

HUPPENTHAL FLOOR AMENDMENT # 1

SENATE AMENDMENTS TO H.B. 2332

(Reference to House engrossed bill)

1 Page 2, lines 1 and 2, strike “superintendent of public instruction” insert “**SCHOOL**
2 **FACILITIES BOARD**”

3 Page 3, line 19, after “OFFICE” insert “**AND THE SCHOOL FACILITIES BOARD**”

4 Between lines 23 and 24, insert:

5 “**0. FOR ALL PROJECTS CARRIED OUT UNDER THIS SECTION, THE DISTRICT SHALL**
6 **REPORT TO THE SCHOOL FACILITIES BOARD, BY OCTOBER 15 EACH YEAR, THE ACTUAL**
7 **ENERGY AND COST SAVINGS.**”

8 Page 4, line 44, strike “13122, APRIL 2005” insert “13423, JANUARY 2007”

9 Page 15, line 5, after “BONDS” insert “**AND AMERICAN RECOVERY AND REINVESTMENT ACT**
10 **OF 2008 FUNDING**”

11 Between lines 11 and 12, insert:

12 “**0. FOR ALL PROJECTS CARRIED OUT UNDER THIS SECTION, THE DISTRICT SHALL**
13 **REPORT TO THE SCHOOL FACILITIES BOARD:**

- 14 1. THE NAME OF THE PROJECT.
15 2. THE QUALIFIED PROVIDER.
16 3. THE TOTAL COST OF THE PROJECT.
17 4. THE EXPECTED ENERGY AND COST SAVINGS.

18 **P. FOR ALL PROJECTS CARRIED OUT UNDER THIS SECTION, THE DISTRICT SHALL**
19 **REPORT TO THE SCHOOL FACILITIES BOARD, BY OCTOBER 15 EACH YEAR, THE ACTUAL**
20 **ENERGY AND COST SAVINGS.**”

21 Page 19, after line 19, insert:

22 “Sec. 6. Section 15-213.01, Arizona Revised Statutes, as amended by
23 section 1 of this act is amended to read:

24 **15-213.01. Procurement practices: guaranteed energy cost savings**
25 **contracts; definitions**

26 A. Notwithstanding section 15-213, subsection A, a school district may
27 contract for the procurement of a guaranteed energy cost savings contract

1 with a qualified provider through a competitive sealed proposal process as
2 provided by the procurement practices adopted by the state board of
3 education. TO THE EXTENT THE QUALIFIED PROVIDER SUBCONTRACTS WITH
4 CONTRACTORS WHO WILL BE INVOLVED IN ANY CONSTRUCTION ASSOCIATED WITH THE
5 GUARANTEED ENERGY COST SAVINGS CONTRACT, THE QUALIFIED PROVIDER MUST FOLLOW
6 THE PROVISIONS OF SECTION 41-2533 IN SELECTING THESE CONTRACTORS.

7 B. A school district may enter into a guaranteed energy cost savings
8 contract with a qualified provider if it determines that the amount it would
9 spend on the energy cost savings measures recommended in the proposal would
10 not exceed the amount to be saved in energy and operational costs over the
11 expected life of the energy cost savings measures implemented or within
12 twenty-five years, whichever is shorter, after the date installation or
13 implementation is complete, if the recommendations in the proposal are
14 followed. ~~The school district shall retain the cost savings achieved by a
15 guaranteed energy cost saving contract, and these cost savings may be used to
16 pay for the contract and project implementation. A school district shall not
17 use excess utilities monies for the contract or for project implementation.~~

18 C. The school district shall use objective criteria in selecting the
19 qualified provider, including the cost of the contract, the energy and
20 operational cost savings, the net projected energy savings, the quality of
21 the technical approach, the quality of the project management plan, the
22 financial solvency of the qualified provider and the experience of the
23 qualified provider with projects of similar size and scope. The school
24 district shall set forth each criterion with its respective numerical
25 weighting in the request for proposal.

26 D. In selecting a contractor to perform any construction work related
27 to performing the guaranteed energy cost savings contract, the qualified
28 provider may develop and use a prequalification process for contractors
29 WISHING TO BID ON THIS WORK. These prequalifications may require the
30 contractor to demonstrate that the contractor is adequately bonded to perform
31 the work and that the contractor has not failed to perform on a prior job.

1 THE QUALIFIED PROVIDER MAY USE PERFORMANCE SPECIFICATIONS IN SOLICITING BIDS
2 FROM CONTRACTORS.

3 E. AN IN-DEPTH FEASIBILITY ~~^~~ study shall be performed by the selected
4 qualified provider in order to establish the exact scope of the guaranteed
5 energy cost savings contract, the fixed cost savings guarantee amount and the
6 methodology for determining actual savings. This report shall be reviewed
7 and approved by the school district before the actual installation of any
8 equipment. The qualified provider shall transmit a copy of the approved
9 IN-DEPTH FEASIBILITY study to the ~~school facilities board and the department~~
10 ~~of commerce energy office~~ SUPERINTENDENT OF PUBLIC INSTRUCTION.

