

COMMITTEE ON EDUCATION ACCOUNTABILITY AND REFORM

SENATE AMENDMENTS TO S.B. 1122

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

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

4 15-2041. New school facilities fund; capital plan; report

5 A. A new school facilities fund is established consisting of monies  
6 appropriated by the legislature and monies credited to the fund pursuant to  
7 section 37-221. The school facilities board shall administer the fund and  
8 distribute monies, as a continuing appropriation, to school districts for the  
9 purpose of constructing new school facilities. On June 30 of each fiscal  
10 year, any unobligated contract monies in the new school facilities fund shall  
11 be transferred to the capital reserve fund established by section 15-2003.  
12 THE SCHOOL FACILITIES BOARD SHALL DISTRIBUTE MONIES CREDITED PURSUANT TO  
13 SECTION 37-221 TO THE SCHOOL DISTRICT THAT FUNDED THE LEASE AGREEMENT IF  
14 THOSE FUNDS WERE NOT AWARDED TO THE SCHOOL DISTRICT PURSUANT THIS SECTION.

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

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

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

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

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

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

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

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

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

13 C. If the capital plan indicates a need for a new school or an  
14 addition to an existing school within the next four years or a need for land  
15 within the next ten years, the school district shall submit its plan to the  
16 school facilities board by September 1 and shall request monies from the new  
17 school facilities fund for the new construction or land. Monies provided for  
18 land shall be in addition to any monies provided pursuant to subsection D of  
19 this section.

20 D. The school facilities board shall distribute monies from the new  
21 school facilities fund as follows:

22 1. The school facilities board shall review and evaluate the  
23 enrollment projections and either approve the projections as submitted or  
24 revise the projections. In determining new construction requirements, the  
25 school facilities board shall determine the net new growth of pupils that  
26 will require additional square footage that exceeds the building adequacy  
27 standards prescribed in section 15-2011. If the projected growth and the  
28 existing number of pupils exceed three hundred fifty pupils who are served in  
29 a school district other than the pupil's resident school district, the school  
30 facilities board, the receiving school district and the resident school  
31 district shall develop a capital facilities plan on how to best serve those

1 pupils. A small isolated school district as defined in section 15-901 is not  
2 required to develop a capital facilities plan pursuant to this paragraph.

3 2. If the approved projections indicate that additional space will not  
4 be needed within the next two years for elementary schools or three years for  
5 middle or high schools in order to meet the building adequacy standards  
6 prescribed in section 15-2011, the request shall be held for consideration by  
7 the school facilities board for possible future funding and the school  
8 district shall annually submit an updated plan until the additional space is  
9 needed.

10 3. If the approved projections indicate that additional space will be  
11 needed within the next two years for elementary schools or three years for  
12 middle or high schools in order to meet the building adequacy standards  
13 prescribed in section 15-2011, the school facilities board shall provide an  
14 amount as follows:

15 (a) Determine the number of pupils requiring additional square footage  
16 to meet building adequacy standards. This amount for elementary schools  
17 shall not be less than the number of new pupils for whom space will be needed  
18 in the next year and shall not exceed the number of new pupils for whom space  
19 will be needed in the next five years. This amount for middle and high  
20 schools shall not be less than the number of new pupils for whom space will  
21 be needed in the next four years and shall not exceed the number of new  
22 pupils for whom space will be needed in the next eight years.

23 (b) Multiply the number of pupils determined in subdivision (a) of  
24 this paragraph by the square footage per pupil. The square footage per pupil  
25 is ninety square feet per pupil for preschool children with disabilities,  
26 kindergarten programs and grades one through six, one hundred square feet for  
27 grades seven and eight, one hundred thirty-four square feet for a school  
28 district that provides instruction in grades nine through twelve for fewer  
29 than one thousand eight hundred pupils and one hundred twenty-five square  
30 feet for a school district that provides instruction in grades nine through  
31 twelve for at least one thousand eight hundred pupils. The total number of  
32 pupils in grades nine through twelve in the district shall determine the

1 square footage factor to use for net new pupils. The school facilities board  
2 may modify the square footage requirements prescribed in this subdivision for  
3 particular schools based on any of the following factors:

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

6 (ii) Geographic factors.

7 (iii) Grade configurations other than those prescribed in this  
8 subdivision.

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

11 (c) Multiply the product obtained in subdivision (b) of this paragraph  
12 by the cost per square foot. The cost per square foot is ninety dollars for  
13 preschool children with disabilities, kindergarten programs and grades one  
14 through six, ninety-five dollars for grades seven and eight and one hundred  
15 ten dollars for grades nine through twelve. The cost per square foot shall  
16 be adjusted annually for construction market considerations based on an index  
17 identified or developed by the joint legislative budget committee as  
18 necessary but not less than once each year. The school facilities board  
19 shall multiply the cost per square foot by 1.05 for any school district  
20 located in a rural area. The school facilities board may modify the base  
21 cost per square foot prescribed in this subdivision for particular schools  
22 based on geographic conditions or site conditions. For the purposes of this  
23 subdivision, "rural area" means an area outside a thirty-five mile radius of  
24 a boundary of a municipality with a population of more than fifty thousand  
25 persons.

