

REFERENCE TITLE: school facilities; replacement; renovation; funding

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
Second Regular Session  
2024

## **HB 2863**

Introduced by

Representatives Schwiebert: Austin, Blattman, Contreras L, Contreras P,  
Crews, De Los Santos, Hernandez A, Ortiz, Pawlik, Quiñonez, Sandoval,  
Seaman, Stahl Hamilton, Terech, Villegas; Senators Alston, Marsh

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.

1           15. Suspend a teacher or administrator from the teacher's or  
2 administrator's duties without pay for a period of time of not to exceed  
3 ten school days, if the board determines that suspension is warranted  
4 pursuant to section 15-341, subsection A, paragraph 21 or 22.

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

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

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

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

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 Donate surplus or outdated learning materials, educational  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

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

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

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

35           22. Require students to wear uniforms.

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

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

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

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

23 25. Notwithstanding section 15-341, subsection A, paragraphs 7 and  
24 9, construct school buildings and purchase or lease school sites, without  
25 a vote of the school district electors, if the buildings and sites are  
26 totally funded from one or more of the following:

27 (a) Monies in the unrestricted capital outlay fund, except that the  
28 estimated cost shall not exceed \$250,000 for a district that uses section  
29 15-949.

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

34 (c) Monies specifically donated for the purpose of constructing  
35 school buildings.

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

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

1 costs of fingerprint checks for personnel who are not paid employees of  
2 the school district.

3 27. Unless otherwise prohibited by law, sell advertising as  
4 follows:

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

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

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

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

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

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

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

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

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

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

1           30. Notwithstanding section 15-1143, spend surplus monies in the  
2 community school program fund for maintenance and operations or  
3 unrestricted capital outlay if sufficient monies are available in the fund  
4 after meeting the needs of programs established pursuant to section  
5 15-1142.

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

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

13           (a) The policy may provide reasonable exceptions to the parental  
14 notification requirement.

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

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



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

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

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

37 (c) A community facilities district established pursuant to title  
 38 48, chapter 4, article 6 to be used for reimbursement of financing the  
 39 construction of a school pursuant to this paragraph.

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

1 planned community" means a land area consisting of at least three hundred  
2 twenty acres, which may be noncontiguous, that is the subject of a zoning  
3 ordinance approved by the governing body of the county, city or town in  
4 which the land is located that establishes the use of the land area as a  
5 planned area development or district, planned community development or  
6 district, planned unit development or district or other land use category  
7 or district that is recognized in the local ordinance of such county, city  
8 or town and that specifies the use of such land is for a master planned  
9 development.

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

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

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

25 37. Prescribe and enforce policies and procedures for the emergency  
26 administration of inhalers by trained employees of the school district and  
27 nurses who are under contract with the school district pursuant to section  
28 15-158.

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

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

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

38 41-5702. Powers and duties; staffing; reporting requirements

39 A. The division shall:

40 1. Assess school facilities and equipment deficiencies and approve  
41 the distribution of grants as appropriate.

42 2. Maintain a database of school facilities to allow for the  
43 administration of the new school facilities formula and the building  
44 renewal grant fund. The facilities listed in the database must include  
45 all buildings that are owned by school districts. The division shall

1 ensure that the database is updated on at least an annual basis. Each  
 2 school district shall report to the division not later than September 1 of  
 3 each year information as required by the division to administer the  
 4 building renewal grant fund and by the school facilities oversight board  
 5 to compute new school facilities formula distributions, including the  
 6 nature and cost of major repairs, renovations or physical improvements to  
 7 or replacement of building systems or equipment that were made in the  
 8 previous year and that were paid for either with local monies or monies  
 9 provided from the building renewal grant fund. Each school district shall  
 10 report any school or school buildings that have been closed, that are  
 11 vacant or partially used pursuant to section 15-119 and that have been  
 12 leased to another entity or that operate as a charter school. The  
 13 division shall develop guidelines and definitions for the reporting  
 14 prescribed in this paragraph and may review or audit the information, or  
 15 both, to confirm the information submitted by a school district.  
 16 Notwithstanding any other provision of this chapter, if a school district  
 17 converts space that is listed in the database maintained pursuant to this  
 18 paragraph to space that will be used for administrative purposes, the  
 19 school district is responsible for any costs associated with converting,  
 20 maintaining and replacing that space. If a building is significantly  
 21 upgraded or remodeled, the division shall adjust the age of that school  
 22 facility in the database as follows:

- 23 (a) Determine the building capacity value as follows:
  - 24 (i) Multiply the student capacity of the building by the per pupil
  - 25 square foot capacity established by section 41-5741.
  - 26 (ii) Multiply the product determined in item (i) of this
  - 27 subdivision by the cost per square foot established by section 41-5741.
- 28 (b) Divide the cost of the renovation by the building capacity
- 29 value determined in subdivision (a) of this paragraph.
- 30 (c) Multiply the quotient determined in subdivision (b) of this
- 31 paragraph by the currently listed age of the building in the database.
- 32 (d) Subtract the product determined in subdivision (c) of this
- 33 paragraph from the currently listed age of the building in the database,
- 34 rounded to the nearest whole number. If the result is a negative number,
- 35 use zero.

