

REFERENCE TITLE: school facilities board; revisions

State of Arizona  
House of Representatives  
Fiftieth Legislature  
Second Regular Session  
2012

## **HB 2578**

Introduced by  
Representatives Goodale, Carter, Senator Crandall: Representatives  
Arredondo, Chabin, Crandell, Mesnard, Meyer, Pratt

AN ACT

AMENDING SECTIONS 15-2011, 15-2031 AND 15-2041, ARIZONA REVISED STATUTES;  
REPEALING SECTIONS 15-2063 AND 15-2092, ARIZONA REVISED STATUTES; AMENDING  
SECTION 15-2131, ARIZONA REVISED STATUTES; RELATING TO THE SCHOOL FACILITIES  
BOARD.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-2011, Arizona Revised Statutes, is amended to  
3 read:

4 15-2011. Minimum school facility adequacy requirements:  
5 definition

6 A. The school facilities board, as determined and prescribed in this  
7 chapter, shall provide funding to school districts for new construction as  
8 the projected number of pupils in the district will fill the existing school  
9 facilities and require more pupil space.

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

12 1. The buildings contain sufficient and appropriate space and  
13 equipment that comply with the minimum school facility adequacy guidelines  
14 established pursuant to subsection F of this section. The state shall not  
15 fund facilities for elective courses that require the school district  
16 facilities to exceed minimum school facility adequacy requirements. The  
17 school facilities board shall determine whether a school building meets the  
18 requirements of this paragraph by analyzing the total square footage that is  
19 available for each pupil in conjunction with the need for specialized spaces  
20 and equipment.

21 2. The buildings are in compliance with federal, state and local  
22 building and fire codes and laws that are applicable to the particular  
23 building. An existing school building is not required to comply with current  
24 requirements for new buildings unless this compliance is specifically  
25 mandated by law or by the building or fire code of the jurisdiction where the  
26 building is located.

27 3. The building systems, including roofs, plumbing, telephone systems,  
28 electrical systems, heating systems and cooling systems, are in working order  
29 and are capable of being properly maintained.

30 4. The buildings are structurally sound.

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

34 1. For a school district that provides instruction to pupils in  
35 programs for preschool children with disabilities, kindergarten programs and  
36 grades one through six, eighty square feet per pupil in programs for  
37 preschool children with disabilities, kindergarten programs and grades one  
38 through six.

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

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

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

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

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

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

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

- 21           1. The number of pupils served by the school district.  
22           2. Geographic factors.  
23           3. Grade configurations other than those prescribed in subsection C of  
24 this section.

25           E. In measuring the square footage per pupil requirements of  
26 subsection C of this section, the school facilities board shall:

- 27           1. Use the most recent one hundredth day average daily membership.  
28           2. For each school, use the lesser of either:  
29           (a) Total gross square footage.  
30           (b) Student capacity multiplied by the appropriate square footage per  
31 pupil prescribed by subsection C of this section.

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

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

42           5. Include all portable and modular buildings.

43           6. Include in the ~~gross~~ NET square footage new construction funded  
44 wholly or partially by the school facilities board based on the square  
45 footage funded by the school facilities board. If the new construction is to

1 exceed the square footage funded by the school facilities board, the excess  
2 square footage shall not be included in the gross square footage if any of  
3 the following applies:

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

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

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

14 7. Require that excess square footage that is constructed after July  
15 1, 2002 and that is not excluded pursuant to paragraph 6 of this subsection  
16 meets the minimum school facility adequacy guidelines in order to be eligible  
17 for building renewal monies as computed in section 15-2031.

18 8. Exclude square footage built under a developer agreement according  
19 to section 15-342, paragraph 33 until the school facilities board provides  
20 funding for the square footage under section 15-2041, subsection 0.

21 F. The school facilities board shall adopt rules establishing minimum  
22 school facility adequacy guidelines. ~~The executive director of the school~~  
23 ~~facilities board shall report monthly to the joint committee on capital~~  
24 ~~review on the progress of the development of the proposed rules establishing~~  
25 ~~the guidelines. The joint committee on capital review shall review the~~  
26 ~~proposed guidelines before the school facilities board adopts the rules to~~  
27 ~~establish the minimum school facility adequacy guidelines.~~ The guidelines  
28 shall provide the minimum quality and quantity of school buildings and  
29 facilities and equipment necessary and appropriate to enable pupils to  
30 achieve the academic standards pursuant to section 15-203, subsection A,  
31 paragraphs 12 and 13 and sections 15-701 and 15-701.01. At a minimum, the  
32 school facilities board shall address all of the following in developing  
33 these guidelines:

- 34 1. School sites.
- 35 2. Classrooms.
- 36 3. Libraries and media centers, or both.
- 37 4. Cafeterias.
- 38 5. Auditoriums, multipurpose rooms or other multiuse space.
- 39 6. Technology.
- 40 7. Transportation.
- 41 8. Facilities for science, arts and physical education.
- 42 9. Other facilities and equipment that are necessary and appropriate  
43 to achieve the academic standards prescribed pursuant to section 15-203,  
44 subsection A, paragraphs 12 and 13 and sections 15-701 and 15-701.01.

