

REFERENCE TITLE: school facilities board; school closures

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SB 1422

Introduced by
Senator Bundgaard

AN ACT

AMENDING SECTIONS 15-341 AND 15-2002, 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 15-341, Arizona Revised Statutes, is amended to
3 read:

4 15-341. General powers and duties; immunity; delegation

5 A. The governing board shall:

6 1. Prescribe and enforce policies and procedures for the governance of
7 the schools, not inconsistent with law or rules prescribed by the state board
8 of education.

9 2. Exclude from schools all books, publications, papers or audiovisual
10 materials of a sectarian, partisan or denominational character.

11 3. Manage and control the school property within its district.

12 4. Acquire school furniture, apparatus, equipment, library books and
13 supplies for the use of the schools.

14 5. Prescribe the curricula and criteria for the promotion and
15 graduation of pupils as provided in sections 15-701 and 15-701.01.

16 6. Furnish, repair and insure, at full insurable value, the school
17 property of the district.

18 7. Construct school buildings on approval by a vote of the district
19 electors.

20 8. Make in the name of the district conveyances of property belonging
21 to the district and sold by the board.

22 9. Purchase school sites when authorized by a vote of the district at
23 an election conducted as nearly as practicable in the same manner as the
24 election provided in section 15-481 and held on a date prescribed in section
25 15-491, subsection E, but such authorization shall not necessarily specify
26 the site to be purchased and such authorization shall not be necessary to
27 exchange unimproved property as provided in section 15-342, paragraph 23.

28 10. Construct, improve and furnish buildings used for school purposes
29 when such buildings or premises are leased from the national park service.

30 11. Purchase school sites or construct, improve and furnish school
31 buildings from the proceeds of the sale of school property only on approval
32 by a vote of the district electors.

33 12. Hold pupils to strict account for disorderly conduct on school
34 property.

35 13. Discipline students for disorderly conduct on the way to and from
36 school.

37 14. Except as provided in section 15-1224, deposit all monies received
38 by the district as gifts, grants and devises with the county treasurer who
39 shall credit the deposits as designated in the uniform system of financial
40 records. If not inconsistent with the terms of the gifts, grants and devises
41 given, any balance remaining after expenditures for the intended purpose of
42 the monies have been made shall be used for reduction of school district
43 taxes for the budget year, except that in the case of accommodation schools
44 the county treasurer shall carry the balance forward for use by the county
45 school superintendent for accommodation schools for the budget year.

1 15. Provide that, if a parent or legal guardian chooses not to accept a
2 decision of the teacher as provided in section 15-521, paragraph 2, the
3 parent or legal guardian may request in writing that the governing board
4 review the teacher's decision. Nothing in this paragraph shall be construed
5 to release school districts from any liability relating to a child's
6 promotion or retention.

7 16. Provide for adequate supervision over pupils in instructional and
8 noninstructional activities by certificated or noncertificated personnel.

9 17. Use school monies received from the state and county school
10 apportionment exclusively for payment of salaries of teachers and other
11 employees and contingent expenses of the district.

12 18. Make an annual report to the county school superintendent on or
13 before October 1 in the manner and form and on the blanks prescribed by the
14 superintendent of public instruction or county school superintendent. The
15 board shall also make reports directly to the county school superintendent or
16 the superintendent of public instruction whenever required.

17 19. Deposit all monies received by school districts other than student
18 activities monies or monies from auxiliary operations as provided in sections
19 15-1125 and 15-1126 with the county treasurer to the credit of the school
20 district except as provided in paragraph 20 of this subsection and sections
21 15-1223 and 15-1224, and the board shall expend the monies as provided by law
22 for other school funds.

23 20. Establish bank accounts in which the board during a month may
24 deposit miscellaneous monies received directly by the district. The board
25 shall remit monies deposited in the bank accounts at least monthly to the
26 county treasurer for deposit as provided in paragraph 19 of this subsection
27 and in accordance with the uniform system of financial records.

28 21. Prescribe and enforce policies and procedures for disciplinary
29 action against a teacher who engages in conduct that is a violation of the
30 policies of the governing board but that is not cause for dismissal of the
31 teacher or for revocation of the certificate of the teacher. Disciplinary
32 action may include suspension without pay for a period of time not to exceed
33 ten school days. Disciplinary action shall not include suspension with pay
34 or suspension without pay for a period of time longer than ten school days.
35 The procedures shall include notice, hearing and appeal provisions for
36 violations that are cause for disciplinary action. The governing board may
37 designate a person or persons to act on behalf of the board on these matters.