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

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

13           5. Develop application forms, reporting forms and procedures to  
14 carry out the requirements of this article, including developing and  
15 implementing policies and procedures to:

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

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

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

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

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

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

1           6. Submit electronically an annual report on or before December 15  
2 to the speaker of the house of representatives, the president of the  
3 senate, the superintendent of public instruction, the secretary of state  
4 and the governor that includes the following information:

5           (a) A detailed description of the amount of monies distributed by  
6 the division under this chapter in the previous fiscal year.

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

11           (c) A summary of the findings and conclusions of the building  
12 maintenance inspections conducted pursuant to this article during the  
13 previous fiscal year.

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

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

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

41           9. Every two years, provide school districts with information on  
42 improving and maintaining the indoor environmental quality in school  
43 buildings.

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

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

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

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

9           (a) The emergency deficiencies correction fund established by  
10 section 41-5721.

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

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

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

16           1. Private services.

17           2. Construction project management services.

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

21           ~~4.~~ 3. Services related to land acquisition and development of a  
22 school site.

23           C. The school facilities oversight board shall:

24           1. Review and approve student population projections submitted by  
25 school districts to determine to what extent school districts are entitled  
26 to monies to construct new facilities pursuant to section 41-5741. The  
27 board shall make a final determination within five months after receiving  
28 an application from a school district for monies from the new school  
29 facilities fund.

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

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

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

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

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

1 (c) A summary of the findings and conclusions of the building  
2 maintenance inspections conducted pursuant to this article during the  
3 previous fiscal year.

4 5. On or before December 1 of each year, electronically report to  
5 the joint committee on capital review the amounts necessary to fulfill the  
6 requirements of section 41-5741 for the following three fiscal years. In  
7 developing the amounts necessary for this report, the board shall use the  
8 most recent average daily membership data available. On request from the  
9 board, the department of education shall make available the most recent  
10 average daily membership data for use in calculating the amounts necessary  
11 to fulfill the requirements of section 41-5741 for the following three  
12 fiscal years. The board shall provide copies of the report to the  
13 president of the senate, the speaker of the house of representatives and  
14 the governor.

15 6. Adopt minimum school facility adequacy guidelines to provide the  
16 minimum quality and quantity of school buildings and the facilities and  
17 equipment necessary and appropriate to enable pupils to achieve the  
18 educational goals of the Arizona state schools for the deaf and the blind.  
19 The board shall establish minimum school facility adequacy guidelines  
20 applicable to the Arizona state schools for the deaf and the blind.

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

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

36 D. The director of the division shall serve as the director of the  
37 school facilities oversight board. The director may hire and fire  
38 necessary staff subject to chapter 4, article 4 of this title and as  
39 approved by the legislature in the budget. The staff of the school  
40 facilities oversight board is exempt from chapter 4, articles 5 and 6 of  
41 this title. The director:

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



- 1           2. Shall assist the board and the division in developing forms and  
2 procedures for distributing and reviewing applications and distributing  
3 monies to school districts.
- 4           3. May review or audit, or both, the expenditure of monies by a  
5 school district for deficiencies corrections and new school facilities.
- 6           4. Shall assist the board and the division in preparing the board's  
7 and division's annual reports.
- 8           5. Shall research and provide reports on issues of general interest  
9 to the board and the division.
- 10          6. May aid school districts in developing reasonable and  
11 cost-effective school designs in order to avoid statewide duplicated  
12 efforts and unwarranted expenditures in the area of school design.
- 13          7. May assist school districts in facilitating the development of  
14 multijurisdictional facilities.
- 15          8. Shall assist the board and the division in any other appropriate  
16 matter or method as directed by the division and the members of the board.
- 17          9. Shall establish procedures to ensure compliance with the notice  
18 and hearing requirements prescribed in section 15-905. The notice and  
19 hearing procedures adopted by the board shall include the requirement,  
20 with respect to the board's consideration of any application filed after  
21 July 1, 2001 or after December 31 of the year in which the property  
22 becomes territory in the vicinity of a military airport or ancillary  
23 military facility as defined in section 28-8461 for monies to fund the  
24 construction of new school facilities proposed to be located in territory  
25 in the vicinity of a military airport or ancillary military facility, that  
26 the military airport receive notification of the application by first  
27 class mail at least thirty days before any hearing concerning the  
28 application.
- 29          10. May expedite any request for monies in which the local match  
30 was not obtained for a project that received preliminary approval by the  
31 state board for school capital facilities.
- 32          11. Shall expedite any request for monies in which the school  
33 district governing board submits an application that shows an immediate  
34 need for a new school facility.
- 35          12. Shall determine administrative completeness within one month  
36 after receiving an application from a school district for monies from the  
37 new school facilities fund.
- 38          13. Shall provide technical support to school districts as  
39 requested by school districts in connection with constructing new school  
40 facilities and maintaining existing school facilities and may contract  
41 directly with construction project managers pursuant to subsection B of  
42 this section. This paragraph does not restrict a school district from  
43 contracting with a construction project manager using district or state  
44 resources.

