEMENT PROJECTS.**

37 Sec. 6. Effective date

38 This act is effective from and after December 31, 2022.