1           10. Appropriate combinations of facilities or uses listed in this  
2 section.

3           G. The board shall consider the facilities and equipment of the  
4 schools with the highest academic productivity scores, as prescribed in  
5 section 15-2002, subsection A, paragraph 9, subdivision (d), and the highest  
6 parent quality ratings in the establishment of the guidelines.

7           H. The school facilities board may consider appropriate combinations  
8 of facilities or uses in making assessments of and curing existing  
9 deficiencies pursuant to section 15-2002, subsection A, paragraph 1 and in  
10 certifying plans for new school facilities pursuant to section 15-2002,  
11 subsection A, paragraph 5.

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

20           Sec. 2. Section 15-2031, Arizona Revised Statutes, is amended to read:  
21 15-2031. Building renewal fund; definitions

22           A. A building renewal fund is established consisting of monies  
23 appropriated by the legislature. The school facilities board shall  
24 administer the fund and distribute monies to school districts for the purpose  
25 of maintaining the adequacy of existing school facilities. Monies in the  
26 fund are continuously appropriated and are exempt from the provisions of  
27 section 35-190 relating to lapsing of appropriations.

28           B. The school facilities board shall inventory and inspect all school  
29 buildings in this state in order to develop a database to administer the  
30 building renewal formula. The database shall include the student capacity of  
31 the building as determined by the school facilities board. The board shall  
32 distribute monies from the building renewal fund to school districts in an  
33 amount computed pursuant to subsection I of this section. A school district  
34 that receives monies from the building renewal fund shall use the monies  
35 first for any projects that fall below the minimum school facility adequacy  
36 guidelines, as adopted by the school facilities board pursuant to section  
37 15-2011, and that are part of any buildings in the database and second for  
38 any other projects that are part of any buildings owned by the school  
39 district for any of the following:

- 40           1. Major renovations and repairs of a building.
- 41           2. Upgrading systems and areas that will maintain or extend the useful  
42 life of the building.
- 43           3. Infrastructure costs.
- 44           4. Relocation and placement of portable and modular buildings.

1 C. Monies received from the building renewal fund shall be used for  
2 primary projects, unless only secondary projects exist.

3 D. Notwithstanding subsections B and C of this section, school  
4 districts shall use building renewal monies on secondary projects to comply  
5 with building, health, fire or safety codes. Before spending building  
6 renewal monies on secondary projects to comply with building, health, fire or  
7 safety codes, the school facilities board shall approve the projects.

8 E. Monies received from the building renewal fund shall not be used  
9 for any of the following purposes:

- 10 1. New construction.
- 11 2. Remodeling interior space for aesthetic or preferential reasons.
- 12 3. Exterior beautification.
- 13 4. Demolition.
- 14 5. The purchase of soft capital items pursuant to section 15-962,  
15 subsection D.
- 16 6. Routine maintenance except as provided in section 15-2002,  
17 subsection K and subsection L of this section.

18 F. The school facilities board shall maintain the building renewal  
19 database and use the database for the computation of the building renewal  
20 formula distributions. The board shall ensure that the database is updated  
21 on at least an annual basis to reflect changes in the ages and value of  
22 school buildings. The facilities listed in the database shall include only  
23 those buildings that are owned by school districts that are required to meet  
24 academic standards. Each school district shall report to the school  
25 facilities board no later than October 15 of each year the number and type of  
26 school buildings owned by the district, the square footage of each building,  
27 the age of each building, the nature of any renovations ~~completed~~ and the  
28 cost of any renovations ~~completed~~. The school facilities board may review or  
29 audit, or both, to confirm the information submitted by a school district.  
30 If a joint technical education district leases a building from a school  
31 district, that building shall not be included in the school district's square  
32 footage calculation for the purposes of determining the school district's  
33 building renewal distribution pursuant to this section. The board shall  
34 adjust the age of each school facility in the database whenever a building is  
35 significantly upgraded or remodeled. The age of a building that has been  
36 significantly upgraded or remodeled shall be recomputed as follows:

- 37 1. Divide the cost of the renovation by the building capacity value of  
38 the building determined in subsection I, paragraph 3 of this section.
- 39 2. Multiply the quotient determined in paragraph 1 of this subsection  
40 by the currently listed age of the building in the database.
- 41 3. Subtract the product determined in paragraph 2 of this subsection  
42 from the currently listed age of the building in the database, rounded to the  
43 nearest whole number. If the result is negative, use zero.