1 E. When appropriate, the board and the division shall review and  
2 use the statewide school facilities inventory and needs assessment  
3 conducted by the joint committee on capital review and issued in  
4 July, 1995.

5 F. The school facilities oversight board shall contract with one or  
6 more private building inspectors to complete an initial assessment of  
7 school facilities and equipment and shall inspect each school building in  
8 this state at least once every five years to ensure compliance with  
9 section 41-5711. A copy of the inspection report, together with any  
10 recommendations for building maintenance, shall be provided to the school  
11 facilities oversight board and the governing board of the school district.

12 G. The division or the board, as applicable, may consider  
13 appropriate combinations of facilities or uses in assessing and curing  
14 deficiencies pursuant to subsection A, paragraph 1 of this section and in  
15 certifying plans for new school facilities pursuant to subsection C,  
16 paragraph 2 of this section.

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

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

23 J. The division may contract for construction services and  
24 materials that are necessary to correct existing deficiencies in school  
25 district facilities. The division may procure the construction services  
26 necessary pursuant to this subsection by any method, including  
27 construction-manager-at-risk, design-build, design-bid-build or  
28 job-order-contracting as provided by chapter 23 of this title. The  
29 construction planning and services performed pursuant to this subsection  
30 are exempt from section 41-791.01.

31 K. The division may enter into agreements with school districts to  
32 allow division staff and contractors access to school property for the  
33 purposes of performing the construction services necessary pursuant to  
34 subsection J of this section.

35 L. Each school district shall develop routine preventive  
36 maintenance guidelines for its facilities. The guidelines shall include  
37 plumbing systems, electrical systems, heating, ventilation and air  
38 conditioning systems, special equipment and other systems and for roofing  
39 systems shall recommend visual inspections performed by district staff for  
40 signs of structural stress and weakness. The guidelines shall be  
41 submitted to the division for review and approval. If on inspection by  
42 the division it is determined that a school district facility was  
43 inadequately maintained pursuant to the school district's routine  
44 preventive maintenance guidelines, the school district shall return the

1 building to compliance with the school district's routine preventive  
2 maintenance guidelines.

3 M. The ~~board and the~~ division may temporarily transfer monies, or,  
4 if applicable, **THE BOARD MAY** direct the division to transfer monies,  
5 between the emergency deficiencies correction fund established by section  
6 41-5721 and the new school facilities fund established by section 41-5741  
7 if all of the following conditions are met:

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

10 2. The transferred monies are restored to the fund where the monies  
11 originated as soon as practicable after the temporary shortfall in the  
12 other fund has been addressed.

13 3. The board and the division report to the joint committee on  
14 capital review the amount of and the reason for any monies transferred.

15 N. After notifying each school district, and if a written objection  
16 from the school district is not received by the board or the division  
17 within thirty days after the notification, the board or the division may  
18 access public utility company records of power, water, natural gas,  
19 telephone and broadband usage to assemble consistent and accurate data on  
20 utility consumption at school facilities to determine the effectiveness of  
21 facility design, operation and maintenance measures intended to reduce  
22 energy and water consumption and costs. Any public utility that provides  
23 service to a school district in this state shall provide the data  
24 requested by the board or the division pursuant to this subsection.

25 O. The division or the board shall not require a common school  
26 district that provides instruction to pupils in grade nine to obtain  
27 approval from the division or the board to reconfigure its school  
28 facilities. A common school district that provides instruction to pupils  
29 in grade nine is not entitled to additional monies from the division or  
30 the board for facilities to educate pupils in grade nine.

31 P. A school district may appeal the denial of a request for monies  
32 pursuant to this chapter or any other appealable agency action by the  
33 division or the board pursuant to chapter 6, article 10 of this  
34 title. For the purposes of this subsection, "appealable agency action"  
35 has the same meaning prescribed in section 41-1092.

36 Sec. 3. Section 41-5711, Arizona Revised Statutes, is amended to  
37 read:

38 41-5711. Minimum school facility adequacy requirements;  
39 definition

40 A. The board, as determined and prescribed in this chapter, shall  
41 provide funding to school districts for new construction as the number of  
42 pupils in the district fills the existing school facilities and requires  
43 more pupil space.

1           B. School buildings in a school district are adequate if all of the  
2 following requirements are met:

3           1. The buildings contain sufficient and appropriate space and  
4 equipment that comply with the minimum school facility adequacy guidelines  
5 established pursuant to subsection F of this section. The state shall not  
6 fund facilities for elective courses that require the school district  
7 facilities to exceed minimum school facility adequacy requirements. The  
8 board shall determine whether a school building meets the requirements of  
9 this paragraph by analyzing the total square footage that is available for  
10 each pupil in conjunction with the need for specialized spaces and  
11 equipment.