38 22. Prescribe and enforce policies and procedures for disciplinary
39 action against an administrator who engages in conduct that is a violation of
40 the policies of the governing board regarding duties of administrators but
41 that is not cause for dismissal of the administrator or for revocation of the
42 certificate of the administrator. Disciplinary action may include suspension
43 without pay for a period of time not to exceed ten school days. Disciplinary
44 action shall not include suspension with pay or suspension without pay for a
45 period of time longer than ten school days. The procedures shall include

1 notice, hearing and appeal provisions for violations that are cause for
2 disciplinary action. The governing board may designate a person or persons
3 to act on behalf of the board on these matters. For violations that are
4 cause for dismissal, the provisions of notice, hearing and appeal in chapter
5 5, article 3 of this title shall apply. The filing of a timely request for a
6 hearing suspends the imposition of a suspension without pay or a dismissal
7 pending completion of the hearing.

8 23. Notwithstanding sections 13-3108 and 13-3120, prescribe and enforce
9 policies and procedures that prohibit a person from carrying or possessing a
10 weapon on school grounds unless the person is a peace officer or has obtained
11 specific authorization from the school administrator.

12 24. Prescribe and enforce policies and procedures relating to the
13 health and safety of all pupils participating in district sponsored practice
14 sessions, ~~OR~~ games or other interscholastic athletic activities, including
15 the provision of water.

16 25. Prescribe and enforce policies and procedures regarding the smoking
17 of tobacco within school buildings. The policies and procedures shall be
18 adopted in consultation with school district personnel and members of the
19 community and shall state whether smoking is prohibited in school buildings.
20 If smoking in school buildings is not prohibited, the policies and procedures
21 shall clearly state the conditions and circumstances under which smoking is
22 permitted, those areas in a school building that may be designated as smoking
23 areas and those areas in a school building that may not be designated as
24 smoking areas.

25 26. Establish an assessment, data gathering and reporting system as
26 prescribed in chapter 7, article 3 of this title.

27 27. Provide special education programs and related services pursuant to
28 section 15-764, subsection A to all children with disabilities as defined in
29 section 15-761.

30 28. Administer competency tests prescribed by the state board of
31 education for the graduation of pupils from high school.

32 29. Ensure that insurance coverage is secured for all construction
33 projects for purposes of general liability, property damage and workers'
34 compensation and secure performance and payment bonds for all construction
35 projects.

36 30. Keep on file the resumes of all current and former employees who
37 provide instruction to pupils at a school. Resumes shall include an
38 individual's educational and teaching background and experience in a
39 particular academic content subject area. A school district shall inform
40 parents and guardians of the availability of the resume information and shall
41 make the resume information available for inspection on request of parents
42 and guardians of pupils enrolled at a school. ~~Nothing in~~ This paragraph
43 shall **NOT** be construed to require any school to release personally
44 identifiable information in relation to any teacher or employee, including

1 the teacher's or employee's address, salary, social security number or
2 telephone number.

3 31. Report to local law enforcement agencies any suspected crime
4 against a person or property that is a serious offense as defined in section
5 13-706 or that involves a deadly weapon or dangerous instrument or serious
6 physical injury and any conduct that poses a threat of death or serious
7 physical injury to employees, students or anyone on the property of the
8 school. This paragraph does not limit or preclude the reporting by a school
9 district or an employee of a school district of suspected crimes other than
10 those required to be reported by this paragraph. For the purposes of this
11 paragraph, "dangerous instrument", "deadly weapon" and "serious physical
12 injury" have the same meanings prescribed in section 13-105.

13 32. In conjunction with local law enforcement agencies and local
14 medical facilities, develop an emergency response plan for each school in the
15 school district in accordance with minimum standards developed jointly by the
16 department of education and the division of emergency management within the
17 department of emergency and military affairs.