11 F. The guaranteed energy cost savings contract shall require that
12 A QUALIFIED PROVIDER PERFORM AN ENERGY AUDIT OF THE FACILITY OR FACILITIES
13 ONE YEAR AFTER THE ENERGY COST SAVINGS MEASURES ARE INSTALLED OR IMPLEMENTED
14 AND EVERY THREE YEARS THEREAFTER FOR THE LENGTH OF THE CONTRACT. THE
15 QUALIFIED PROVIDER SHALL TRANSMIT A COPY OF THE AUDIT TO THE SUPERINTENDENT
16 OF PUBLIC INSTRUCTION. THE QUALIFIED PROVIDER SHALL PAY THE COST OF THE
17 AUDIT. in determining whether the projected energy savings calculations have
18 been met, the energy or operational cost savings shall be computed by
19 comparing the energy baseline before installation or implementation of the
20 energy cost savings measures with the energy consumed and operational costs
21 avoided after installation or implementation of the energy cost savings
22 measures. The qualified provider and the school district may agree to make
23 modifications to the energy baseline only for any of the following:

- 24 1. Changes in utility rates.
- 25 2. Changes in the number of days in the utility billing cycle.
- 26 3. Changes in the square footage of the facility.
- 27 4. Changes in the operational schedule of the facility.
- 28 5. Changes in facility temperature.
- 29 6. Significant changes in the weather.
- 30 7. Significant changes in the amount of equipment or lighting utilized
31 in the facility.

1 ~~8. Significant changes in the nature or intensity of energy use such~~
2 ~~as the change of classroom space to laboratory space.~~

3 G. The information to develop the energy baseline shall be derived
4 from actual energy measurements or shall be calculated from energy
5 measurements at the facility where energy cost savings measures are to be
6 installed or implemented. The measurements shall be taken in the year
7 preceding the installation or implementation of energy cost savings measures.

8 H. When submitting a proposal for the installation of equipment, the
9 qualified provider shall include information on the projected energy savings
10 associated with each proposed energy cost savings measure.

11 I. A school district, or two or more school districts, may enter into
12 an installment payment contract or lease-purchase agreement with a qualified
13 provider for the purchase and installation or implementation of energy cost
14 savings measures. The guaranteed energy cost savings contract may provide
15 for payments over a period of not more than the expected life of the energy
16 cost savings measures implemented or twenty-five years, whichever is shorter.
17 The contract shall provide that all payments, except obligations on
18 termination of the contract before its expiration, shall be made over time.

19 J. The guaranteed energy cost savings contract shall include a written
20 guarantee of the qualified provider that either the energy or operational
21 costs savings, or both, will meet or exceed the costs of the energy cost
22 savings measures over the expected life of the energy cost savings measures
23 implemented or within twenty-five years, whichever is shorter. The qualified
24 provider shall

25 ~~1. For the first three years of savings, prepare a measurement and~~
26 ~~verification report on an annual basis in addition to an annual~~
27 ~~reconciliation of savings.~~

28 ~~2.~~ reimburse the school district for any shortfall of guaranteed energy
29 cost savings on an annual basis.

30 K. The school district may obtain any required financing as part of
31 the original competitive sealed proposal process ~~from the qualified provider~~
32 ~~or a third-party financing institution.~~

1 L. A qualified provider that is awarded the contract shall give a
2 sufficient bond to the school district for its faithful performance of the
3 equipment installment.

4 M. **WHEN SELECTING SUBCONTRACTORS TO PERFORM CONSTRUCTION WORK**, the
5 qualified provider is required to make public information in the
6 subcontractor's bids only if the qualified provider is awarded the guaranteed
7 energy cost savings contract by the school district.

8 ~~N. For all projects carried out under this section, the district shall
9 report to the department of commerce energy office:~~

- 10 ~~1. The name of the project.~~
11 ~~2. The qualified provider.~~
12 ~~3. The total cost of the project.~~
13 ~~4. The expected energy and cost savings.~~

14 ~~0. For all projects carried out under this section, the district shall
15 report to the school facilities board:~~

- 16 ~~1. The name of the project.~~
17 ~~2. The qualified provider.~~
18 ~~3. The total cost of the project.~~
19 ~~4. The expected energy and cost savings.~~

20 ~~P. For all projects carried out under this section, the district shall
21 report to the school facilities board, by October 15 each year, the actual
22 energy and cost savings.~~

23 ~~Q. N.~~ N. This section does not apply to the construction of new buildings.