12           2. The buildings are in compliance with federal, state and local  
13 building and fire codes and laws that apply to the particular building,  
14 except that a school with an aggregate area of less than five thousand  
15 square feet is subject to permitting and inspection by a local fire  
16 marshal and is only subject to regulation or inspection by the office of  
17 the state fire marshal if the county, city or town in which the school is  
18 located does not employ a local fire marshal. An existing school building  
19 is not required to comply with current requirements for new buildings  
20 unless this compliance is specifically mandated by law or by the building  
21 or fire code of the jurisdiction where the building is located.

22           3. The building systems, including roofs, plumbing, telephone  
23 systems, electrical systems, heating systems and cooling systems, are in  
24 working order and are capable of being properly maintained.

25           4. The buildings are structurally sound.

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

29           1. For a school district that provides instruction to pupils in  
30 programs for preschool children with disabilities, kindergarten programs  
31 and grades one through six, eighty square feet per pupil in programs for  
32 preschool children with disabilities, kindergarten programs and grades one  
33 through six.

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

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

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

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

5           6. For a school district that provides instruction to more than one  
6 thousand and up to one thousand eight hundred pupils in grades nine  
7 through twelve, one hundred twelve square feet per pupil in grades nine  
8 through twelve or one hundred twenty thousand square feet, whichever is  
9 more.

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

14          D. The board may modify the square footage requirements prescribed  
15 in subsection C of this section or modify the amount of monies awarded to  
16 cure the square footage deficiency pursuant to this section for particular  
17 school districts based on extraordinary circumstances for any of the  
18 following considerations:

19           1. The number of pupils served by the school district.

20           2. Geographic factors.

21           3. Grade configurations other than those prescribed in subsection C  
22 of this section.

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

25           1. Use the projected one hundredth day average daily membership for  
26 the current school year.

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

28           (a) Total gross square footage.

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

31           3. Consider the total space available in all schools in use in the  
32 school district, except that the board shall allow an exclusion of the  
33 square footage for certain schools and the pupils within the schools'  
34 boundaries if the school district demonstrates to the board's satisfaction  
35 unusual or excessive busing of pupils or unusual attendance boundary  
36 changes between schools.

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

41           5. Include all portable and modular buildings.

42           6. Include in the net square footage new construction funded wholly  
43 or partially by the board based on the square footage funded by the  
44 board. If the new construction is to exceed the square footage funded by

1 the board, the excess square footage shall not be included in the net  
2 square footage if any of the following applies:

3 (a) The excess square footage was constructed before July 1, 2002  
4 or funded by a class B bond, impact aid revenue bond or capital outlay  
5 override approved by the voters after August 1, 1998 and before June 30,  
6 2002 or funded from unrestricted capital outlay expended before June 30,  
7 2002.

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

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

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

17 8. Include square footage that a school district has leased to  
18 another entity.

19 F. The board shall adopt rules establishing minimum school facility  
20 adequacy guidelines. The guidelines shall provide the minimum quality and  
21 quantity of school buildings and facilities and equipment necessary and  
22 appropriate to enable pupils to achieve the academic standards pursuant to  
23 section 15-203, subsection A, paragraphs 12 and 13 and sections 15-701 and  
24 15-701.01. At a minimum, the board shall address all of the following in  
25 developing these guidelines:

- 26 1. School sites.
- 27 2. Classrooms.
- 28 3. Libraries and media centers, or both.
- 29 4. Cafeterias.
- 30 5. Auditoriums, multipurpose rooms or other multiuse space.
- 31 6. Technology.
- 32 7. Transportation.
- 33 8. Facilities for science, arts and physical education.

34 9. SPECIALIZED SPACES, INCLUDING CLASSROOMS FOR SPECIAL EDUCATION  
35 AND READING SPECIALISTS.

36 ~~9.~~ 10. Other facilities and equipment that are necessary and  
37 appropriate to achieve the academic standards prescribed pursuant to  
38 section 15-203, subsection A, paragraphs 12 and 13 and sections 15-701 and  
39 15-701.01.

40 ~~10.~~ 11. Appropriate combinations of facilities or uses listed in  
41 this section.

42 G. The board may convene subcommittees as needed on specific  
43 issues, including school facility safety standards. Notwithstanding any  
44 other law, a school district that receives grant monies from the building  
45 renewal grant fund established by section 41-5731 or monies from the new

1 school facilities fund established by section 41-5741 shall consider  
2 school facility safety standards when completing approved projects or  
3 constructing new school facilities with monies received from those funds.

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

8 I. The board may consider appropriate combinations of facilities or  
9 uses in assessing and curing existing deficiencies pursuant to section  
10 41-5702, subsection A, paragraph 1 and in certifying plans for new school  
11 facilities pursuant to section 41-5702, subsection C, paragraph 2.