26 (d) Once the school district governing board obtains approval from the  
27 school facilities board for new facility construction funds, additional  
28 portable or modular square footage created for the express purpose of  
29 providing temporary space for pupils until the completion of the new facility  
30 shall not be included by the school facilities board for the purpose of new  
31 construction funding calculations. On completion of the new facility  
32 construction project, if the portable or modular facilities continue in use,

1 the portable or modular facilities shall be included as prescribed by this  
2 chapter, unless the school facilities board approves their continued use for  
3 the purpose of providing temporary space for pupils until the completion of  
4 the next new facility that has been approved for funding from the new school  
5 facilities fund.

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

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

16 E. Monies for architectural and engineering fees, project management  
17 services and preconstruction services shall be distributed on the completion  
18 of the analysis by the school facilities board of the school district's  
19 request. After receiving monies pursuant to this subsection, the school  
20 district shall submit a design development plan for the school or addition to  
21 the school facilities board before any monies for construction are  
22 distributed. If the school district's request meets the building adequacy  
23 standards, the school facilities board may review and comment on the  
24 district's plan with respect to the efficiency and effectiveness of the plan  
25 in meeting state square footage and facility standards before distributing  
26 the remainder of the monies. If the school facilities board modifies the  
27 cost per square foot as prescribed in subsection D, paragraph 3, subdivision  
28 (c), the school facilities board may deduct the cost of project management  
29 services and preconstruction services from the required cost per square  
30 foot. The school facilities board may decline to fund the project if the  
31 square footage is no longer required due to revised enrollment projections.

1           F. The school facilities board shall distribute the monies needed for  
2 land for new schools so that land may be purchased at a price that is less  
3 than or equal to fair market value and in advance of the construction of the  
4 new school. If necessary, the school facilities board may distribute monies  
5 for land to be leased for new schools if the duration of the lease exceeds  
6 the life expectancy of the school facility by at least fifty per cent. The  
7 proceeds derived through the sale of any land purchased or partially  
8 purchased with monies provided by the school facilities board shall be  
9 returned to the state fund from which it was appropriated and to any other  
10 participating entity on a proportional basis. Except as provided in section  
11 15-342, paragraph 33, if a school district acquires real property by donation  
12 at an appropriate school site approved by the school facilities board, the  
13 school facilities board shall distribute an amount equal to twenty per cent  
14 of the fair market value of the donated real property that can be used for  
15 academic purposes. The school district shall place the monies in the  
16 unrestricted capital outlay fund and increase the unrestricted capital budget  
17 limit by the amount of monies placed in the fund. Monies distributed under  
18 this subsection shall be distributed from the new school facilities fund. A  
19 school district that receives monies from the new school facilities fund for  
20 a donation of land pursuant to section 15-342, paragraph 33 shall not receive  
21 monies from the school facilities board for the donation of real property  
22 pursuant to this subsection. A school district shall not pay a consultant a  
23 percentage of the value of any of the following:

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

26           (a) Entities that have offered to provide construction services to the  
27 school district.

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

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

31           (d) Entities that develop land for residential use in that school  
32 district.

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

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

5           G. In addition to distributions to school districts based on pupil  
6 growth projections, a school district may submit an application to the school  
7 facilities board for monies from the new school facilities fund if one or  
8 more school buildings have outlived their useful life. If the school  
9 facilities board determines that the school district needs to build a new  
10 school building for these reasons, the school facilities board shall remove  
11 the square footage computations that represent the building from the  
12 computation of the school district's total square footage for purposes of  
13 this section. If the square footage recomputation reflects that the school  
14 district no longer meets building adequacy standards, the school district  
15 qualifies for a distribution of monies from the new school construction  
16 formula in an amount determined pursuant to subsection D of this section.  
17 Buildings removed from a school district's total square footage pursuant to  
18 this subsection shall not be included in the computation of monies from the  
19 building renewal fund established by section 15-2031. The school facilities  
20 board may modify the base cost per square foot prescribed in this subsection  
21 under extraordinary circumstances for geographic factors or site conditions.

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

30           I. If a school district has surplus monies received from the new  
31 school facilities fund, the school district may use the surplus monies only  
32 for capital purposes for the project for up to one year after completion of

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

6 J. The board's consideration of any application filed after July 1,  
7 2001 or after December 31 of the year in which the property becomes territory  
8 in the vicinity of a military airport or ancillary military facility as  
9 defined in section 28-8461 for monies to fund the construction of new school  
10 facilities proposed to be located in territory in the vicinity of a military  
11 airport or ancillary military facility shall include, if after notice is  
12 transmitted to the military airport pursuant to section 15-2002 and before  
13 the public hearing the military airport provides comments and analysis  
14 concerning compatibility of the proposed school facilities with the high  
15 noise or accident potential generated by military airport or ancillary  
16 military facility operations that may have an adverse effect on public health  
17 and safety, consideration and analysis of the comments and analysis provided  
18 by the military airport before making a final determination.

