

Senate Engrossed House Bill

**FILED**

**JANICE K. BREWER  
SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

CHAPTER 302

**HOUSE BILL 2234**

AN ACT

AMENDING SECTIONS 15-491, 15-1021, 15-2031 AND 15-2041, ARIZONA REVISED  
STATUTES; RELATING TO JOINT TECHNOLOGICAL EDUCATION DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-491, Arizona Revised Statutes, is amended to  
3 read:

4 15-491. Elections on school property; exceptions

5 A. The governing board of a school district may, and upon petition of  
6 fifteen per cent of the school electors as shown by the poll list at the last  
7 preceding annual school election shall, call an election for the following  
8 purposes:

9 1. To locate or change the location of school buildings.

10 2. To purchase or sell school sites or buildings or sell school sites  
11 pursuant to section 15-342 or to build school buildings, but the  
12 authorization by vote of the school district shall not necessarily specify  
13 the site to be purchased.

14 3. To decide whether the bonds of the school district shall be issued  
15 and sold for the purpose of raising money for purchasing or leasing school  
16 lots, for building or renovating school buildings, for improving school  
17 grounds, for purchasing pupil transportation vehicles or for liquidating any  
18 indebtedness already incurred for such purposes. Except as provided in  
19 section 15-1021, subsection H, the proceeds of class B bonds or impact aid  
20 revenue bonds shall not be used for soft capital purposes except for pupil  
21 transportation vehicles. A school district shall not issue class B bonds  
22 until the school district has obligated in contract the entire proceeds of  
23 any class A bonds issued by the school district. The total amount of class A  
24 and class B bonds issued by a school district shall not exceed the debt  
25 limitations prescribed in article IX, sections 8 and 8.1, Constitution of  
26 Arizona.

27 4. To lease for five or more years, as lessor or as lessee, school  
28 buildings or grounds. Approval by a majority of the school district electors  
29 voting authorizes the governing board to negotiate for and enter into a  
30 lease. The ballot shall list the school buildings or grounds for which a  
31 lease is sought. If the governing board does not enter into a lease of five  
32 or more years of the school buildings or grounds listed on the ballot within  
33 five years of the date of the election and the board continues to seek such a  
34 lease, the governing board shall call a special election to reauthorize the  
35 board to negotiate for and to enter into a lease of five or more years.

36 B. No petition shall be required for the holding of the first election  
37 to be held in a joint common school district for any of the purposes  
38 specified in subsection A of this section. The notice of election required  
39 by section 15-492 shall be published in each of the counties which comprise  
40 the joint common school district. The certification of election results  
41 required by section 15-493 shall be made to the board of supervisors of the  
42 jurisdictional county.

1 C. When the election is called to determine whether or not bonds of  
2 the school district shall be issued and sold for the purposes enumerated in  
3 the call for the election, the question shall be submitted to the vote of the  
4 qualified electors of the school district as defined in section 15-401 and  
5 subject to ~~the provisions of~~ section 15-402.

6 D. The governing board shall order the election to be held in the  
7 manner prescribed in title 35, chapter 3, article 3. If a petition for an  
8 election has been filed with the governing board as provided in subsection A  
9 of this section, the board shall act upon the petition within sixty days by  
10 ordering the election to be held as provided in this subsection. If a school  
11 district bond election is scheduled for the same date a school district will  
12 hold an override election, the governing body shall deliver a copy of the  
13 notice of election and ballot to the county school superintendent who shall  
14 include the notice of election and ballot with the information report and  
15 ballot prepared for the override election. Mailing of the information  
16 required for both the override and bond elections shall constitute compliance  
17 with the notice provisions of this section.

18 E. The elections to be held pursuant to this section shall only be  
19 held on dates prescribed by section 16-204, except that elections held  
20 pursuant to this section to decide whether class B bonds shall be issued, or  
21 any other obligation incurred that will require the assessment of secondary  
22 property taxes, shall only be held on the first Tuesday after the first  
23 Monday of November.