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

16 K. For the purposes of this section, "student capacity" means the  
17 capacity adjusted to include any additions to or deletions of space,  
18 including modular or portable buildings at the school. The board shall  
19 determine the student capacity for each school in conjunction with each  
20 school district, recognizing each school's allocation of space as of July  
21 1, 1998, to achieve the academic standards prescribed pursuant to section  
22 15-203, subsection A, paragraphs 12 and 13 and sections 15-701 and  
23 15-701.01.

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

26 41-5731. Building renewal grant fund; use of monies; rules;  
27 annual report; definitions

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

34 B. The division shall distribute monies from the building renewal  
35 grant fund based on grant requests from school districts to fund primary  
36 building renewal projects. Project requests shall be prioritized by the  
37 division, with priority given to school districts that have provided  
38 routine preventive maintenance on the facility. A school district must  
39 submit a preventive maintenance plan to the division to be eligible to  
40 receive monies from the building renewal grant fund. The division shall  
41 approve only projects that will be completed within twelve months, unless  
42 similar projects on average take longer to complete. A grant issued under  
43 this section expires twelve months after the grant request is approved  
44 unless the division issues an extension, except that if the division  
45 approves a project and determines that similar projects on average take

1 longer than twelve months to complete, the division shall extend the grant  
2 expiration date based on the average amount of time that similar projects  
3 take to complete. The division shall establish a process by which a  
4 school district may request an extension under this subsection. On  
5 expiration of a grant, a school district shall return any building renewal  
6 grant fund monies that the school district has not spent to the division  
7 for deposit in the building renewal grant fund. The division may spend  
8 monies from the fund for assessments to determine whether a grant from the  
9 fund is warranted under this section.

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

13 1. Major renovations and repairs to a building that is used for  
14 student instruction or other academic purposes.

15 2. Upgrading systems and areas that will maintain or extend the  
16 useful life of the building.

17 3. Infrastructure costs.

18 D. Monies received from the fund shall not be used for any of the  
19 following purposes:

20 1. New construction.

21 2. Remodeling interior space for aesthetic or preferential reasons.

22 3. Exterior beautification.

23 4. Demolition.

24 5. Routine preventive maintenance.

25 6. Any project in a building, or part of a building, that is being  
26 leased to another entity.

27 E. ~~Accommodation schools~~ THE FOLLOWING are not eligible for monies  
28 from the building renewal grant fund:

29 1. ACCOMMODATION SCHOOLS.

30 2. PROJECTS FOR WHICH A SCHOOL DISTRICT RECEIVES MONIES FROM THE  
31 NEW SCHOOL FACILITIES FUND ESTABLISHED BY SECTION 41-5741.

32 F. If the division or a court of competent jurisdiction determines  
33 that a school district received monies from the building renewal grant  
34 fund that must be reimbursed to the division due to legal action  
35 associated with improper construction by a hired contractor, the school  
36 district shall reimburse the division an agreed-on amount for deposit ~~into~~  
37 IN the building renewal grant fund.

38 G. The division shall categorize each project that is eligible for  
39 monies from the building renewal grant fund as either critical or  
40 noncritical. The division shall adopt policies and procedures to  
41 prioritize critical projects and to designate critical projects as  
42 projects that immediately impact student safety or building closures or  
43 that result in operational disruptions. Critical projects have priority  
44 over any previously approved noncritical projects.



1 H. If the division determines that sufficient monies are not  
2 available for a noncritical project that the division has approved, the  
3 division shall notify the school district that submitted the project  
4 request that monies will be distributed from the building renewal grant  
5 fund for the project only if the legislature appropriates sufficient  
6 monies. If sufficient monies are not available in the fiscal year in  
7 which the project is awarded for a noncritical project, the noncritical  
8 project does not receive priority in the next fiscal year.

9 I. Building renewal grants pursuant to this section shall be used  
10 only for projects that serve an academic purpose.

11 J. The division shall do both of the following:

12 1. Implement policies and procedures to require a school district  
13 to report the preventive maintenance activities completed during the  
14 previous twelve months for the facility for which the monies are being  
15 requested.

16 2. Submit a monthly report to the school facilities oversight board  
17 that details how monies from the building renewal grant fund have been  
18 distributed.

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

22 1. The approval of building renewal grants pursuant to this  
23 section.

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

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

27 (b) Notifying an applicant if the applicant's application is  
28 incomplete.

29 (c) Providing regular updates to applicants regarding completed  
30 applications.

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

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

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

37 N. On or before June 30 of each year, the division shall submit a  
38 report to the joint legislative budget committee and the governor's office  
39 of strategic planning and budgeting on any unobligated monies in the  
40 building renewal grant fund.

41 O. For the purposes of this section:

42 1. "Primary building renewal projects" means projects that are  
43 necessary for buildings owned by school districts that are required to  
44 meet the minimum adequacy standards for student capacity and that fall  
45 below the minimum school facility adequacy guidelines, as adopted by the

1 board pursuant to section 41-5711, for school districts that have provided  
2 routine preventive maintenance to the school facility.

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

9 3. "Student capacity" has the same meaning prescribed in section  
10 41-5711.