44 G. The school facilities board shall submit electronically an annual  
45 report to the president of the senate, the speaker of the house of

1 representatives, the Arizona state library, archives and public records and  
2 the governor by October 1 that includes the computation of the amount of  
3 monies to be distributed from the building renewal fund for the current  
4 fiscal year. The joint committee on capital review shall review the school  
5 facilities board's calculation of the building renewal fund distributions.  
6 After the joint committee on capital review reviews the distributions  
7 computed by the school facilities board, the school facilities board shall  
8 distribute the monies from the building renewal fund to school districts in  
9 two equal installments in November and May of each year.

10 H. School districts that receive monies from the building renewal fund  
11 shall establish a district building renewal fund and shall use the monies in  
12 the district building renewal fund only for the purposes prescribed in  
13 subsection B of this section. Ending cash balances in a school district's  
14 building renewal fund may be used in following fiscal years for building  
15 renewal pursuant to subsection B of this section. By October 15 of each  
16 year, each school district shall report to the school facilities board the  
17 projects funded at each school in the previous fiscal year with monies from  
18 the district building renewal fund, including the amount of expenditures  
19 dedicated to primary projects and to secondary projects. On receipt of these  
20 reports, the school facilities board shall forward this information to the  
21 joint legislative budget committee staff and the governor's office of  
22 strategic planning and budgeting staff. Each school district shall also  
23 report to the school facilities board an accounting of the monies remaining  
24 in the district building renewal fund at the end of the previous fiscal year  
25 and a comprehensive three year plan that details the proposed use of building  
26 renewal monies. If a school district fails to submit the report by October  
27 15 or the information required by subsection F of this section, the school  
28 facilities board shall withhold building renewal monies from the school  
29 district until the school facilities board determines that the school  
30 district has complied with the reporting requirement. When the school  
31 facilities board determines that the school district has complied with the  
32 reporting requirement, the school facilities board shall restore the full  
33 amount of withheld building renewal monies to the school district.

34 I. Notwithstanding any other provision of this chapter, if a school  
35 district converts space that is listed in the database maintained pursuant to  
36 this section to space that will be used for administrative purposes, the  
37 school district is responsible for any costs associated with the conversion,  
38 maintenance and replacement of that space. The building renewal amount for  
39 each school building shall be computed as follows:

40 1. Divide the age of the building as computed pursuant to subsection F  
41 of this section by one thousand two hundred seventy-five or, in the case of  
42 modular or portable buildings, by two hundred ten.

43 2. Multiply the quotient determined in paragraph 1 of this subsection  
44 by 0.67.

45 3. Determine the building capacity value as follows:

1 (a) Multiply the student capacity of the building by the per student  
2 square foot capacity established by section 15-2041.

3 (b) Multiply the product determined in subdivision (a) by the cost per  
4 square foot established by section 15-2041.

5 4. Multiply the product determined in paragraph 2 of this subsection  
6 by the product determined in paragraph 3, subdivision (b) of this subsection.

7 J. If the school facilities board determines that a school district  
8 has spent monies from the building renewal fund for purposes other than those  
9 prescribed in subsection B of this section, the school facilities board shall  
10 notify the superintendent of public instruction. Notwithstanding any other  
11 law, the superintendent of public instruction shall withhold a corresponding  
12 amount from the monies that would otherwise be due the school district under  
13 the capital outlay revenue limit until these monies are repaid.

14 K. A school district is not entitled to receive monies from the  
15 building renewal fund for any buildings that are to be replaced with new  
16 buildings that are funded with deficiencies corrections monies. The  
17 replacement buildings are not eligible to receive building renewal funding  
18 until the fiscal year following the completion of the building.

19 L. Notwithstanding subsections B and E of this section, a school  
20 district may use eight per cent of the building renewal amount computed  
21 pursuant to subsection I of this section for routine preventative  
22 maintenance. The board, after consultation with maintenance specialists in  
23 school districts, shall provide examples of recommended services that are  
24 routine preventative maintenance.

25 M. A school district that uses building renewal monies for routine  
26 preventative maintenance shall use the building renewal monies to supplement  
27 and not supplant expenditures from other funds for the maintenance of school  
28 buildings. The auditor general shall prescribe a method for determining  
29 compliance with the requirements of this subsection. A school district, in  
30 connection with any audit conducted by a certified public accountant, shall  
31 also contract for an independent audit to determine whether the school  
32 district used building renewal monies to reduce the school district's  
33 existing level of routine preventative maintenance funding. The auditor  
34 general may conduct discretionary reviews of a school district that is not  
35 required to contract for an independent audit.