24 F. Subsection A, paragraph 2 of this section does not apply to the  
25 sale of school property if the market value of the school property is less  
26 than fifty thousand dollars.

27 G. Bond counsel fees, financial advisory fees, printing costs and  
28 paying agent and registrar fees for bonds issued pursuant to an election  
29 under this section shall be paid from either the amount authorized by the  
30 qualified electors of the school district or current operating funds. Bond  
31 election expenses shall be paid from current operating funds only.

32 H. For any election conducted to decide whether class B bonds will be  
33 issued pursuant to this section:

34 1. Except as provided in paragraph 2 of this subsection, the ballot  
35 shall include the following statement:

36 The capital improvements that are proposed to be funded  
37 through this bond issuance are to exceed the state standards and  
38 are in addition to monies provided by the state.

39 \_\_\_\_\_ school district is proposing to issue class B  
40 general obligation bonds totaling \$\_\_\_\_\_ to fund capital  
41 improvements over and above those funded by the state. Under  
42 the students first capital funding system, \_\_\_\_\_ school  
43 district is entitled to state monies for building renewal, new  
44 construction and renovation of school buildings in accordance  
45 with state law.



1 \_\_\_\_\_ school district is proposing to issue impact  
2 aid revenue bonds totaling \$\_\_\_\_\_ to fund capital  
3 improvements over and above those funded by the state. Under  
4 the students first capital funding system, \_\_\_\_\_ school  
5 district is entitled to state monies for building renewal, new  
6 construction and renovation of school buildings in accordance  
7 with state law.

8 2. The ballot shall contain the words "bond approval, yes" and "bond  
9 approval, no", and the voter shall signify the voter's desired choice.

10 3. At least eighty-five days before the election, the school district  
11 shall submit proposed ballot language to the director of the legislative  
12 council. The director of the legislative council shall review the proposed  
13 ballot language to determine whether the proposed ballot language complies  
14 with this section. If the director of the legislative council determines  
15 that the proposed ballot language does not comply with this section, the  
16 director, within ten calendar days of the receipt of the proposed ballot  
17 language, shall notify the school district of the director's objections and  
18 the school district shall resubmit revised ballot language to the director  
19 for approval.

20 4. No later than thirty-five days before an impact aid revenue bond  
21 election conducted pursuant to this section, the school district shall mail a  
22 publicity pamphlet to each household that contains a qualified elector in the  
23 school district. The publicity pamphlet shall contain, at a minimum, the  
24 following information:

25 (a) The date of the election.

26 (b) The voter's polling place and the times it is open.

27 (c) An executive summary of the school district's most recent capital  
28 plan submitted to the school facilities board.

29 (d) A complete list of each proposed capital improvement that will be  
30 funded with the proceeds of the bonds and a description of the proposed cost  
31 of each improvement, including a separate aggregation of capital improvements  
32 for administrative purposes as defined by the school facilities board.

33 (e) A statement that impact aid revenue bonds will be fully funded by  
34 aid that the school district receives from the federal government and do not  
35 require a levy of taxes in the district.

36 (f) A statement that if the bonds are approved the first priority for  
37 the impact aid will be to pay the debt service for the bonds and that other  
38 uses of the monies are prohibited until the debt service obligation is met.

39 (g) A statement that if the impact aid revenue bonds are approved, the  
40 school district shall not issue or sell class B bonds while the district has  
41 existing indebtedness from impact aid revenue bonds, except for bonds issued  
42 to refund any bonds issued by the board.

1 J. If the voters approve the issuance of school district class B bonds  
2 or impact aid revenue bonds, the school district shall not use the bond  
3 proceeds for any purposes other than the proposed capital improvements listed  
4 in the publicity pamphlet, except that up to ten per cent of the bond  
5 proceeds may be used for general capital expenses, including cost overruns of  
6 proposed capital improvements.