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

13 41-5741. New school facilities fund; capital plan; reporting  
14 requirements

15 A. The new school facilities fund is established consisting of  
16 monies appropriated by the legislature and monies credited to the new  
17 school facilities fund pursuant to section 37-221. The division shall  
18 administer the new school facilities fund and, at the direction of the  
19 school facilities oversight board, shall distribute monies, as a  
20 continuing appropriation, to school districts for the purpose of:

21 1. Constructing new school facilities.

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

24 3. RENOVATING OR REPLACING A FACILITY OR FACILITIES THAT A SCHOOL  
25 DISTRICT BELIEVES POSE A HEALTH OR SAFETY THREAT TO PUPILS AND ARE BEYOND  
26 THEIR USEFUL LIFE.

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

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

34 2. A description of new schools or additions to existing schools  
35 needed to meet the building adequacy standards prescribed in section  
36 41-5711. The description shall include:

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

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

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

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

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

1           5. If a school district pays tuition for all or a portion of the  
2 school district's high school pupils to another school district, the  
3 capital plan shall indicate the number of pupils for which the district  
4 pays tuition to another district. If a school district accepts pupils  
5 from another school district pursuant to section 15-824, subsection A, the  
6 school district shall indicate the projections for this population  
7 separately. This paragraph does not apply to a small isolated school  
8 district as defined in section 15-901.

9           C. If the capital plan **PRESCRIBED IN SUBSECTION B OF THIS SECTION**  
10 indicates a need for a new school or an addition to an existing school  
11 within the next four years or a need for land within the next ten years,  
12 the school district shall submit its plan to the school facilities  
13 oversight board on or before September 1 and shall request monies from the  
14 new school facilities fund for the new construction or land. The board  
15 may require a school district to sell land that was previously purchased  
16 entirely with monies provided by the board if the board determines that  
17 the property is no longer needed within the ten-year period specified in  
18 this subsection for a new school or no longer needed within that ten-year  
19 period for an addition to an existing school. Monies provided for land  
20 are in addition to any monies provided pursuant to subsection D of this  
21 section.

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

25           1. The board shall review and evaluate the enrollment  
26 projections. On or before December 15 of each year, following the  
27 submission of the enrollment projections, the board shall either approve  
28 the projections as submitted or revise the projections. In approving or  
29 revising the enrollment projections, the board shall use the average daily  
30 membership data available during the current school year. On request from  
31 the board, the department of education shall make available the most  
32 recent average daily membership data for use in revising the enrollment  
33 projections. In determining new construction requirements, the board  
34 shall determine the net new growth of pupils that will require additional  
35 square footage that exceeds the building adequacy standards prescribed in  
36 section 41-5711. If the projected growth and the existing number of  
37 pupils exceed three hundred fifty pupils who are served in a school  
38 district other than the pupil's resident school district, the board, the  
39 receiving school district and the resident school district shall develop a  
40 capital facilities plan on how to best serve those pupils. A small  
41 isolated school district as defined in section 15-901 is not required to  
42 develop a capital facilities plan pursuant to this paragraph.

43           2. If the average daily membership projections indicate that  
44 additional space will not be needed within the next two school years in  
45 order to meet the building adequacy standards prescribed in section

1 41-5711, the request shall be held for consideration by the board for  
2 possible future funding and the school district shall annually submit an  
3 updated plan until the additional space is needed.

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

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

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

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

33 (ii) Geographic factors.

34 (iii) Grade configurations other than those prescribed in this  
35 subdivision.

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

38 (c) Multiply the product obtained in subdivision (b) of this  
39 paragraph by the cost per square foot. The cost per square foot is  
40 \$270.24 for preschool children with disabilities, kindergarten programs  
41 and grades one through six, \$285.30 for grades seven and eight and \$330.30  
42 for grades nine through twelve. The cost per square foot shall be  
43 adjusted annually for construction market considerations based on an index  
44 identified or developed by the joint legislative budget committee as  
45 necessary but not less than once each year. Each annual construction

1 market adjustment applies to all projects approved by the school  
2 facilities **OVERSIGHT** board under this subsection during that year. The  
3 board shall multiply the cost per square foot by 1.05 for any school  
4 district located in a rural area. The board may only modify the base cost  
5 per square foot prescribed in this subdivision for particular schools  
6 based on geographic conditions or site conditions. Any extra monies  
7 received as a result of a modification based on geographic conditions or  
8 site conditions may be used to address unforeseen costs at any stage of a  
9 project under this section. For the purposes of this subdivision, "rural  
10 area" means an area outside a thirty-five-mile radius of a boundary of a  
11 municipality with a population of more than fifty thousand persons.

