

State of Arizona  
Senate  
Fifty-first Legislature  
Second Regular Session  
2014

# SENATE BILL 1102

AN ACT

AMENDING SECTIONS 15-2002, 15-2011, 15-2032 AND 15-2041, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 7.1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-883.05; RELATING TO SCHOOL FACILITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-2002, Arizona Revised Statutes, is amended to  
3 read:

4 15-2002. Powers and duties; executive director; staffing;  
5 report

6 A. The school facilities board shall:

7 1. Make assessments of school facilities and equipment deficiencies  
8 and approve the distribution of grants as appropriate.

9 2. ~~Inventory and inspect all school buildings in this state in order~~  
10 ~~to develop~~ MAINTAIN a database OF SCHOOL FACILITIES to administer the  
11 building renewal grant fund and new school facilities formula. THE  
12 FACILITIES LISTED IN THE DATABASE MUST INCLUDE ALL BUILDINGS THAT ARE OWNED  
13 BY SCHOOL DISTRICTS. The school facilities board shall ~~maintain the database~~  
14 ~~and~~ ensure that the database is updated on at least an annual basis. Each  
15 school district shall report to the school facilities board no later than  
16 September 1 of each year information as required by the school facilities  
17 board for the administration of the building renewal grant fund and  
18 computation of new school facilities formula distributions. EACH SCHOOL  
19 DISTRICT SHALL REPORT ANY SCHOOL OR SCHOOL BUILDINGS THAT HAVE BEEN CLOSED,  
20 THAT HAVE BEEN LEASED TO ANOTHER ENTITY OR THAT OPERATE AS A CHARTER SCHOOL.  
21 The school facilities board may review or audit the information, or both, to  
22 confirm the information submitted by a school district.

23 3. Inspect school buildings at least once every five years to ensure  
24 compliance with the building adequacy standards prescribed in section 15-2011  
25 and routine preventative maintenance guidelines as prescribed in this section  
26 with respect to construction of new buildings and maintenance of existing  
27 buildings. The school facilities board shall randomly select twenty school  
28 districts every thirty months and inspect them pursuant to this paragraph.

29 4. Review and approve student population projections submitted by  
30 school districts to determine to what extent school districts are entitled to  
31 monies to construct new facilities pursuant to section 15-2041. The board  
32 shall make a final determination within six months of the receipt of an  
33 application by a school district for monies from the new school facilities  
34 fund.

35 5. Certify that plans for new school facilities meet the building  
36 adequacy standards prescribed in section 15-2011.

37 6. Develop prototypical elementary and high school designs. The board  
38 shall review the design differences between the schools with the highest  
39 academic productivity scores and the schools with the lowest academic  
40 productivity scores. The board shall also review the results of a valid and  
41 reliable survey of parent quality rating in the highest performing schools  
42 and the lowest performing schools in this state. The survey of parent  
43 quality rating shall be administered by the department of education. The  
44 board shall consider the design elements of the schools with the highest  
45 academic productivity scores and parent quality ratings in the development of

1 elementary and high school designs. The board shall develop separate school  
2 designs for elementary, middle and high schools with varying pupil  
3 capacities.

4 7. Develop application forms, reporting forms and procedures to carry  
5 out the requirements of this article.

6 8. Review and approve or reject requests submitted by school districts  
7 to take actions pursuant to section 15-341, subsection G.

8 9. Submit electronically an annual report on or before December 15 to  
9 the speaker of the house of representatives, the president of the senate, the  
10 superintendent of public instruction, the secretary of state and the governor  
11 that includes the following information:

12 (a) A detailed description of the amount of monies distributed by the  
13 school facilities board in the previous fiscal year.

14 (b) A list of each capital project that received monies from the  
15 school facilities board during the previous fiscal year, a brief description  
16 of each project that was funded and a summary of the board's reasons for the  
17 distribution of monies for the project.

18 (c) A summary of the findings and conclusions of the building  
19 maintenance inspections conducted pursuant to this article during the  
20 previous fiscal year.