18 33. Provide written notice to the parents or guardians of all students
19 affected in the school district ~~at least~~ **NO LATER THAN** thirty days ~~prior to a~~
20 ~~public meeting to discuss closing a school within the school district. The~~
21 ~~notice shall include the reasons for the proposed closure and the time and~~
22 ~~place of the meeting. The governing board shall fix a time for a public~~
23 ~~meeting on the proposed closure no less than thirty days before voting in a~~
24 ~~public meeting to close the school. The school district governing board~~
25 ~~shall give notice of the time and place of the meeting. At the time and~~
26 ~~place designated in the notice, the school district governing board shall~~
27 ~~hear reasons for or against closing the school. The school district~~
28 ~~governing board is exempt from this paragraph if it is determined by the~~
29 ~~governing board that the school shall be closed because it poses a danger to~~
30 ~~the health or safety of the pupils or employees of the school~~ **AFTER RECEIVING**
31 **NOTIFICATION BY THE SCHOOL FACILITIES BOARD THAT A SPECIFIC SCHOOL IN THE**
32 **SCHOOL DISTRICT WILL BE CLOSED.**

33 34. Incorporate instruction on Native American history into appropriate
34 existing curricula.

35 35. Prescribe and enforce policies and procedures allowing pupils who
36 have been diagnosed with anaphylaxis by a health care provider licensed
37 pursuant to title 32, chapter 13, 14, 17 or 25 or by a registered nurse
38 practitioner licensed and certified pursuant to title 32, chapter 15 to carry
39 and self-administer emergency medications, including auto-injectable
40 epinephrine, while at school and at school sponsored activities. The pupil's
41 name on the prescription label on the medication container or on the
42 medication device and annual written documentation from the pupil's parent or
43 guardian to the school that authorizes possession and self-administration is
44 sufficient proof that the pupil is entitled to the possession and
45 self-administration of the medication. The policies shall require a pupil

1 who uses auto-injectable epinephrine while at school and at school sponsored
2 activities to notify the nurse or the designated school staff person of the
3 use of the medication as soon as practicable. A school district and its
4 employees are immune from civil liability with respect to all decisions made
5 and actions taken that are based on good faith implementation of the
6 requirements of this paragraph, except in cases of wanton or wilful neglect.

7 36. Allow the possession and self-administration of prescription
8 medication for breathing disorders in handheld inhaler devices by pupils who
9 have been prescribed that medication by a health care professional licensed
10 pursuant to title 32. The pupil's name on the prescription label on the
11 medication container or on the handheld inhaler device and annual written
12 documentation from the pupil's parent or guardian to the school that
13 authorizes possession and self-administration shall be sufficient proof that
14 the pupil is entitled to the possession and self-administration of the
15 medication. A school district and its employees are immune from civil
16 liability with respect to all decisions made and actions taken that are based
17 on a good faith implementation of the requirements of this paragraph.

18 37. Prescribe and enforce policies and procedures to prohibit pupils
19 from harassing, intimidating and bullying other pupils on school grounds, on
20 school property, on school buses, at school bus stops and at school sponsored
21 events and activities that include the following components:

22 (a) A procedure for pupils to confidentially report to school
23 officials incidents of harassment, intimidation or bullying.

24 (b) A procedure for parents and guardians of pupils to submit written
25 reports to school officials of suspected incidents of harassment,
26 intimidation or bullying.

27 (c) A requirement that school district employees report suspected
28 incidents of harassment, intimidation or bullying to the appropriate school
29 official.

30 (d) A formal process for the documentation of reported incidents of
31 harassment, intimidation or bullying and for the confidentiality, maintenance
32 and disposition of this documentation. If a school maintains documentation
33 of reported incidents of harassment, intimidation or bullying, the school
34 shall not use that documentation to impose disciplinary action unless the
35 appropriate school official has investigated and determined that the reported
36 incidents of harassment, intimidation or bullying occurred.

37 (e) A formal process for the investigation by the appropriate school
38 officials of suspected incidents of harassment, intimidation or bullying.

39 (f) Disciplinary procedures for pupils who have admitted or been found
40 to have committed incidents of harassment, intimidation or bullying.

41 (g) A procedure that sets forth consequences for submitting false
42 reports of incidents of harassment, intimidation or bullying.

43 38. Prescribe and enforce policies and procedures regarding changing or
44 adopting attendance boundaries that include the following components:

1 (a) A procedure for holding public meetings to discuss attendance
2 boundary changes or adoptions that allows public comments.

3 (b) A procedure to notify the parents or guardians of the students
4 affected.

5 (c) A procedure to notify the residents of the households affected by
6 the attendance boundary changes.

7 (d) A process for placing public meeting notices and proposed maps on
8 the school district's website for public review, if the school district
9 maintains a website.