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

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

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

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

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

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

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

8 2. A DESCRIPTION OF ALL SCHOOL DISTRICT FACILITIES OF THE SAME TYPE  
9 THE SCHOOL DISTRICT IS PROPOSING TO REPLACE OR RENOVATE THAT ARE NOT  
10 CURRENTLY BEING USED FOR EDUCATION FOR PUPILS IN PROGRAMS FOR PRESCHOOL  
11 CHILDREN WITH DISABILITIES, KINDERGARTEN PROGRAMS OR GRADES ONE THROUGH  
12 TWELVE AND THAT ARE WITHIN A FIVE-MILE RADIUS OF THE SCHOOL FACILITY,  
13 INCLUDING SCHOOL DISTRICT FACILITIES THAT ARE OUTSIDE OF THE SCHOOL  
14 DISTRICT'S BOUNDARIES.

15 F. A SCHOOL DISTRICT MAY APPLY TO THE BOARD FOR NEW SCHOOL  
16 FACILITIES FUND MONIES TO RENOVATE OR REPLACE AN EXISTING SCHOOL FACILITY.  
17 ON RECEIPT OF A COMPLETED APPLICATION FROM A SCHOOL DISTRICT FOR MONIES TO  
18 RENOVATE OR REPLACE AN EXISTING SCHOOL FACILITY, THE BOARD SHALL REVIEW  
19 THE APPLICATION. IF IT IS CLEAR FROM THE APPLICATION THAT THE SCHOOL  
20 DISTRICT DOES NOT SATISFY ONE OR MORE OF THE QUALIFICATIONS PRESCRIBED IN  
21 THIS SUBSECTION, THE BOARD SHALL DENY THE APPLICATION. AFTER THE INITIAL  
22 REVIEW, THE BOARD SHALL NOTIFY THE DIVISION, AND THE DIVISION SHALL  
23 PROCURE AN ASSESSMENT IN ACCORDANCE WITH CHAPTER 23 OF THIS TITLE, EXCEPT  
24 THAT THE DIVISION MAY NOT PROCURE AN ASSESSMENT IF THE DIVISION IS ABLE TO  
25 DETERMINE WITHOUT AN ASSESSMENT THAT THE SCHOOL DISTRICT DOES NOT SATISFY  
26 ONE OR MORE OF THE QUALIFICATIONS PRESCRIBED IN THIS SUBSECTION. THE  
27 ASSESSMENT SHALL DETERMINE WHETHER THE FACILITY POSES A HEALTH OR SAFETY  
28 THREAT TO PUPILS, SHALL DETERMINE WHETHER THE FACILITY IS BEYOND ITS  
29 USEFUL LIFE AND SHALL INCLUDE A FACILITY CONDITION INDEX TO DETERMINE  
30 WHETHER THE COST TO REPAIR THE FACILITY IS FIFTY PERCENT OR MORE OVER A  
31 FIVE-YEAR PERIOD THAN THE COST TO RENOVATE OR REPLACE THE FACILITY. THE  
32 DIVISION SHALL SUBMIT THE ASSESSMENT AND THE DIVISION'S RECOMMENDATION TO  
33 THE BOARD, OR, IF THE DIVISION DETERMINES WITHOUT AN ASSESSMENT THAT THE  
34 SCHOOL DISTRICT DOES NOT SATISFY ONE OR MORE OF THE QUALIFICATIONS  
35 PRESCRIBED IN THIS SUBSECTION, THE DIVISION SHALL SUBMIT THIS  
36 DETERMINATION TO THE BOARD, AND THE BOARD SHALL DETERMINE WHETHER THE  
37 FACILITY IS SUITABLE FOR RENOVATION OR REPLACEMENT. AT THE DIRECTION OF  
38 THE BOARD AND SUBJECT TO LEGISLATIVE APPROPRIATION, THE DIVISION SHALL  
39 DISTRIBUTE MONIES FROM THE FUND IN AN AMOUNT DETERMINED BY THE BOARD AFTER  
40 REVIEW OF THE ASSESSMENT IF ALL OF THE FOLLOWING APPLY:

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

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

4           3. THE ASSESSMENT PROCURED BY THE DIVISION REVEALS THAT THE COST TO  
5 REPAIR THE FACILITY OVER A FIVE-YEAR PERIOD IS AT LEAST FIFTY PERCENT OF  
6 THE COST TO MEET THE MINIMUM SCHOOL FACILITY ADEQUACY GUIDELINES AS  
7 ADOPTED BY THE BOARD PURSUANT TO SECTION 41-5711 AND THAT THE FACILITY  
8 POSES A HEALTH OR SAFETY THREAT TO PUPILS AND IS BEYOND ITS USEFUL LIFE.

9           4. THE SCHOOL AT WHICH THE FACILITY WILL BE RENOVATED OR REPLACED  
10 HAS AN ENROLLMENT OF AT LEAST SEVENTY-FIVE PERCENT OF THE AMOUNT GENERATED  
11 BY THE MINIMUM ADEQUATE GROSS SQUARE FOOTAGE REQUIREMENTS PRESCRIBED IN  
12 SECTION 41-5711.

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

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

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

20           2. GEOGRAPHIC FACTORS.