21 (d) A summary of the findings of common design elements and  
22 characteristics of the highest performing schools and the lowest performing  
23 schools based on academic productivity, including the results of the parent  
24 quality rating survey. For the purposes of this subdivision, "academic  
25 productivity" means academic year advancement per calendar year as measured  
26 with student-level data using the statewide nationally standardized  
27 norm-referenced achievement test.

28 10. On or before December 1 of each year, report electronically to the  
29 joint committee on capital review the amounts necessary to fulfill the  
30 requirements of sections 15-2022 and 15-2041 for the following fiscal year  
31 and the estimated amounts necessary to fulfill the requirements of sections  
32 15-2022 and 15-2041 for the fiscal year following the next fiscal year. The  
33 board shall provide copies of the report to the president of the senate, the  
34 speaker of the house of representatives and the governor.

35 11. Adopt minimum school facility adequacy guidelines to provide the  
36 minimum quality and quantity of school buildings and the facilities and  
37 equipment necessary and appropriate to enable pupils to achieve the  
38 educational goals of the Arizona state schools for the deaf and the blind.  
39 The school facilities board shall establish minimum school facility adequacy  
40 guidelines applicable to the Arizona state schools for the deaf and the  
41 blind.

42 12. In each even-numbered year, report electronically to the joint  
43 committee on capital review the amounts necessary to fulfill the requirements  
44 of section 15-2041 for the Arizona state schools for the deaf and the blind  
45 for the following two fiscal years. The Arizona state schools for the deaf

1 and the blind shall incorporate the findings of the report in any request for  
2 new school facilities monies. Any monies provided to the Arizona state  
3 schools for the deaf and the blind for new school facilities are subject to  
4 legislative appropriation.

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

15 14. Every two years, provide school districts with information on  
16 improving and maintaining the indoor environmental quality in school  
17 buildings.

18 B. The school facilities board may contract for the following services  
19 in compliance with the procurement practices prescribed in title 41,  
20 chapter 23:

- 21 1. Private services.
- 22 2. Construction project management services.
- 23 3. Assessments for school buildings to determine if the buildings have  
24 outlived their useful life pursuant to section 15-2041, subsection G.
- 25 4. Services related to land acquisition and development of a school  
26 site.

27 C. The governor shall appoint an executive director of the school  
28 facilities board pursuant to section 38-211. The executive director is  
29 eligible to receive compensation as determined pursuant to section 38-611 and  
30 may hire and fire necessary staff subject to title 41, chapter 4, article 4  
31 and as approved by the legislature in the budget. The executive director  
32 shall have demonstrated competency in school finance, facilities design or  
33 facilities management, either in private business or government service. The  
34 executive director serves at the pleasure of the governor. The staff of the  
35 school facilities board is exempt from title 41, chapter 4, articles 5 and 6.  
36 The executive director:

- 37 1. Shall analyze applications for monies submitted to the board by  
38 school districts.
- 39 2. Shall assist the board in developing forms and procedures for the  
40 distribution and review of applications and the distribution of monies to  
41 school districts.
- 42 3. May review or audit, or both, the expenditure of monies by a school  
43 district for deficiencies corrections and new school facilities.
- 44 4. Shall assist the board in the preparation of the board's annual  
45 report.

1           5. Shall research and provide reports on issues of general interest to  
2 the board.

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

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

8           8. Shall assist the board in any other appropriate matter or method as  
9 directed by the members of the board.

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

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

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

27          12. Shall make a determination as to administrative completion within  
28 one month after the receipt of an application by a school district for monies  
29 from the new school facilities fund.

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

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

39          E. The school facilities board shall contract with one or more private  
40 building inspectors to complete an initial assessment of school facilities  
41 and equipment and shall inspect each school building in this state at least  
42 once every five years to ensure compliance with section 15-2011. A copy of  
43 the inspection report, together with any recommendations for building  
44 maintenance, shall be provided to the school facilities board and the  
45 governing board of the school district.