7 K. Each school district that issues bonds under this section is  
8 required to hold a public meeting each year between September 1 and October  
9 31, until the bond proceeds are spent, at which an update of the progress of  
10 capital improvements financed through bonding is discussed and at which the  
11 public is permitted an opportunity to comment. At a minimum, the update  
12 shall include a comparison of the current status and the original projections  
13 on the construction of capital improvements, the costs of capital  
14 improvements and the costs of capital improvements in progress or completed  
15 since the prior meeting and the future capital bonding plans of the school  
16 district. The school district shall include in the public meeting a  
17 discussion of the school district's use of state capital aid and  
18 voter-approved capital overrides in funding capital improvements, if any.

19 Sec. 2. Section 15-1021, Arizona Revised Statutes, is amended to read:

20 15-1021. Limitation on bonded indebtedness; limitation on  
21 authorization and issuance of bonds

22 A. Until December 31, 1999, a school district may issue class A bonds  
23 for the purposes specified in this section and chapter 4, article 5 of this  
24 title to an amount in the aggregate, including the existing indebtedness, not  
25 exceeding fifteen per cent of the taxable property used for secondary  
26 property tax purposes, as determined pursuant to title 42, chapter 15,  
27 article 1, within a school district as ascertained by the last property tax  
28 assessment previous to issuing the bonds.

29 B. From and after December 31, 1998, a school district may issue class  
30 B bonds for the purposes specified in this section and chapter 4, article 5  
31 of this title to an amount in the aggregate, including the existing class B  
32 indebtedness, not exceeding five per cent of the taxable property used for  
33 secondary property tax purposes, as determined pursuant to title 42, chapter  
34 15, article 1, within a school district as ascertained by the last assessment  
35 of state and county taxes previous to issuing the bonds, or one thousand five  
36 hundred dollars per student count as determined pursuant to section 15-902,  
37 whichever amount is greater. A school district shall not issue class B bonds  
38 until the proceeds of any class A bonds issued by the school district have  
39 been obligated in contract. The total amount of class A and class B bonds  
40 issued by a school district shall not exceed the debt limitations prescribed  
41 in article IX, section 8, Constitution of Arizona.

42 C. Until December 31, 1999, a unified school district, as defined  
43 under article IX, section 8.1, Constitution of Arizona, may issue class A  
44 bonds for the purposes specified in this section and chapter 4, article 5 of  
45 this title to an amount in the aggregate, including the existing

1 indebtedness, not exceeding thirty per cent of the taxable property used for  
2 secondary property tax purposes, as determined pursuant to title 42, chapter  
3 15, article 1, within a unified school district as ascertained by the last  
4 property tax assessment previous to issuing the bonds.

5 D. From and after December 31, 1998, a unified school district, as  
6 defined under article IX, section 8.1, Constitution of Arizona, may issue  
7 class B bonds for the purposes specified in this section and chapter 4,  
8 article 5 of this title to an amount in the aggregate, including the existing  
9 class B indebtedness, not exceeding ten per cent of the taxable property used  
10 for secondary tax purposes, as determined pursuant to title 42, chapter 15,  
11 article 1, within a school district as ascertained by the last assessment of  
12 state and county taxes previous to issuing the bonds, or one thousand five  
13 hundred dollars per student count as determined pursuant to section 15-902,  
14 whichever amount is greater. A unified school district shall not issue class  
15 B bonds until the proceeds of any class A bonds issued by the unified school  
16 district have been obligated in contract. The total amount of class A and  
17 class B bonds issued by a unified school district shall not exceed the debt  
18 limitations prescribed in article IX, section 8.1, Constitution of Arizona.

19 E. No bonds authorized to be issued by an election held after July 1,  
20 1980 may be issued more than six years after the date of the election, except  
21 that class A bonds shall not be issued after December 31, 1999.