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

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

41           ~~F.~~ I. At the direction of the board, the division shall distribute  
42 the monies needed for land for new schools so that land may be purchased  
43 at a price that is less than or equal to fair market value and in advance  
44 of the construction of the new school. If necessary, the board may direct  
45 the division to distribute monies for land to be leased for new schools if

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

- 27 1. Donations of real property, services or cash from any of the  
 28 following:
  - 29 (a) Entities that have offered to provide construction services to  
 30 the school district.
  - 31 (b) Entities that have been contracted to provide construction  
 32 services to the school district.
  - 33 (c) Entities that build residential units in that school district.
  - 34 (d) Entities that develop land for residential use in that school  
 35 district.
- 36 2. Monies received under this chapter on behalf of the school  
 37 district.
- 38 3. Monies paid by or at the direction of the board on behalf of the  
 39 school district.

40 ~~6. In addition to distributions to school districts based on pupil  
 41 growth projections, a school district may submit an application to the  
 42 board for monies from the new school facilities fund if one or more school  
 43 buildings have outlived their useful life or have been condemned. If the  
 44 board determines that the school district needs to build a new school  
 45 building for these reasons, the board shall remove the square footage~~



~~computations that represent the building from the computation of the school district's total square footage for purposes of this section. If the square footage recomputation reflects that the school district no longer meets building adequacy standards, the school district qualifies for a distribution of monies from the new school construction formula in an amount determined pursuant to subsection D of this section. The board may only modify the base cost per square foot prescribed in this subsection under extraordinary circumstances for geographic factors or site conditions.~~

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

~~I.~~ K. If a school district has surplus monies received from the new school facilities fund, the school district may use the surplus monies only for capital purposes for the project for up to one year after completion of the project. If the school district possesses surplus monies from the new school construction project that have not been expended within one year of the completion of the project, the school district shall return the surplus monies to the division for deposit in the new school facilities fund.

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

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

1           ~~L~~ N. The division shall establish a separate account in the new  
 2 school facilities fund designated as the litigation account to pay  
 3 attorney fees, expert witness fees and other costs associated with  
 4 litigation in which the board pursues the recovery of damages for  
 5 deficiencies correction that resulted from alleged construction defects or  
 6 design defects that the board believes caused or contributed to a failure  
 7 of the school building to conform to the building adequacy requirements  
 8 prescribed in section 41-5711. Attorney fees paid pursuant to this  
 9 subsection shall not exceed the market rate for similar types of  
 10 litigation. On or before December 1 of each year, the board shall report  
 11 to the joint committee on capital review the costs associated with current  
 12 and potential litigation that may be paid from the litigation account.

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

18           ~~N~~ P. The board shall submit electronically a report on project  
 19 management services and preconstruction services to the governor, the  
 20 president of the senate and the speaker of the house of representatives by  
 21 December 31 of each year. The report shall compare projects that use  
 22 project management and preconstruction services with those that do not.  
 23 The report shall address cost, schedule and other measurable components of  
 24 a construction project. School districts, construction-manager-at-risk  
 25 firms and project management firms that participate in a board-funded  
 26 project shall provide the information required by the board in relation to  
 27 this report.

28           ~~O~~ Q. If a school district constructs new square footage according  
 29 to section 15-342, paragraph 33, the board shall review the design plans  
 30 and location of any new school facility submitted by school districts and  
 31 another party to determine whether the design plans comply with the  
 32 adequacy standards prescribed in section 41-5711 and the square footage  
 33 per pupil requirements pursuant to subsection D, paragraph 3, subdivision  
 34 (b) of this section. When the school district qualifies for a  
 35 distribution of monies from the new school facilities fund according to  
 36 this section, the board shall direct the division to distribute monies to  
 37 the school district from the new school facilities fund for the square  
 38 footage constructed under section 15-342, paragraph 33 at the same cost  
 39 per square foot established by this section that was in effect at the time  
 40 of the beginning of the construction of the school facility. Before the  
 41 board directs the division to distribute any monies pursuant to this  
 42 subsection, the school district shall demonstrate to the board that the  
 43 facilities to be funded pursuant to this section meet the minimum adequacy  
 44 standards prescribed in section 41-5711. The agreement entered into  
 45 pursuant to section 15-342, paragraph 33 shall set forth the procedures

1 for the allocation of these funds to the parties that participated in the  
2 agreement.

3 ~~P.~~ R. Accommodation schools are not eligible for monies from the  
4 new school facilities fund.

5 ~~Q.~~ S. If the board approves a school district for funding from the  
6 new school facilities fund **FOR NEW SCHOOL FACILITIES CONSTRUCTION** and the  
7 full legislative appropriation is not available to the school district in  
8 the fiscal year following the approval by the board, the school district  
9 may use any legally available monies to pay for the land or the new  
10 construction project approved by the board and may reimburse the fund from  
11 which the monies were used in subsequent years with legislative  
12 appropriations when those appropriations are made available by this state.  
13 **THIS SUBSECTION DOES NOT APPLY TO RENOVATION OR REPLACEMENT PROJECTS.**

14 Sec. 6. Effective date

15 This act is effective from and after December 31, 2024.