36 N. For the purposes of this section:

37 1. "Primary projects" means projects that are necessary for buildings  
38 owned by school districts that are required to meet the academic standards  
39 listed in the database maintained pursuant to subsection F of this section  
40 and that fall below the minimum school facility adequacy guidelines, as  
41 adopted by the school facilities board pursuant to section 15-2011.

42 2. "Routine preventative maintenance" means services that are  
43 performed on a regular schedule at intervals ranging from four times a year  
44 to once every three years and that are intended to extend the useful life of  
45 a building system and reduce the need for major repairs.

1           3. "Secondary projects" means all projects that are not primary  
2 projects.

3           4. "Student capacity" has the same meaning prescribed in section  
4 15-2011.

5           Sec. 3. Section 15-2041, Arizona Revised Statutes, is amended to read:  
6 15-2041. New school facilities fund; capital plan; report

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

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

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

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

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

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

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

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

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

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

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

1 facilities board may require a school district to sell land that was  
2 previously purchased entirely with monies provided by the school facilities  
3 board if the school facilities board determines that the property is no  
4 longer needed within the ten year period specified in this subsection for a  
5 new school or no longer needed within that ten year period for an addition to  
6 an existing school. Monies provided for land shall be in addition to any  
7 monies provided pursuant to subsection D of this section.

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

10 1. The school facilities board shall review and evaluate the  
11 enrollment projections and either approve the projections as submitted or  
12 revise the projections. In determining new construction requirements, the  
13 school facilities board shall determine the net new growth of pupils that  
14 will require additional square footage that exceeds the building adequacy  
15 standards prescribed in section 15-2011. If the projected growth and the  
16 existing number of pupils exceed three hundred fifty pupils who are served in  
17 a school district other than the pupil's resident school district, the school  
18 facilities board, the receiving school district and the resident school  
19 district shall develop a capital facilities plan on how to best serve those  
20 pupils. A small isolated school district as defined in section 15-901 is not  
21 required to develop a capital facilities plan pursuant to this paragraph.

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

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

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

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

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

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

12 (ii) Geographic factors.

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

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

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

32 (d) Once the school district governing board obtains approval from the  
33 school facilities board for new facility construction funds, additional  
34 portable or modular square footage created for the express purpose of  
35 providing temporary space for pupils until the completion of the new facility  
36 shall not be included by the school facilities board for the purpose of new  
37 construction funding calculations. On completion of the new facility  
38 construction project, if the portable or modular facilities continue in use,  
39 the portable or modular facilities shall be included as prescribed by this  
40 chapter, unless the school facilities board approves their continued use for  
41 the purpose of providing temporary space for pupils until the completion of  
42 the next new facility that has been approved for funding from the new school  
43 facilities fund.

44 4. For projects approved after December 31, 2001, and notwithstanding  
45 paragraph 3 of this subsection, a unified school district that does not have

1 a high school is not eligible to receive high school space as prescribed by  
2 section 15-2011 and this section unless the unified district qualifies for  
3 geographic factors prescribed by paragraph 3, subdivision (b), item (ii) of  
4 this subsection.

5 5. If a joint technical education district leases a building from a  
6 school district, that building shall be included in the school district's  
7 square footage calculation for the purposes of new construction pursuant to  
8 this section.

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

26 F. The school facilities board shall distribute the monies needed for  
27 land for new schools so that land may be purchased at a price that is less  
28 than or equal to fair market value and in advance of the construction of the  
29 new school. If necessary, the school facilities board may distribute monies  
30 for land to be leased for new schools if the duration of the lease exceeds  
31 the life expectancy of the school facility by at least fifty per cent. A  
32 school district shall not use land purchased or partially purchased with  
33 monies provided by the school facilities board for a purpose other than a  
34 site for a school facility without obtaining prior written approval from the  
35 school facilities board. A school district shall not lease, sell or take any  
36 action that would diminish the value of land purchased or partially purchased  
37 with monies provided by the school facilities board without obtaining prior  
38 written approval from the school facilities board. The proceeds derived  
39 through the sale of any land purchased or partially purchased, **OR THE SALE OF**  
40 **BUILDINGS FUNDED OR PARTIALLY FUNDED**, with monies provided by the school  
41 facilities board shall be returned to the state fund from which it was  
42 appropriated and to any other participating entity on a proportional basis.  
43 Except as provided in section 15-342, paragraph 33, if a school district  
44 acquires real property by donation at an appropriate school site approved by  
45 the school facilities board, the school facilities board shall distribute an