1 F. The school facilities board may consider appropriate combinations  
2 of facilities or uses in making assessments of and curing deficiencies  
3 pursuant to subsection A, paragraph 1 of this section and in certifying plans  
4 for new school facilities pursuant to subsection A, paragraph 5 of this  
5 section.

6 G. The board shall not award any monies to fund new facilities that  
7 are financed by class A bonds that are issued by the school district.

8 H. The board shall not distribute monies to a school district for  
9 replacement or repair of facilities if the costs associated with the  
10 replacement or repair are covered by insurance or a performance or payment  
11 bond.

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

19 J. The school facilities board may enter into agreements with school  
20 districts to allow school facilities board staff and contractors access to  
21 school property for the purposes of performing the construction services  
22 necessary pursuant to subsection I of this section.

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

35 L. The school facilities board may temporarily transfer monies between  
36 the capital reserve fund established by section 15-2003, the emergency  
37 deficiencies correction fund established by section 15-2022 and the new  
38 school facilities fund established by section 15-2041 if all of the following  
39 conditions are met:

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

42 2. The transferred monies are restored to the fund where the monies  
43 originated as soon as practicable after the temporary shortfall in the other  
44 fund has been addressed.



1           4. The buildings are structurally sound.

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

5           1. For a school district that provides instruction to pupils in  
6 programs for preschool children with disabilities, kindergarten programs and  
7 grades one through six, eighty square feet per pupil in programs for  
8 preschool children with disabilities, kindergarten programs and grades one  
9 through six.

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

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

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

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

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

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

32          D. The school facilities board may modify the square footage  
33 requirements prescribed in subsection C of this section or modify the amount  
34 of monies awarded to cure the square footage deficiency pursuant to this  
35 section for particular school districts based on extraordinary circumstances  
36 for any of the following considerations:

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

38           2. Geographic factors.

39           3. Grade configurations other than those prescribed in subsection C of  
40 this section.

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

43           1. Use the most recent one hundredth day average daily membership.

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

45           (a) Total gross square footage.

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

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

9 4. Compute the gross square footage of all buildings by measuring from  
10 exterior wall to exterior wall. Square footage used solely for district  
11 administration, storage of vehicles and other nonacademic purposes shall be  
12 excluded from the ~~gross~~ NET square footage.

13 5. Include all portable and modular buildings.

14 6. Include in the net square footage new construction funded wholly or  
15 partially by the school facilities board based on the square footage funded  
16 by the school facilities board. If the new construction is to exceed the  
17 square footage funded by the school facilities board, the excess square  
18 footage shall not be included in the net square footage if any of the  
19 following applies:

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

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

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

30 7. Exclude square footage built under a developer agreement according  
31 to section 15-342, paragraph 33 until the school facilities board provides  
32 funding for the square footage under section 15-2041, subsection 0.

33 8. Include square footage that a school district has leased to another  
34 entity, including square footage leased to a charter school that is sponsored  
35 by a school district pursuant to section 15-183.

36 F. The school facilities board shall adopt rules establishing minimum  
37 school facility adequacy guidelines. The guidelines shall provide the  
38 minimum quality and quantity of school buildings and facilities and equipment  
39 necessary and appropriate to enable pupils to achieve the academic standards  
40 pursuant to section 15-203, subsection A, paragraphs 12 and 13 and sections  
41 15-701 and 15-701.01. At a minimum, the school facilities board shall  
42 address all of the following in developing these guidelines:

43 1. School sites.

44 2. Classrooms.

45 3. Libraries and media centers, or both.

- 1           4. Cafeterias.
- 2           5. Auditoriums, multipurpose rooms or other multiuse space.
- 3           6. Technology.
- 4           7. Transportation.
- 5           8. Facilities for science, arts and physical education.
- 6           9. Other facilities and equipment that are necessary and appropriate
- 7 to achieve the academic standards prescribed pursuant to section 15-203,
- 8 subsection A, paragraphs 12 and 13 and sections 15-701 and 15-701.01.
- 9          10. Appropriate combinations of facilities or uses listed in this
- 10 section.