24 ~~R. A school district may utilize a simplified energy performance
25 contract for projects less than five hundred thousand dollars. Simplified
26 energy performance contracts are not required to include an energy savings
27 guarantee and shall comply with all requirements in this section except for
28 the requirements that are specifically related to the energy savings
29 guarantee and the measurement and verification of the guaranteed savings.~~

30 ~~S. 0.~~ 0. For the purposes of this section:

31 1. "Construction" means the process of building, altering, repairing,
32 improving or demolishing any school district structure or building, or other

1 public improvements of any kind to any school district real property.
2 Construction does not include the routine operation, routine repair or
3 routine maintenance of existing structures, buildings or real property.

4 2. "Energy baseline" means a calculation of the amount of energy used
5 in an existing facility before the installation or implementation of the
6 energy cost savings measures.

7 3. "Energy cost savings measure" means a training program or facility
8 alteration designed to reduce energy consumption or operating costs and may
9 include one or more of the following, ~~and any related meters or other~~
10 ~~measuring devices:~~

11 (a) Insulating the building structure or systems in the building.

12 (b) Storm windows or doors, caulking or weather stripping, multiglazed
13 windows or door systems, additional glazing, reductions in glass area, or
14 other window and door system modifications that reduce energy consumption.

15 (c) Automated or computerized energy control systems.

16 (d) Heating, ventilating or air conditioning system modifications or
17 replacements.

18 (e) Replacing or modifying lighting fixtures to increase the energy
19 efficiency of the lighting system without increasing the overall illumination
20 of a facility unless an increase in illumination is necessary to conform to
21 the applicable state or local building code for the lighting system after the
22 proposed modifications are made.

23 (f) Indoor air quality improvements to increase air quality that
24 conform to the applicable state or local building code requirements.

25 (g) Energy recovery systems.

26 (h) Installing a new or retrofitting an existing day lighting system.

27 (i) Any life safety measures that provide long-term operating cost
28 reductions and that comply with state and local codes.

29 (j) Implementing operation programs through education, training and
30 software that reduce the operating costs.

31 ~~(K) Procurement of low-cost utility supplies of all types, including~~
32 ~~electricity, natural gas, propane and water.~~

1 ~~(L) Devices that reduce water consumption and water costs or that~~
2 ~~reduce sewer charges.~~

3 ~~(M) Rainwater harvesting systems.~~

4 ~~(N) Combined heat and power systems.~~

5 ~~(O) Renewable and alternative energy projects and renewable energy~~
6 ~~power service agreements.~~

7 ~~(P) Self-generation systems.~~

8 ~~(Q) Any additional building systems and infrastructure that produce~~
9 ~~energy, or that provide utility or operational cost savings not specifically~~
10 ~~mentioned in this paragraph, if the improvements meet the life cycle cost~~
11 ~~requirement and enhance building system performance or occupant comfort and~~
12 ~~safety.~~

13 4. "Guaranteed energy cost savings contract" means a contract for
14 implementing one or more energy cost savings measures.

15 ~~5. "Life cycle cost" means the sum of present values of investment~~
16 ~~costs, capital costs, installation costs, energy costs, operating costs,~~
17 ~~maintenance costs and disposal costs over the life of the project, product or~~
18 ~~measure as provided by federal life cycle cost rules, regulations and~~
19 ~~criteria contained in the United States department of energy federal energy~~
20 ~~management program "guidance on life cycle cost analysis" required by~~
21 ~~executive order 13423, January 2007.~~

22 ~~6.~~ 5. "Operational savings" means reductions in actual budget line
23 items currently being expended or savings realized from the implementation or
24 installation of energy cost savings measures.

25 ~~7.~~ 6. "Qualified provider" means a person or a business experienced
26 in designing, implementing or installing energy cost savings measures.

27 Sec. 7. Section 15-342, Arizona Revised Statutes, as amended by section
28 2 of this act, is amended to read:

29 15-342. Discretionary powers

30 The governing board may:

31 1. Expel pupils for misconduct.

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

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

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

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

20 6. Construct or provide in rural districts housing facilities for
21 teachers and other school employees which the board determines are necessary
22 for the operation of the school.

23 7. Sell or lease to the state, a county, a city or a tribal government
24 agency any school property required for a public purpose, provided the sale
25 or lease of the property will not affect the normal operations of a school
26 within the school district.

27 8. Annually budget and expend funds for membership in an association
28 of school districts within this state.

29 9. Enter into leases or lease-purchase agreements for school buildings
30 or grounds, or both, as lessor or as lessee, for periods of less than five
31 years subject to voter approval for construction of school buildings as
32 prescribed in section 15-341, subsection A, paragraph 8.