1 amount equal to twenty per cent of the fair market value of the donated real  
2 property that can be used for academic purposes. The school district shall  
3 place the monies in the unrestricted capital outlay fund and increase the  
4 unrestricted capital budget limit by the amount of monies placed in the fund.  
5 Monies distributed under this subsection shall be distributed from the new  
6 school facilities fund. A school district that receives monies from the new  
7 school facilities fund for a donation of land pursuant to section 15-342,  
8 paragraph 33 shall not receive monies from the school facilities board for  
9 the donation of real property pursuant to this subsection. A school district  
10 shall not pay a consultant a percentage of the value of any of the following:

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

13 (a) Entities that have offered to provide construction services to the  
14 school district.

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

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

18 (d) Entities that develop land for residential use in that school  
19 district.

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

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

24 G. In addition to distributions to school districts based on pupil  
25 growth projections, a school district may submit an application to the school  
26 facilities board for monies from the new school facilities fund if one or  
27 more school buildings have outlived their useful life. If the school  
28 facilities board determines that the school district needs to build a new  
29 school building for these reasons, the school facilities board shall remove  
30 the square footage computations that represent the building from the  
31 computation of the school district's total square footage for purposes of  
32 this section. If the square footage recomputation reflects that the school  
33 district no longer meets building adequacy standards, the school district  
34 qualifies for a distribution of monies from the new school construction  
35 formula in an amount determined pursuant to subsection D of this section.  
36 Buildings removed from a school district's total square footage pursuant to  
37 this subsection shall not be included in the computation of monies from the  
38 building renewal fund established by section 15-2031. The school facilities  
39 board may only modify the base cost per square foot prescribed in this  
40 subsection under extraordinary circumstances for geographic factors or site  
41 conditions.

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

9           I. If a school district has surplus monies received from the new  
10 school facilities fund, the school district may use the surplus monies only  
11 for capital purposes for the project for up to one year after completion of  
12 the project. If the school district possesses surplus monies from the new  
13 school construction project that have not been expended within one year of  
14 the completion of the project, the school district shall return the surplus  
15 monies to the school facilities board for deposit in the new school  
16 facilities fund.

17           J. The board's consideration of any application filed after December  
18 31 of the year in which the property becomes territory in the vicinity of a  
19 military airport or ancillary military facility as defined in section 28-8461  
20 for monies to fund the construction of new school facilities proposed to be  
21 located in territory in the vicinity of a military airport or ancillary  
22 military facility shall include, if after notice is transmitted to the  
23 military airport pursuant to section 15-2002 and before the public hearing  
24 the military airport provides comments and an analysis concerning  
25 compatibility of the proposed school facilities with the high noise or  
26 accident potential generated by military airport or ancillary military  
27 facility operations that may have an adverse effect on public health and  
28 safety, consideration and analysis of the comments and analysis provided by  
29 the military airport before making a final determination.

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

35           L. The school facilities board shall establish a separate account in  
36 the new school facilities fund designated as the litigation account to pay  
37 attorney fees, expert witness fees and other costs associated with litigation  
38 in which the school facilities board pursues the recovery of damages for  
39 deficiencies correction that resulted from alleged construction defects or  
40 design defects that the school facilities board believes caused or  
41 contributed to a failure of the school building to conform to the building  
42 adequacy requirements prescribed in section 15-2011. Attorney fees paid  
43 pursuant to this subsection shall not exceed the market rate for similar  
44 types of litigation. On or before December 1 of each year, the school  
45 facilities board shall report to the joint committee on capital review the

1 costs associated with current and potential litigation that may be paid from  
2 the litigation account.

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

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

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

37 Sec. 4. Repeal

38 Sections 15-2063 and 15-2092, Arizona Revised Statutes, are repealed.

39 Sec. 5. Section 15-2131, Arizona Revised Statutes, is amended to read:

40 15-2131. Definitions

41 In this article, unless the context otherwise requires:

42 1. "HVAC system" means the equipment, distribution network and  
43 terminals that provide, either collectively or individually, the process of  
44 heating, ventilation or air conditioning to a building.

- 1           2. "School activity hours" means the time of day in which students or  
2 school personnel occupy school facilities.
- 3           3. "Standard 62" means the AMERICAN NATIONAL STANDARDS  
4 INSTITUTE/American society of heating, ~~ventilating, refrigeration~~  
5 REFRIGERATING and air conditioning engineers standard ~~62~~ 62.1 entitled  
6 "ventilation for acceptable indoor air quality".