22 F. Class A bond proceeds shall not be expended for items whose useful  
23 life is less than the average life of the bonds issued, except that bond  
24 proceeds shall not be expended for items whose useful life is less than five  
25 years.

26 G. Except as provided in subsection H of this section, class B bond  
27 proceeds shall not be expended for soft capital items, computer hardware, or  
28 other items whose useful life is less than the average useful life of the  
29 bonds issued, except that bond proceeds shall not be expended for items whose  
30 useful life is less than five years. For the purposes of this subsection,  
31 "computer hardware" means an electronic device with an integrated circuit  
32 that performs logic, arithmetic or memory functions by the manipulations of  
33 electronic or magnetic impulses and includes all input, output, processing,  
34 storage, software or communication facilities that are connected or related  
35 to such a device in a system or network.

36 H. Class B bond proceeds for a new facility at ~~the main~~ A campus of  
37 OWNED OR OPERATED AND MAINTAINED BY a joint technological education district  
38 may be expended for soft capital items, computer hardware, furniture or other  
39 equipment, except that no bonds may be issued for these purposes for a  
40 duration of more than five years. The total amount of bonds that a joint  
41 technological education district may issue pursuant to this subsection shall  
42 not exceed thirty per cent of the cost of the new school facility, including  
43 monies received for the new school facility pursuant to this section. A  
44 JOINT TECHNOLOGICAL EDUCATION DISTRICT SHALL NOT SPEND CLASS B BOND PROCEEDS  
45 TO CONSTRUCT OR RENOVATE A FACILITY LOCATED ON THE CAMPUS OF A SCHOOL IN A

1 SCHOOL DISTRICT THAT PARTICIPATES IN THE JOINT DISTRICT UNLESS THE FACILITY  
2 IS ONLY USED TO PROVIDE CAREER AND TECHNICAL EDUCATION AND IS AVAILABLE TO  
3 ALL PUPILS WHO LIVE WITHIN THE JOINT TECHNOLOGICAL EDUCATION DISTRICT. IF  
4 THE FACILITY IS NOT OWNED BY THE JOINT TECHNOLOGICAL EDUCATION DISTRICT, AN  
5 INTERGOVERNMENTAL AGREEMENT OR A WRITTEN CONTRACT SHALL BE EXECUTED FOR TEN  
6 YEARS OR THE DURATION OF THE BONDED INDEBTEDNESS, WHICHEVER IS GREATER. THE  
7 INTERGOVERNMENTAL AGREEMENT OR WRITTEN CONTRACT SHALL INCLUDE PROVISIONS:

8 1. THAT PRESERVE THE USAGE OF THE FACILITY RENOVATED OR CONSTRUCTED,  
9 OR BOTH, ONLY FOR CAREER AND TECHNOLOGY PROGRAMS OPERATED BY THE JOINT  
10 TECHNOLOGY EDUCATION DISTRICT.

11 2. THAT INCLUDE THE PROCESS TO BE USED BY THE PARTICIPATING DISTRICT  
12 TO COMPENSATE THE JOINT TECHNOLOGY EDUCATION DISTRICT IN THE EVENT THAT THE  
13 FACILITY IS NO LONGER USED ONLY FOR CAREER AND TECHNOLOGY EDUCATION PROGRAMS  
14 OFFERED BY THE JOINT TECHNOLOGICAL EDUCATION DISTRICT DURING THE LIFE OF THE  
15 BOND.

16 I. Notwithstanding subsections F and G of this section, bond proceeds  
17 may be expended for purchasing pupil transportation vehicles.

18 J. A school district shall not authorize, issue or sell bonds pursuant  
19 to this section if the school district has any existing indebtedness from  
20 impact aid revenue bonds pursuant to chapter 16, article 8 of this title,  
21 except for bonds issued to refund any bonds issued by the governing board.

22 Sec. 3. Section 15-2031, Arizona Revised Statutes, is amended to read:  
23 15-2031. Building renewal fund; definitions

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

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

42 1. Major renovations and repairs of a building.