1 10. Subject to chapter 16 of this title, sell school sites or enter
2 into leases or lease-purchase agreements for school buildings and grounds, as
3 lessor or as lessee, for a period of five years or more, but not to exceed
4 ninety-nine years, if authorized by a vote of the school district electors in
5 an election called by the governing board as provided in section 15-491,
6 except that authorization by the school district electors in an election is
7 not required if one of the following requirements is met:

8 (a) The market value of the school property is less than fifty
9 thousand dollars ~~or the property is procured through an energy performance~~
10 ~~contract, which among other items includes a renewable energy power service~~
11 ~~agreement, or a simplified energy performance contract pursuant to section~~
12 ~~15-213.01.~~

13 (b) The buildings and sites are completely funded with monies
14 distributed by the school facilities board.

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

29 (d) The transaction involves the sale of improved or unimproved
30 property pursuant to a formally adopted plan and the school district uses the
31 proceeds of this sale to purchase other property that will be used for
32 similar purposes as the property that was originally sold, provided that the

1 sale proceeds of the improved or unimproved property are used within two
2 years after the date of the original sale to purchase the replacement
3 property. If the sale proceeds of the improved or unimproved property are
4 not used within two years after the date of the original sale to purchase
5 replacement property, the sale proceeds shall be used towards payment of any
6 outstanding bonded indebtedness. If any sale proceeds remain after paying
7 for outstanding bonded indebtedness, or if the district has no outstanding
8 bonded indebtedness, sale proceeds shall be used to reduce the district's
9 primary tax levy. A school district shall not use this subdivision unless
10 all of the following conditions exist:

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

13 (ii) The school district did not purchase the improved or unimproved
14 property that the school district intends to sell with monies that were
15 distributed pursuant to chapter 16 of this title.

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

17 11. Review the decision of a teacher to promote a pupil to a grade or
18 retain a pupil in a grade in a common school or to pass or fail a pupil in a
19 course in high school. The pupil has the burden of proof to overturn the
20 decision of a teacher to promote, retain, pass or fail the pupil. In order
21 to sustain the burden of proof, the pupil shall demonstrate to the governing
22 board that the pupil has mastered the academic standards adopted by the state
23 board of education pursuant to sections 15-701 and 15-701.01. If the
24 governing board overturns the decision of a teacher pursuant to this
25 paragraph, the governing board shall adopt a written finding that the pupil
26 has mastered the academic standards. Notwithstanding title 38, chapter 3,
27 article 3.1, the governing board shall review the decision of a teacher to
28 promote a pupil to a grade or retain a pupil in a grade in a common school or
29 to pass or fail a pupil in a course in high school in executive session
30 unless a parent or legal guardian of the pupil or the pupil, if emancipated,
31 disagrees that the review should be conducted in executive session and then
32 the review shall be conducted in an open meeting. If the review is conducted

1 in executive session, the board shall notify the teacher of the date, time
2 and place of the review and shall allow the teacher to be present at the
3 review. If the teacher is not present at the review, the board shall consult
4 with the teacher before making its decision. Any request, including the
5 written request as provided in section 15-341, the written evidence presented
6 at the review and the written record of the review, including the decision of
7 the governing board to accept or reject the teacher's decision, shall be
8 retained by the governing board as part of its permanent records.

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

12 13. Enter into intergovernmental agreements and contracts with school
13 districts or other governing bodies as provided in section 11-952.

14 14. Include in the curricula which it prescribes for high schools in
15 the school district career and technical education, vocational education and
16 technology education programs and career and technical, vocational and
17 technology program improvement services for the high schools, subject to
18 approval by the state board of education. The governing board may contract
19 for the provision of career and technical, vocational and technology
20 education as provided in section 15-789.

21 15. Suspend a teacher or administrator from the teacher's or
22 administrator's duties without pay for a period of time of not to exceed ten
23 school days, if the board determines that suspension is warranted pursuant to
24 section 15-341, subsection A, paragraphs 23 and 24.

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

28 (a) Pursuant to an ordinance adopted by such city, town or county,
29 there will be conferred upon the school district privileges and benefits
30 which may include benefits related to zoning.

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

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

2 18. Donate surplus or outdated learning materials to nonprofit
3 community organizations where the governing board determines that the
4 anticipated cost of selling the learning materials equals or exceeds the
5 estimated market value of the materials.

6 19. Prescribe policies for the assessment of reasonable fees for
7 students to use district-provided parking facilities. The fees are to be
8 applied by the district solely against costs incurred in operating or
9 securing the parking facilities. Any policy adopted by the governing board
10 pursuant to this paragraph shall include a fee waiver provision in
11 appropriate cases of need or economic hardship.

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

15 21. Require a period of silence to be observed at the commencement of
16 the first class of the day in the schools. If a governing board chooses to
17 require a period of silence to be observed, the teacher in charge of the room
18 in which the first class is held shall announce that a period of silence not
19 to exceed one minute in duration will be observed for meditation, and during
20 that time no activities shall take place and silence shall be maintained.