11           G. The board shall consider the facilities and equipment of the

12 schools with the highest academic productivity scores, as prescribed in

13 section 15-2002, subsection A, paragraph 9, subdivision (d), and the highest

14 parent quality ratings in the establishment of the guidelines.

15           H. The school facilities board may consider appropriate combinations

16 of facilities or uses in making assessments of and curing existing

17 deficiencies pursuant to section 15-2002, subsection A, paragraph 1 and in

18 certifying plans for new school facilities pursuant to section 15-2002,

19 subsection A, paragraph 5.

20           I. For the purposes of this section, "student capacity" means the

21 capacity adjusted to include any additions to or deletions of space,

22 including modular or portable buildings at the school. The school facilities

23 board shall determine the student capacity for each school in conjunction

24 with each school district, recognizing each school's allocation of space as

25 of July 1, 1998, to achieve the academic standards prescribed pursuant to

26 section 15-203, subsection A, paragraphs 12 and 13 and sections 15-701 and

27 15-701.01.

28           J. A CHILD CARE FACILITY THAT PROVIDES SERVICES UTILIZING THE PRACTICE

29 OF A DOCUMENTED EDUCATIONAL PHILOSOPHY INCLUDING LEAST RESTRICTIVE

30 ENVIRONMENT PURSUANT TO SECTION 36-883.05 MAY INCORPORATE THE MINIMUM SCHOOL

31 FACILITY ADEQUACY GUIDELINES PURSUANT TO SUBSECTION F OF THIS SECTION WHEN

32 SELECTING A FACILITY IF THE GUIDELINES DO NOT CONFLICT WITH FACILITY

33 REQUIREMENTS ESTABLISHED BY THE DEPARTMENT OF HEALTH SERVICES.

34           Sec. 3. Section 15-2032, Arizona Revised Statutes, is amended to read:

35           15-2032. School facilities board building renewal grant fund;

36   definitions

37           A. The building renewal grant fund is established consisting of monies

38 appropriated to the fund by the legislature. The school facilities board

39 shall administer the fund and distribute monies to school districts for the

40 purpose of maintaining the adequacy of existing school facilities. Monies in

41 the fund are exempt from the provisions of section 35-190 relating to lapsing

42 of appropriations.

43           B. The school facilities board shall distribute monies from the fund

44 based on grant requests from school districts to fund primary building

45 renewal projects. Project requests shall be prioritized by the school

1 facilities board, with priority given to school districts that have provided  
2 routine preventative maintenance on the facility, and to school districts  
3 that can provide a match of monies provided by the fund. The school  
4 facilities board shall approve only projects that will be completed within  
5 twelve months, unless similar projects on average take longer to complete.

6 C. School districts that receive monies from the fund shall use these  
7 monies on projects for buildings or any part of a building in the school  
8 facilities board's database for any of the following:

- 9 1. Major renovations and repairs to a building.
- 10 2. Upgrading systems and areas that will maintain or extend the useful  
11 life of the building.
- 12 3. Infrastructure costs.

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

- 15 1. New construction.
- 16 2. Remodeling interior space for aesthetic or preferential reasons.
- 17 3. Exterior beautification.
- 18 4. Demolition.
- 19 5. Routine preventative maintenance.
- 20 6. Any project in a building, or part of a building, that is being  
21 leased to another entity, including a charter school that is sponsored by a  
22 school district pursuant to section 15-183.

23 E. Accommodation schools are not eligible for monies from the building  
24 renewal grant fund.

25 F. For the purposes of this section:

26 1. "Primary building renewal projects" means projects that are  
27 necessary for buildings owned by school districts that are required to meet  
28 the minimum adequacy standards for student capacity and that fall below the  
29 minimum school facility adequacy guidelines, as adopted by the school  
30 facilities board pursuant to section 15-2011, for school districts that have  
31 provided routine preventative maintenance to the school facility.

32 2. "Routine preventative maintenance" means services that are  
33 performed on a regular schedule at intervals ranging from four times a year  
34 to once every three years, **OR ON THE SCHEDULE OF SERVICES RECOMMENDED BY THE**  
35 **MANUFACTURER OF THE SPECIFIC BUILDING SYSTEM OR EQUIPMENT, and** that are  
36 intended to extend the useful life of a building system and reduce the need  
37 for major repairs.