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

24 L. The school facilities board shall establish a separate account in  
25 the new school facilities fund designated as the litigation account to pay  
26 attorney fees, expert witness fees and other costs associated with litigation  
27 in which the school facilities board pursues the recovery of damages for  
28 deficiencies correction that resulted from alleged construction defects or  
29 design defects that the school facilities board believes caused or  
30 contributed to a failure of the school building to conform to the building  
31 adequacy requirements prescribed in section 15-2011. Attorney fees paid  
32 pursuant to this subsection shall not exceed the market rate for similar

1 types of litigation. The joint committee on capital review shall conduct an  
2 annual review of the litigation account, including the costs associated with  
3 current and potential litigation.

4 M. Until the state board of education and the auditor general adopt  
5 rules pursuant to section 15-213, subsection I, the school facilities board  
6 may allow school districts to contract for construction services and  
7 materials through the qualified select bidders list method of project  
8 delivery for new school facilities pursuant to this section.

9 N. The school facilities board shall submit a report on project  
10 management services and preconstruction services to the governor, the  
11 president of the senate and the speaker of the house of representatives by  
12 December 31 of each year. The report shall compare projects that use project  
13 management and preconstruction services with those that do not. The report  
14 shall address cost, schedule and other measurable components of a  
15 construction project. School districts, construction manager at risk firms  
16 and project management firms that participate in a school facilities board  
17 funded project shall provide the information required by the school  
18 facilities board in relation to this report.

19 O. If a school district constructs new square footage according to  
20 section 15-342, paragraph 33, the school facilities board shall review the  
21 design plans and location of any new school facility submitted by school  
22 districts and another party to determine whether the design plans comply with  
23 the adequacy standards prescribed in section 15-2011 and the square footage  
24 per pupil requirements pursuant to subsection D, paragraph 3, subdivision (b)  
25 of this section. When the school district qualifies for a distribution of  
26 monies from the new school facilities fund according to this section, the  
27 school facilities board shall distribute monies to the school district from  
28 the new school facilities fund for the square footage constructed under  
29 section 15-342, paragraph 33 at the same cost per square foot established by  
30 this section that was in effect at the time of the beginning of the  
31 construction of the school facility. Before the school facilities board  
32 distributes any monies pursuant to this subsection, the school district shall

1 demonstrate to the school facilities board that the facilities to be funded  
2 pursuant to this section meet the minimum adequacy standards prescribed in  
3 section 15-2011. The agreement entered into pursuant to section 15-342,  
4 paragraph 33 shall set forth the procedures for the allocation of these funds  
5 to the parties that participated in the agreement.

6 Sec. 2. Section 37-221, Arizona Revised Statutes, is amended to read:

7 37-221. Sale or lease of state lands for public education  
8 purposes

9 A. Notwithstanding any other law, school districts may enter  
10 into leases of state land for more than ten years if the land is to be used  
11 for public education purposes AS OUTLINED IN TITLE 15. These leases shall be  
12 granted according to the constitution of this state and department  
13 rules. School districts shall make all applications for leases for  
14 educational purposes on forms prepared and furnished by the department, and  
15 an authorized agent of the governing board of the school district shall sign  
16 and swear to the application. A school district shall not use lands leased  
17 to it under this section except for public educational purposes.

18 B. The department shall develop procedures to give priority to the  
19 procedures used for school districts to lease state lands for public  
20 education purposes. The department shall develop procedures to simplify the  
21 procedures used for school districts to lease state lands for public  
22 education purposes. The procedures shall specify that any leases entered  
23 into and any improvements made to properties leased pursuant to this section  
24 using state monies shall comply with the requirements of title 15,  
25 chapter 16.

26 C. The department shall develop procedures to give priority to the  
27 procedures used for school districts to purchase state lands for public  
28 education purposes. The department shall develop procedures to simplify the  
29 procedures used for school districts to purchase state lands for public  
30 education purposes. The procedures shall specify that any purchase of school  
31 lands by school districts using state monies shall comply with the  
32 requirements of title 15, chapter 16.

1           D. Any monies received by the department from the lease of state  
2 ~~public-school~~ TRUST land for public education purposes pursuant to this  
3 section shall be transferred to the school facilities board for deposit in  
4 the new school facilities fund established by section 15-2041. THE  
5 DEPARTMENT SHALL NOTIFY THE SCHOOL FACILITIES BOARD AND THE SCHOOL DISTRICTS  
6 OF THE AMOUNT RELATED TO EACH SCHOOL DISTRICT THAT IS THE SOURCE OF THE FUNDS  
7 BEING TRANSFERRED.

8           E. For the purposes of this section, a school district shall be  
9 considered to have abandoned a lease when leased property and any  
10 improvements are no longer being used for public education purposes.”

11 Amend title to conform

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