21 22. Require students to wear uniforms.

22 23. Exchange unimproved property or improved property, including school
23 sites, where the governing board determines that the improved property is
24 unnecessary for the continued operation of the school district without
25 requesting authorization by a vote of the school district electors if the
26 governing board determines that the exchange is necessary to protect the
27 health, safety or welfare of pupils or when the governing board determines
28 that the exchange is based on sound business principles for either:

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

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

1 24. For common and high school pupils, assess reasonable fees for
2 optional extracurricular activities and programs conducted when the common or
3 high school is not in session, except that no fees shall be charged for
4 pupils' access to or use of computers or related materials. For high school
5 pupils, the governing board may assess reasonable fees for fine arts and
6 vocational education courses and for optional services, equipment and
7 materials offered to the pupils beyond those required to successfully
8 complete the basic requirements of any other course, except that no fees
9 shall be charged for pupils' access to or use of computers or related
10 materials. Fees assessed pursuant to this paragraph shall be adopted at a
11 public meeting after notice has been given to all parents of pupils enrolled
12 at schools in the district and shall not exceed the actual costs of the
13 activities, programs, services, equipment or materials. The governing board
14 shall authorize principals to waive the assessment of all or part of a fee
15 assessed pursuant to this paragraph if it creates an economic hardship for a
16 pupil. For the purposes of this paragraph, "extracurricular activity" means
17 any optional, noncredit, educational or recreational activity which
18 supplements the education program of the school, whether offered before,
19 during or after regular school hours.

20 25. Notwithstanding section 15-341, subsection A, paragraphs 8 and 10,
21 construct school buildings and purchase or lease school sites, without a vote
22 of the school district electors, if the buildings and sites are totally
23 funded from one or more of the following:

24 (a) Monies in the unrestricted capital outlay fund, except that the
25 estimated cost shall not exceed two hundred fifty thousand dollars for a
26 district that utilizes section 15-949.

27 (b) Monies distributed from the school facilities board established by
28 section 15-2001.

29 (c) Monies specifically donated for the purpose of constructing school
30 buildings.

1 Nothing in this paragraph shall be construed to eliminate the requirement for
2 an election to raise revenues for a capital outlay override pursuant to
3 section 15-481 or a bond election pursuant to section 15-491.

4 26. Conduct a background investigation that includes a fingerprint
5 check conducted pursuant to section 41-1750, subsection G for certificated
6 personnel and personnel who are not paid employees of the school district, as
7 a condition of employment. A school district may release the results of a
8 background check to another school district for employment purposes. The
9 school district may charge the costs of fingerprint checks to its
10 fingerprinted employee, except that the school district may not charge the
11 costs of fingerprint checks for personnel who are not paid employees of the
12 school district.

13 27. Sell advertising space on the exterior of school buses as
14 follows:

15 (a) Advertisements shall be age appropriate and not contain promotion
16 of any substance that is illegal for minors such as alcohol, tobacco and
17 drugs or gambling. Advertisements shall comply with the state sex education
18 policy of abstinence.

19 (b) Advertising approved by the governing board may appear only on the
20 sides of the bus in the following areas:

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

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

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

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

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

31 (c) Establish a school bus advertisement fund that is comprised of
32 revenues from the sale of advertising space on school buses. The monies in a

1 school bus advertisement fund are not subject to reversion and shall be used
2 for the following purposes:

3 (i) To comply with the energy conservation measures prescribed in
4 section 15-349 in school districts that are in area A as defined in section
5 49-541, and any remaining monies shall be used to purchase alternative fuel
6 support vehicles and any other pupil related costs as determined by the
7 governing board.

8 (ii) For any pupil related costs as determined by the governing board
9 in school districts not subject to item (i) of this subdivision.

10 28. Assess reasonable damage deposits to pupils in grades seven through
11 twelve for the use of textbooks, musical instruments, band uniforms or other
12 equipment required for academic courses. The governing board shall adopt
13 policies on any damage deposits assessed pursuant to this paragraph at a
14 public meeting called for this purpose after providing notice to all parents
15 of pupils in grades seven through twelve in the school district. Principals
16 of individual schools within the district may waive the damage deposit
17 requirement for any textbook or other item if the payment of the damage
18 deposit would create an economic hardship for the pupil. The school district
19 shall return the full amount of the damage deposit for any textbook or other
20 item if the pupil returns the textbook or other item in reasonably good
21 condition within the time period prescribed by the governing board. For the
22 purposes of this paragraph, "in reasonably good condition" means the textbook
23 or other item is in the same or a similar condition as it was when the pupil
24 received it, plus ordinary wear and tear.