38 3. "Student capacity" has the same meaning prescribed in section  
39 15-2011.

40 Sec. 4. Section 15-2041, Arizona Revised Statutes, is amended to read:  
41 **15-2041. New school facilities fund; capital plan; report**

42 A. A new school facilities fund is established consisting of monies  
43 appropriated by the legislature and monies credited to the fund pursuant to  
44 section 37-221. The school facilities board shall administer the fund and  
45 distribute monies, as a continuing appropriation, to school districts for the

1 purpose of constructing new school facilities and for contracted expenses  
2 pursuant to section 15-2002, subsection B, paragraphs 2, 3 and 4. On June 30  
3 of each fiscal year, any unobligated contract monies in the new school  
4 facilities fund shall be transferred to the capital reserve fund established  
5 by section 15-2003.

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

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

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

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

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

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

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

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

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

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

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

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

15           2. If the approved projections indicate that additional space would  
16 not have been needed during the current school year in order to meet the  
17 building adequacy standards prescribed in section 15-2011, the request shall  
18 be held for consideration by the school facilities board for possible future  
19 funding and the school district shall annually submit an updated plan until  
20 the additional space is needed.

21           3. If the approved projections indicate that additional space would  
22 have been needed during the current school year in order to meet the building  
23 adequacy standards prescribed in section 15-2011, the school facilities board  
24 shall provide an amount as follows:

25           (a) Determine the number of pupils requiring additional square footage  
26 to meet building adequacy standards. This amount for elementary schools  
27 shall not be less than the number of new pupils for whom space will be needed  
28 in the next year and shall not exceed the number of new pupils for whom space  
29 will be needed in the next five years. This amount for middle and high  
30 schools shall not be less than the number of new pupils for whom space will  
31 be needed in the next four years and shall not exceed the number of new  
32 pupils for whom space will be needed in the next eight years.

33           (b) Multiply the number of pupils determined in subdivision (a) of  
34 this paragraph by the square footage per pupil. The square footage per pupil  
35 is ninety square feet per pupil for preschool children with disabilities,  
36 kindergarten programs and grades one through six, one hundred square feet for  
37 grades seven and eight, one hundred thirty-four square feet for a school  
38 district that provides instruction in grades nine through twelve for fewer  
39 than one thousand eight hundred pupils and one hundred twenty-five square  
40 feet for a school district that provides instruction in grades nine through  
41 twelve for at least one thousand eight hundred pupils. The total number of  
42 pupils in grades nine through twelve in the district shall determine the  
43 square footage factor to use for net new pupils. The school facilities board  
44 may modify the square footage requirements prescribed in this subdivision for  
45 particular schools based on any of the following factors:

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

3 (ii) Geographic factors.

4 (iii) Grade configurations other than those prescribed in this  
5 subdivision.

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

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

23 (d) Once the school district governing board obtains approval from the  
24 school facilities board for new facility construction funds, additional  
25 portable or modular square footage created for the express purpose of  
26 providing temporary space for pupils until the completion of the new facility  
27 shall not be included by the school facilities board for the purpose of new  
28 construction funding calculations. On completion of the new facility  
29 construction project, if the portable or modular facilities continue in use,  
30 the portable or modular facilities shall be included as prescribed by this  
31 chapter, unless the school facilities board approves their continued use for  
32 the purpose of providing temporary space for pupils until the completion of  
33 the next new facility that has been approved for funding from the new school  
34 facilities fund.

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

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

1           6. If a school district leases a building to another entity, including  
2 a charter school that is sponsored by a school district pursuant to section  
3 15-183, that building shall be included in the school district's square  
4 footage calculation for purposes of new construction pursuant to this  
5 section.