10 (e) A formal process for presenting the attendance boundaries of the
11 affected area in public meetings that allows public comments.

12 (f) A formal process for notifying the residents and parents or
13 guardians of the affected area as to the decision of the governing board on
14 the school district's website, if the school district maintains a website.

15 (g) A formal process for updating attendance boundaries on the school
16 district's website within ninety days of an adopted boundary change. The
17 school district shall send a direct link to the school district's attendance
18 boundaries website to the department of real estate.

19 (h) If the land that a school was built on was donated within the past
20 five years, a formal process to notify the entity that donated the land
21 affected by the decision of the governing board.

22 39. If the state board of education determines that the school district
23 has committed an overexpenditure as defined in section 15-107, provide a copy
24 of the fiscal management report submitted pursuant to section 15-107,
25 subsection H on its website and make copies available to the public on
26 request. The school district shall comply with a request within five
27 business days after receipt.

28 40. Ensure that the contract for the superintendent is structured in a
29 manner where at least twenty per cent of the total annual compensation and
30 benefits included for the superintendent in the contract is classified as
31 performance pay. Nothing in this paragraph shall be construed to require
32 school districts to increase total compensation for superintendents. Unless
33 the school district governing board votes to implement an alternative
34 procedure at a public meeting called for this purpose, the performance pay
35 portion of the superintendent's total annual compensation shall be determined
36 as follows:

37 (a) Twenty-five per cent of the performance pay shall be determined
38 based on the percentage of academic gain determined by the department of
39 education of pupils who are enrolled in the school district compared to the
40 academic gain achieved by the highest ranking of the fifty largest school
41 districts in this state. For the purposes of this subdivision, the
42 department of education shall determine academic gain by the academic growth
43 achieved by each pupil who has been enrolled at the same school in a school
44 district for at least five consecutive months measured against that pupil's
45 academic results in the 2008-2009 school year. For the purposes of this

1 subdivision, of the fifty largest school districts in this state, the school
2 district with pupils who demonstrate the highest statewide percentage of
3 overall academic gain measured against academic results for the 2008-2009
4 school year shall be assigned a score of 100 and the school district with
5 pupils who demonstrate the lowest statewide percentage of overall academic
6 gain measured against academic results for the 2008-2009 school year shall be
7 assigned a score of 0.

8 (b) Twenty-five per cent of the performance pay shall be determined by
9 the percentage of parents of pupils who are enrolled at the school district
10 who assign a letter grade of "A" to the school on a survey of parental
11 satisfaction with the school district. The parental satisfaction survey
12 shall be administered and scored by an independent entity that is selected by
13 the governing board and that demonstrates sufficient expertise and experience
14 to accurately measure the results of the survey. The parental satisfaction
15 survey shall use standard random sampling procedures and provide anonymity
16 and confidentiality to each parent who participates in the survey. The
17 letter grade scale used on the parental satisfaction survey shall direct
18 parents to assign one of the following letter grades:

- 19 (i) A letter grade of "A" if the school district is excellent.
- 20 (ii) A letter grade of "B" if the school district is above average.
- 21 (iii) A letter grade of "C" if the school district is average.
- 22 (iv) A letter grade of "D" if the school district is below average.
- 23 (v) A letter grade of "F" if the school district is a failure.

24 (c) Twenty-five per cent of the performance pay shall be determined by
25 the percentage of teachers who are employed at the school district and who
26 assign a letter grade of "A" to the school on a survey of teacher
27 satisfaction with the school. The teacher satisfaction survey shall be
28 administered and scored by an independent entity that is selected by the
29 governing board and that demonstrates sufficient expertise and experience to
30 accurately measure the results of the survey. The teacher satisfaction
31 survey shall use standard random sampling procedures and provide anonymity
32 and confidentiality to each teacher who participates in the survey. The
33 letter grade scale used on the teacher satisfaction survey shall direct
34 teachers to assign one of the following letter grades:

- 35 (i) A letter grade of "A" if the school district is excellent.
- 36 (ii) A letter grade of "B" if the school district is above average.
- 37 (iii) A letter grade of "C" if the school district is average.
- 38 (iv) A letter grade of "D" if the school district is below average.
- 39 (v) A letter grade of "F" if the school district is a failure.

40 (d) Twenty-five per cent of the performance pay shall be determined by
41 other criteria selected by the governing board.