43 2. Upgrading systems and areas that will maintain or extend the useful  
44 life of the building.

45 3. Infrastructure costs.

1           4. Relocation and placement of portable and modular buildings.

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

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

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

11           1. New construction.

12           2. Remodeling interior space for aesthetic or preferential reasons.

13           3. Exterior beautification.

14           4. Demolition.

15           5. The purchase of soft capital items pursuant to section 15-962,  
16 subsection D.

17           6. Routine maintenance except as provided in section 15-2002,  
18 subsection K and subsection L of this section.

19           F. The school facilities board shall maintain the building renewal  
20 database and use the database for the computation of the building renewal  
21 formula distributions. The board shall ensure that the database is updated  
22 on at least an annual basis to reflect changes in the ages and value of  
23 school buildings. The facilities listed in the database shall include only  
24 those buildings that are owned by school districts that are required to meet  
25 academic standards. Each school district shall report to the school  
26 facilities board no later than September 1 of each year the number and type  
27 of school buildings owned by the district, the square footage of each  
28 building, the age of each building, the nature of any renovations completed  
29 and the cost of any renovations completed. The school facilities board may  
30 review or audit, or both, to confirm the information submitted by a school  
31 district. IF A JOINT TECHNOLOGICAL EDUCATION DISTRICT LEASES A BUILDING FROM  
32 A SCHOOL DISTRICT, THAT BUILDING SHALL NOT BE INCLUDED IN THE SCHOOL  
33 DISTRICT'S SQUARE FOOTAGE CALCULATION FOR THE PURPOSES OF DETERMINING THE  
34 SCHOOL DISTRICT'S BUILDING RENEWAL DISTRIBUTION PURSUANT TO THIS SECTION.  
35 The board shall adjust the age of each school facility in the database  
36 whenever a building is significantly upgraded or remodeled. The age of a  
37 building that has been significantly upgraded or remodeled shall be  
38 recomputed as follows:

39           1. Divide the cost of the renovation by the building capacity value of  
40 the building determined in subsection I, paragraph 3 of this section.

41           2. Multiply the quotient determined in paragraph 1 of this subsection  
42 by the currently listed age of the building in the database.

43           3. Subtract the product determined in paragraph 2 of this subsection  
44 from the currently listed age of the building in the database, rounded to the  
45 nearest whole number. If the result is negative, use zero.

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

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

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

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

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

1           3. Determine the building capacity value as follows:  
2           (a) Multiply the student capacity of the building by the per student  
3 square foot capacity established by section 15-2041.  
4           (b) Multiply the product determined in subdivision (a) by the cost per  
5 square foot established by section 15-2041.  
6           4. Multiply the product determined in paragraph 2 of this subsection  
7 by the product determined in paragraph 3, subdivision (b) of this subsection.  
8           J. If the school facilities board determines that a school district  
9 has spent monies from the building renewal fund for purposes other than those  
10 prescribed in subsection B of this section, the school facilities board shall  
11 notify the superintendent of public instruction. Notwithstanding any other  
12 law, the superintendent of public instruction shall withhold a corresponding  
13 amount from the monies that would otherwise be due the school district under  
14 the capital outlay revenue limit until these monies are repaid.  
15           K. Beginning on July 1, 2002, a school district is not entitled to  
16 receive monies from the building renewal fund for any buildings that are to  
17 be replaced with new buildings that are funded with deficiencies corrections  
18 monies. The replacement buildings are not eligible to receive building  
19 renewal funding until the fiscal year following the completion of the  
20 building.  
21           L. Notwithstanding subsections B and E of this section, a school  
22 district may use eight per cent of the building renewal amount computed  
23 pursuant to subsection I of this section for routine preventative  
24 maintenance. The board, after consultation with maintenance specialists in  
25 school districts, shall provide examples of recommended services that are  
26 routine preventative maintenance.  
27           M. A school district that uses building renewal monies for routine  
28 preventative maintenance shall use the building renewal monies to supplement  
29 and not supplant expenditures from other funds for the maintenance of school  
30 buildings. The auditor general shall prescribe a method for determining  
31 compliance with the requirements of this subsection. A school district, in  
32 connection with any audit conducted by a certified public accountant, shall  
33 also contract for an independent audit to determine whether the school  
34 district used building renewal monies to reduce the school district's  
35 existing level of routine preventative maintenance funding. The auditor  
36 general may conduct discretionary reviews of a school district that is not  
37 required to contract for an independent audit.  
38           N. For the purposes of this section:  
39           1. "Primary projects" means projects that are necessary for buildings  
40 owned by school districts that are required to meet the academic standards  
41 listed in the database maintained pursuant to subsection F of this section  
42 and that fall below the minimum school facility adequacy guidelines, as  
43 adopted by the school facilities board pursuant to section 15-2011.