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

29 30. Notwithstanding section 15-1143, expend surplus monies in the
30 community school program fund for maintenance and operations or unrestricted
31 capital outlay, if sufficient monies are available in the fund after meeting
32 the needs of programs established pursuant to section 15-1142.

1 31. Adopt guidelines for standardization of the format of the school
2 report cards required by section 15-746 for schools within the district.

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

8 (a) The policy may provide reasonable exceptions to the parental
9 notification requirement.

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

17 33. Enter into voluntary partnerships with any party to finance with
18 funds other than school district funds and cooperatively design school
19 facilities that comply with the adequacy standards prescribed in section
20 15-2011 and the square footage per pupil requirements pursuant to section
21 15-2041, subsection D, paragraph 3, subdivision (b). The design plans and
22 location of any such school facility shall be submitted to the school
23 facilities board for approval pursuant to section 15-2041, subsection 0. If
24 the school facilities board approves the design plans and location of any
25 such school facility, the party in partnership with the school district may
26 cause to be constructed and the district may begin operating the school
27 facility before monies are distributed from the school facilities board
28 pursuant to section 15-2041. Monies distributed from the new school
29 facilities fund to a school district in a partnership with another party to
30 finance and design the school facility shall be paid to the school district
31 pursuant to section 15-2041. The school district shall reimburse the party
32 in partnership with the school district from the monies paid to the school

1 district pursuant to section 15-2041, in accordance with the voluntary
2 partnership agreement. Before the school facilities board distributes any
3 monies pursuant to this subsection, the school district shall demonstrate to
4 the school facilities board that the facilities to be funded pursuant to
5 section 15-2041, subsection 0 meet the minimum adequacy standards prescribed
6 in section 15-2011. If the cost to construct the school facility exceeds the
7 amount that the school district receives from the new school facilities fund,
8 the partnership agreement between the school district and the other party
9 shall specify that, except as otherwise provided by the other party, any such
10 excess costs shall be the responsibility of the school district. The school
11 district governing board shall adopt a resolution in a public meeting that an
12 analysis has been conducted on the prospective effects of the decision to
13 operate a new school with existing monies from the school district's
14 maintenance and operations budget and how this decision may affect other
15 schools in the school district. If a school district acquires land by
16 donation at an appropriate school site approved by the school facilities
17 board and a school facility is financed and built on the land pursuant to
18 this paragraph, the school facilities board shall distribute an amount equal
19 to twenty per cent of the fair market value of the land that can be used for
20 academic purposes. The school district shall place the monies in the
21 unrestricted capital outlay fund and increase the unrestricted capital budget
22 limit by the amount of the monies placed in the fund. Monies distributed
23 under this paragraph shall be distributed from the new school facilities fund
24 pursuant to section 15-2041. If a school district acquires land by donation
25 at an appropriate school site approved by the school facilities board and a
26 school facility is financed and built on the land pursuant to this paragraph,
27 the school district shall not receive monies from the school facilities board
28 for the donation of real property pursuant to section 15-2041, subsection F.
29 It is unlawful for:

30 (a) A county, city or town to require as a condition of any land use
31 approval that a landowner or landowners that entered into a partnership
32 pursuant to this paragraph provide any contribution, donation or gift, other

1 than a site donation, to a school district. This subdivision only applies to
2 the property in the voluntary partnership agreement pursuant to this
3 paragraph.

4 (b) A county, city or town to require as a condition of any land use
5 approval that the landowner or landowners located within the geographic
6 boundaries of the school subject to the voluntary partnership pursuant to
7 this paragraph provide any donation or gift to the school district except as
8 provided in the voluntary partnership agreement pursuant to this paragraph.

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

12 (d) A school district to enter into an agreement pursuant to this
13 paragraph with any party other than a master planned community party. Any
14 land area consisting of at least three hundred twenty acres that is the
15 subject of a development agreement with a county, city or town entered into
16 pursuant to section 9-500.05 or 11-1101 shall be deemed to be a master
17 planned community. For the purposes of this subdivision, "master planned
18 community" means a land area consisting of at least three hundred twenty
19 acres, which may be noncontiguous, that is the subject of a zoning ordinance
20 approved by the governing body of the county, city or town in which the land
21 is located that establishes the use of the land area as a planned area
22 development or district, planned community development or district, planned
23 unit development or district or other land use category or district that is
24 recognized in the local ordinance of such county, city or town and that
25 specifies the use of such land is for a master planned development.