6           7. A school district shall qualify for ~~MONIES FROM THE new~~  
7 ~~construction funding~~ SCHOOL FACILITIES FUND in a fiscal year only if the  
8 school facilities board has approved or revised its enrollment projection  
9 under paragraph 3 of this subsection on or before March 1 of the prior fiscal  
10 year.

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

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

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

13 1. Donations of real property, services or cash from any of the  
14 following:

15 (a) Entities that have offered to provide construction services to the  
16 school district.

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

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

20 (d) Entities that develop land for residential use in that school  
21 district.

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

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

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

41 H. School districts that receive monies from the new school facilities  
42 fund shall establish a district new school facilities fund and shall use the  
43 monies in the district new school facilities fund only for the purposes  
44 prescribed in this section. By October 15 of each year, each school district  
45 shall report to the school facilities board the projects funded at each

1 school in the previous fiscal year with monies from the district new school  
2 facilities fund and shall provide an accounting of the monies remaining in  
3 the new school facilities fund at the end of the previous fiscal year.

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

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

25 K. If a school district uses its own project manager for new school  
26 construction, the members of the school district governing board and the  
27 project manager shall sign an affidavit stating that the members and the  
28 project manager understand and will follow the minimum adequacy requirements  
29 prescribed in section 15-2011.

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

43 M. Until the state board of education and the auditor general adopt  
44 rules pursuant to section 15-213, subsection I, the school facilities board  
45 may allow school districts to contract for construction services and

1 materials through the qualified select bidders list method of project  
2 delivery for new school facilities pursuant to this section.

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

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

32 P. Accommodation schools are not eligible for monies from the new  
33 school facilities fund.

34 Sec. 5. Title 36, chapter 7.1, article 1, Arizona Revised Statutes, is  
35 amended by adding section 36-883.05, to read:

36 36-883.05. Child care facilities; infants; floor bedding;  
37 requirements; emergency evacuation; notice;  
38 definitions

39 A. A CHILD CARE FACILITY THAT PROVIDES CHILD CARE SERVICES UTILIZING  
40 THE PRACTICE OF A DOCUMENTED EDUCATIONAL PHILOSOPHY INCLUDING LEAST  
41 RESTRICTIVE ENVIRONMENT FOR INFANTS AND MEETS THE REQUIREMENTS OF THIS  
42 SECTION MAY USE FLOOR BEDDING IN THE FACILITY INSTEAD OF CRIBS.