42 B. Notwithstanding subsection A, paragraphs 7, 9 and 11 of this
43 section, the county school superintendent may construct, improve and furnish
44 school buildings or purchase or sell school sites in the conduct of an
45 accommodation school.

1 C. If any school district acquires real or personal property, whether
2 by purchase, exchange, condemnation, gift or otherwise, the governing board
3 shall pay to the county treasurer any taxes on the property that were unpaid
4 as of the date of acquisition, including penalties and interest. The lien
5 for unpaid delinquent taxes, penalties and interest on property acquired by a
6 school district:

7 1. Is not abated, extinguished, discharged or merged in the title to
8 the property.

9 2. Is enforceable in the same manner as other delinquent tax liens.

10 D. The governing board may not locate a school on property that is
11 less than one-fourth mile from agricultural land regulated pursuant to
12 section 3-365, except that the owner of the agricultural land may agree to
13 comply with the buffer zone requirements of section 3-365. If the owner
14 agrees in writing to comply with the buffer zone requirements and records the
15 agreement in the office of the county recorder as a restrictive covenant
16 running with the title to the land, the school district may locate a school
17 within the affected buffer zone. The agreement may include any stipulations
18 regarding the school, including conditions for future expansion of the school
19 and changes in the operational status of the school that will result in a
20 breach of the agreement.

21 E. A school district, its governing board members, its school council
22 members and its employees are immune from civil liability for the
23 consequences of adoption and implementation of policies and procedures
24 pursuant to subsection A of this section and section 15-342. This waiver
25 does not apply if the school district, its governing board members, its
26 school council members or its employees are guilty of gross negligence or
27 intentional misconduct.

28 F. A governing board may delegate in writing to a superintendent,
29 principal or head teacher the authority to prescribe procedures that are
30 consistent with the governing board's policies.

31 G. Notwithstanding any other provision of this title, a school
32 district governing board shall not take any action that would result in a
33 reduction of pupil square footage unless the governing board notifies the
34 school facilities board established by section 15-2001 of the proposed action
35 and receives written approval from the school facilities board to take the
36 action. A reduction includes an increase in administrative space that
37 results in a reduction of pupil square footage or sale of school sites or
38 buildings, or both. A reduction includes a reconfiguration of grades that
39 results in a reduction of pupil square footage of any grade level. This
40 subsection does not apply to temporary reconfiguration of grades to
41 accommodate new school construction if the temporary reconfiguration does not
42 exceed one year. The sale of equipment that results in a reduction that
43 falls below the equipment requirements prescribed in section 15-2011,
44 subsection B is subject to commensurate withholding of school district
45 capital outlay revenue limit monies pursuant to the direction of the school

1 facilities board. Except as provided in section 15-342, paragraph 10,
2 proceeds from the sale of school sites, buildings or other equipment shall be
3 deposited in the school plant fund as provided in section 15-1102.

4 H. Subsections C through G of this section apply to a county board of
5 supervisors and a county school superintendent when operating and
6 administering an accommodation school.

7 Sec. 2. Section 15-2002, Arizona Revised Statutes, is amended to read:
8 15-2002. Powers and duties; executive director; staffing;
9 report

10 A. The school facilities board shall:

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

13 2. Develop a database for administering the building renewal formula
14 prescribed in section 15-2031 and administer the distribution of monies to
15 school districts for building renewal.

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

22 4. Review and approve student population projections submitted by
23 school districts to determine to what extent school districts are entitled to
24 monies to construct new facilities pursuant to section 15-2041. The board
25 shall make a final determination within six months of the receipt of an
26 application by a school district for monies from the new school facilities
27 fund.

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

30 6. Develop prototypical elementary and high school designs. The board
31 shall review the design differences between the schools with the highest
32 academic productivity scores and the schools with the lowest academic
33 productivity scores. The board shall also review the results of a valid and
34 reliable survey of parent quality rating in the highest performing schools
35 and the lowest performing schools in this state. The survey of parent
36 quality rating shall be administered by the department of education. The
37 board shall consider the design elements of the schools with the highest
38 academic productivity scores and parent quality ratings in the development of
39 elementary and high school designs. The board shall develop separate school
40 designs for elementary, middle and high schools with varying pupil
41 capacities.