26 Sec. 8. Section 34-201, Arizona Revised Statutes, as amended by
27 section 4 of this act, is amended to read:

28 34-201. Notice of intention to receive bids and enter contract;
29 procedure; doing work without advertising for bids;
30 county compliance

31 A. Except as provided in subsections B through G and L of this
32 section, every agent on acceptance and approval of the working drawings and

1 specifications, shall publish a notice to contractors of intention to receive
2 bids and contract for the proposed work. This notice shall be published by
3 advertising in a newspaper of general circulation in the county in which the
4 agent is located for two consecutive publications if it is a weekly newspaper
5 or for two publications that are at least six but no more than ten days apart
6 if it is a daily newspaper. The notice shall state:

7 1. The nature of the work required, the type, purpose and location of
8 the proposed building and where the plans, specifications and full
9 information as to the proposed work may be obtained.

10 2. That contractors desiring to submit proposals may obtain copies of
11 full or partial sets of plans and specifications for estimate on request or
12 by appointment. The return of such plans and specifications shall be
13 guaranteed by a deposit of a designated amount which shall be refunded on
14 return of the plans and specifications in good order.

15 3. That every proposal shall be accompanied by a certified check,
16 cashier's check or surety bond for ten per cent of the amount of the bid
17 included in the proposal as a guarantee that the contractor will enter into a
18 contract to perform the proposal in accordance with the plans and
19 specifications. Notwithstanding any other statute, the surety bond shall be
20 executed solely by a surety company or companies holding a certificate of
21 authority to transact surety business in this state issued by the director of
22 the department of insurance pursuant to title 20, chapter 2, article 1. The
23 surety bond shall not be executed by an individual surety or sureties, even
24 if the requirements of section 7-101 are satisfied. The certified check,
25 cashier's check or surety bond shall be returned to the contractors whose
26 proposals are not accepted, and to the successful contractor on the execution
27 of a satisfactory bond and contract as provided in this article. The
28 conditions and provisions of the surety bid bond regarding the surety's
29 obligations shall follow the following form:

30 Now, therefore, if the obligee accepts the proposal of the
31 principal and the principal enters into a contract with the
32 obligee in accordance with the terms of the proposal and gives

1 the bonds and certificates of insurance as specified in the
2 standard specifications with good and sufficient surety for the
3 faithful performance of the contract and for the prompt payment
4 of labor and materials furnished in the prosecution of the
5 contract, or in the event of the failure of the principal to
6 enter into the contract and give the bonds and certificates of
7 insurance, if the principal pays to the obligee the difference
8 not to exceed the penalty of the bond between the amount
9 specified in the proposal and such larger amount for which the
10 obligee may in good faith contract with another party to perform
11 the work covered by the proposal then this obligation is void.
12 Otherwise it remains in full force and effect provided, however,
13 that this bond is executed pursuant to the provisions of section
14 34-201, Arizona Revised Statutes, and all liabilities on this
15 bond shall be determined in accordance with the provisions of the
16 section to the extent as if it were copied at length herein.

17 4. That the right is reserved to reject any or all proposals or to
18 withhold the award for any reason the agent determines.

19 B. If the agent believes that any construction, building addition or
20 alteration contemplated at a public institution can be advantageously done by
21 the inmates of the public institution and regularly employed help, the agent
22 may cause the work to be done without advertising for bids.

23 C. Any building, structure, addition or alteration may be constructed
24 either with or without the use of the agent's regularly employed personnel
25 without advertising for bids, provided that the total cost of the work,
26 excluding materials and equipment previously acquired by bid, does not
27 exceed:

28 1. In fiscal year 1994-1995, fourteen thousand dollars.

29 2. In fiscal year 1995-1996 and each fiscal year thereafter, the
30 amount provided in paragraph 1 of this subsection adjusted by the annual
31 percentage change in the GDP price deflator as defined in section 41-563.

1 D. Notwithstanding subsection C of this section, any street, road,
2 bridge, water or sewer work, other than a water or sewer treatment plant or
3 building, may be constructed either with or without the use of the agent's
4 regularly employed personnel without advertising for bids, provided that the
5 total cost of the work does not exceed:

6 1. In fiscal year 1994-1995, one hundred fifty thousand dollars.

7 2. In fiscal year 1995-1996 and each fiscal year thereafter, the
8 amount provided in paragraph 1 of this subsection adjusted by the annual
9 percentage change in the GDP price deflator as defined in section 41-563.

10 E. For the purposes of subsection D of this section, the total cost of
11 water or sewer work does not include services provided by volunteers or
12 donations made for the water or sewer project.

13 F. Notwithstanding this section, an agent may:

14 1. Construct, reconstruct, install or repair a natural gas or electric
15 utility and distribution system, owned or operated by such agent, with
16 regularly employed personnel of the agent without advertising for bids,
17 unless otherwise prohibited by charter or ordinance.

18 2. Construct recreational projects, including trails, playgrounds,
19 ballparks and other similar facilities and excluding buildings, structures,
20 building additions and alterations to buildings, structures and building
21 additions, with volunteer workers or workers provided by a nonprofit
22 organization without advertising for bids for labor and materials, provided
23 that the total cost of the work does not exceed:

24 (a) In fiscal year 2001-2002, one hundred fifty thousand dollars.