43 B. FLOOR BEDDING PURSUANT TO SUBSECTION A OF THIS SECTION MUST MEET  
44 ALL OF THE FOLLOWING REQUIREMENTS:

- 1           1. BE A MAT THAT MEETS THE FOLLOWING DIMENSIONS:
- 2           (a) IS NOT LESS THAN TWO INCHES AND NOT MORE THAN THREE INCHES THICK.
- 3           (b) IS NOT LESS THAN THREE FEET AND NOT MORE THAN FOUR FEET LONG.
- 4           (c) IS NOT LESS THAN TWO FEET AND NOT MORE THAN THREE FEET WIDE.
- 5           2. NOT BE ELEVATED OR RAISED IN ANY WAY.
- 6           3. BE COVERED WITH A WATERPROOF AND WASHABLE MATTRESS PAD, A WASHABLE
- 7           ZIP COVER AND AN INDIVIDUALLY ASSIGNED SHEET.
- 8           4. BE ASSIGNED TO AN INDIVIDUAL INFANT AND NOT SHARED WITH ANOTHER
- 9           INFANT.
- 10          5. BE TURNED OVER AT LEAST ONCE A WEEK.
- 11          6. BE PLACED AT LEAST EIGHTEEN INCHES APART, EIGHTEEN INCHES FROM ANY
- 12          WALL AND TWO FEET FROM ANY OTHER OBJECT.
- 13          7. BE PLACED ON A FLOOR THAT IS VACUUMED AND SANITIZED EVERY DAY AND,
- 14          IF THE FLOOR IS CARPETED, IS SHAMPOOED AT LEAST TWICE A MONTH.
- 15          C. THE RATIO OF STAFF MEMBERS TO RESTING INFANTS IN THE RESTING AREA
- 16          MUST BE AT LEAST ONE STAFF MEMBER TO EVERY FOUR INFANTS. A STAFF MEMBER IN
- 17          THE RESTING AREA MUST BE SUPERVISED FOR THE FIRST NINETY DAYS OF EMPLOYMENT
- 18          TO ENSURE THE STAFF MEMBER'S PROPER USE OF THE FLOOR BEDDING PURSUANT TO THIS
- 19          SECTION. ANY STAFF MEMBER IN THE RESTING AREA SHALL HAVE CURRENT
- 20          CERTIFICATION IN CARDIOPULMONARY RESUSCITATION AND FIRST AID.
- 21          D. IF AN EMERGENCY REQUIRING EVACUATION OCCURS, THE INFANT NURSERY
- 22          STAFF SHALL PLACE THE INFANTS IN AN EVACUATION CRIB AND MOVE THE INFANTS IN
- 23          THE CRIB TO A DESIGNATED EVACUATION ASSEMBLY AREA. EVACUATION CRIBS MUST BE
- 24          STORED NOT MORE THAN TEN FEET FROM THE EXTERIOR EXIT. IF STORED ON THE
- 25          OUTSIDE OF THE BUILDING, AN EVACUATION CRIB MUST BE PROTECTED FROM WEATHER.
- 26          ON ARRIVAL AT THE DESIGNATED EVACUATION ASSEMBLY AREA, ALL INFANTS MUST BE
- 27          PHYSICALLY ACCOUNTED FOR AGAINST THE SIGN-IN LOG AND THE RESULTS REPORTED TO
- 28          THE DIRECTOR OF THE CHILD CARE FACILITY IMMEDIATELY. THE INFANT NURSERY
- 29          SUPERVISOR IS RESPONSIBLE FOR BRINGING ALL ATTENDANCE SHEETS, CHILD ROSTERS
- 30          AND INFORMATION SHEETS TO THE EVACUATION ASSEMBLY AREA. THE CHILD CARE
- 31          FACILITY STAFF SHALL TAKE APPROPRIATE SUPPLIES DURING THE EVACUATION TO
- 32          PROTECT THE CHILDREN, IF POSSIBLE, DURING INCLEMENT WEATHER.
- 33          E. A FACILITY SHALL PROVIDE THE DEPARTMENT WRITTEN NOTICE THIRTY DAYS
- 34          BEFORE IMPLEMENTING THE USE OF FLOOR BEDDING PURSUANT TO THIS SECTION.
- 35          F. IF A LICENSED FACILITY DOES NOT COMPLY WITH THE REQUIREMENTS OF
- 36          THIS SECTION, THE DEPARTMENT MAY REQUIRE THE INSTALLATION OF CRIBS.
- 37          G. A CHILD CARE FACILITY THAT PROVIDES SERVICES UTILIZING THE PRACTICE
- 38          OF A DOCUMENTED EDUCATIONAL PHILOSOPHY INCLUDING LEAST RESTRICTIVE
- 39          ENVIRONMENT MAY INCORPORATE THE MINIMUM SCHOOL FACILITY ADEQUACY GUIDELINES
- 40          PURSUANT TO SECTION 15-2011 WHEN SELECTING A FACILITY IF THE GUIDELINES DO
- 41          NOT CONFLICT WITH FACILITY REQUIREMENTS ESTABLISHED BY THE ARIZONA DEPARTMENT
- 42          OF HEALTH SERVICES.

- 1 H. FOR THE PURPOSES OF THIS SECTION:
- 2 1. "INFANT" MEANS EITHER:
- 3 (a) A CHILD TWELVE MONTHS OR YOUNGER.
- 4 (b) A CHILD EIGHTEEN MONTHS OR YOUNGER IF NOT WALKING.
- 5 2. "RESTING AREA" MEANS A SPACE WITHIN THE CLASSROOM SEPARATE FROM THE
- 6 ACTIVITY AREA THAT CONTAINS ONLY THE FLOOR BEDDING, INFANTS AND STAFF
- 7 MEMBERS.