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

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

1 9. Submit electronically an annual report by December 15 to the
2 speaker of the house of representatives, the president of the senate, the
3 superintendent of public instruction, the director of the Arizona state
4 library, archives and public records and the governor that includes the
5 following information:

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

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

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

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

22 10. By December 1 of each year, report electronically to the joint
23 committee on capital review the amounts necessary to fulfill the requirements
24 of sections 15-2022, 15-2031 and 15-2041 for the following fiscal year and
25 the estimated amounts necessary to fulfill the requirements of sections
26 15-2022, 15-2031 and 15-2041 for the fiscal year following the next fiscal
27 year. The board shall provide copies of the report to the president of the
28 senate, the speaker of the house of representatives and the governor.

29 11. Adopt minimum school facility adequacy guidelines to provide the
30 minimum quality and quantity of school buildings and the facilities and
31 equipment necessary and appropriate to enable pupils to achieve the
32 educational goals of the Arizona state schools for the deaf and the blind.
33 The school facilities board shall establish minimum school facility adequacy
34 guidelines applicable to the Arizona state schools for the deaf and the
35 blind.

36 12. In each even-numbered year, report electronically to the joint
37 committee on capital review the amounts necessary to fulfill the requirements
38 of sections 15-2031 and 15-2041 for the Arizona state schools for the deaf
39 and the blind for the following two fiscal years. The Arizona state schools
40 for the deaf and the blind shall incorporate the findings of the report in
41 any request for building renewal monies and new school facilities monies.
42 Any monies provided to the Arizona state schools for the deaf and the blind
43 for building renewal and for new school facilities are subject to legislative
44 appropriation.

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

10 14. Every two years, provide school districts with information on
11 improving and maintaining the indoor environmental quality in school
12 buildings.

13 15. **DECIDE, BASED ON AN OBJECTIVE AND INDEPENDENT ANALYSIS, WHETHER TO**
14 **CLOSE SCHOOLS IN SCHOOL DISTRICTS. THE SCHOOL FACILITIES BOARD SHALL NOTIFY**
15 **A SCHOOL DISTRICT GOVERNING BOARD OF ITS DECISION TO CLOSE A SCHOOL IN THAT**
16 **SCHOOL DISTRICT NO LATER THAN THIRTY DAYS AFTER MAKING THE FINAL DECISION TO**
17 **CLOSE THE SCHOOL.**

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 as approved by the legislature in the
31 budget. The executive director shall have demonstrated competency in school
32 finance, facilities design or facilities management, either in private
33 business or government service. The executive director serves at the
34 pleasure of the governor. The staff of the school facilities board is exempt
35 from title 41, chapter 4, articles 5 and 6. The executive director:

- 36 1. Shall analyze applications for monies submitted to the board by
37 school districts.
- 38 2. Shall assist the board in developing forms and procedures for the
39 distribution and review of applications and the distribution of monies to
40 school districts.
- 41 3. May review or audit, or both, the expenditure of monies by a school
42 district for deficiencies corrections, building renewal and new school
43 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 use building
33 renewal monies pursuant to section 15-2031, subsection L to return the
34 building to compliance with the school district's routine preventative
35 maintenance guidelines. Once the district is in compliance, it no longer is
36 required to use building renewal monies for preventative maintenance.

37 L. The school facilities board may temporarily transfer monies between
38 the capital reserve fund established by section 15-2003, the emergency
39 deficiencies correction fund established by section 15-2022, the building
40 renewal fund established by section 15-2031 and the new school facilities
41 fund established by section 15-2041 if all of the following conditions are
42 met:

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

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

4 3. The school facilities board reports to the joint committee on
5 capital review the amount of and the reason for any monies transferred.

6 M. After notifying each school district, and if a written objection
7 from the school district is not received by the school facilities board
8 within thirty days of the notification, the school facilities board may
9 access public utility company records of power, water, natural gas, telephone
10 and broadband usage to assemble consistent and accurate data on utility
11 consumption at school facilities to determine the effectiveness of facility
12 design, operation and maintenance measures intended to reduce energy and
13 water consumption and costs. Any public utility that provides service to a
14 school district in this state shall provide the data requested by the school
15 facilities board pursuant to this subsection.

16 N. The school facilities board shall not require a common school
17 district that provides instruction to pupils in grade nine to obtain approval
18 from the school facilities board to reconfigure its school facilities. A
19 common school district that provides instruction to pupils in grade nine is
20 not entitled to additional monies from the school facilities board for
21 facilities to educate pupils in grade nine.