25 (b) In fiscal year 2002-2003 and each fiscal year thereafter, the
26 amount provided in subdivision (a) adjusted by the annual percentage change
27 in the GDP price deflator as defined in section 41-563.

28 G. A contribution by an agent for the financing of public
29 infrastructure made pursuant to a development agreement is exempt from this
30 section if such contribution for any single development does not exceed:

31 1. In fiscal year 1994-1995, one hundred thousand dollars.

1 2. In fiscal year 1995-1996 and each fiscal year thereafter, the
2 amount provided in paragraph 1 of this subsection adjusted by the annual
3 percentage change in the GDP price deflator as defined in section 41-563.

4 H. In addition to other state or local requirements relating to the
5 publication of bids, each agent shall provide at least one set of all plans
6 and specifications to any construction news reporting service that files an
7 annual request with the agent. For the purposes of this subsection,
8 "construction news reporting service" means a service that researches,
9 gathers and disseminates news and reports either in print or electronically,
10 on at least a weekly basis for building projects, construction bids, the
11 purchasing of materials, supplies or services and other construction bidding
12 or planned activity to the allied construction industry. The allied
13 construction industry includes both general and specialty contractors,
14 builders, material and service suppliers, architects and engineers, owners,
15 developers and government agencies.

16 I. Any construction by a county under this section shall comply with
17 the uniform accounting system prescribed for counties by the auditor general
18 under section 41-1279.21. Any construction by a city or town under this
19 section shall comply with generally accepted accounting principles.

20 J. Any construction, building addition or alteration project that is
21 financed by monies of this state or its political subdivisions shall not use
22 endangered wood species unless an exemption is granted by the director of the
23 department of administration. The director shall only grant an exemption if
24 the use of endangered wood species is deemed necessary for historical
25 restoration or to repair existing facilities and the use of any substitute
26 material is not practical. Any lease-purchase agreement entered into by this
27 state or its political subdivisions for construction shall specify that no
28 endangered wood species may be used in the construction unless an exemption
29 is granted by the director. For the purposes of this subsection, "endangered
30 wood species" includes those listed in appendix I of the convention on
31 international trade in endangered species of wild flora and fauna.

1 K. All bonds given by a contractor and surety pursuant to this
2 article, regardless of their actual form, will be deemed by law to be the
3 form required and set forth in this article and no other.

4 L. Any building, structure, addition or alteration may be constructed
5 without complying with this article if the construction, including
6 construction of buildings or structures on public or private property, is
7 required as a condition of development of private property and is authorized
8 by section 9-463.01 or 11-806.01. For the purposes of this subsection,
9 building does not include police, fire, school, library or other public
10 buildings.

11 M. Notwithstanding section 34-221, any agent may enter into a
12 guaranteed energy cost savings contract with a qualified provider, **AS THOSE**
13 **TERMS ARE DEFINED IN SECTION 15-213.01**, for the purchase of energy cost
14 savings measures without complying with this article and may procure a
15 guaranteed energy cost savings contract through the competitive sealed
16 proposal process prescribed in title 41, chapter 23, **ARTICLE 3** or any similar
17 competitive proposal process adopted by the agent **AS LONG AS THE AGENT**
18 **FOLLOWS ANY ADDITIONAL REQUIREMENTS SET FORTH IN SECTION 15-213.01**.

19 Sec. 9. School facilities board; annual report

20 A. The school facilities board shall submit an annual report to the
21 governor, the president of the senate, the speaker of the house of
22 representatives, and the joint legislative budget committee not later than
23 December 31 each year that shows projects entered into by school districts
24 pursuant to sections 15-213.01 and 15-910.02, Arizona Revised Statutes. The
25 report shall include:

- 26 1. The name of the project.
- 27 2. The qualified provider.
- 28 3. The total cost of the project.
- 29 4. The amount financed through the guaranteed energy and water savings
30 created by the installed improvements.
- 31 5. The baseline energy consumption data.
- 32 6. The projected energy and cost savings.

1 7. The actual energy and cost savings.

2 B. The school facilities board shall provide copies of the report to
3 the department of commerce energy office and the Arizona state library,
4 archives and public records.

5 Sec. 10. Effective dates

6 Section 15-213.01, Arizona Revised Statutes, as amended by section 6 of
7 this act, section 15-342, Arizona Revised Statutes, as amended by section 7
8 of this act and section 34-201, Arizona Revised Statutes, as amended by
9 section 8 of this act are effective from and after June 30, 2013.

10 Sec. 11. Delayed Repeal

11 Section 9 of this act relating to school facilities board annual report
12 is repealed effective from and after June 30, 2013.”

13 Amend title to conform

6/27/09
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