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

5           3. "Secondary projects" means all projects that are not primary  
6 projects.

7           4. "Student capacity" has the same meaning prescribed in section  
8 15-2011.

9           Sec. 4. Section 15-2041, Arizona Revised Statutes, is amended to read:  
10 15-2041. New school facilities fund; capital plan; report

11           A. A new school facilities fund is established consisting of monies  
12 appropriated by the legislature and monies credited to the fund pursuant to  
13 section 37-221. The school facilities board shall administer the fund and  
14 distribute monies, as a continuing appropriation, to school districts for the  
15 purpose of constructing new school facilities. On June 30 of each fiscal  
16 year, any unobligated contract monies in the new school facilities fund shall  
17 be transferred to the capital reserve fund established by section 15-2003.

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

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

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

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

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

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

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

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

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

43           C. If the capital plan indicates a need for a new school or an  
44 addition to an existing school within the next four years or a need for land  
45 within the next ten years, the school district shall submit its plan to the

1 school facilities board by September 1 and shall request monies from the new  
2 school facilities fund for the new construction or land. Monies provided for  
3 land shall be in addition to any monies provided pursuant to subsection D of  
4 this section.

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

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

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

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

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

40 (b) Multiply the number of pupils determined in subdivision (a) of  
41 this paragraph by the square footage per pupil. The square footage per pupil  
42 is ninety square feet per pupil for preschool children with disabilities,  
43 kindergarten programs and grades one through six, one hundred square feet for  
44 grades seven and eight, one hundred thirty-four square feet for a school  
45 district that provides instruction in grades nine through twelve for fewer

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

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

10 (ii) Geographic factors.

11 (iii) Grade configurations other than those prescribed in this  
12 subdivision.

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

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

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

42 4. For projects approved after December 31, 2001, and notwithstanding  
43 paragraph 3 of this subsection, a unified school district that does not have  
44 a high school is not eligible to receive high school space as prescribed by  
45 section 15-2011 and this section unless the unified district qualifies for

1 geographic factors prescribed by paragraph 3, subdivision (b), item (ii) of  
2 this subsection.

3 5. IF A JOINT TECHNOLOGICAL EDUCATION DISTRICT LEASES A BUILDING FROM  
4 A SCHOOL DISTRICT, THAT BUILDING SHALL BE INCLUDED IN THE SCHOOL DISTRICT'S  
5 SQUARE FOOTAGE CALCULATION FOR THE PURPOSES OF NEW CONSTRUCTION PURSUANT TO  
6 THIS SECTION.

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

23 F. The school facilities board shall distribute the monies needed for  
24 land for new schools so that land may be purchased at a price that is less  
25 than or equal to fair market value and in advance of the construction of the  
26 new school. If necessary, the school facilities board may distribute monies  
27 for land to be leased for new schools if the duration of the lease exceeds  
28 the life expectancy of the school facility by at least fifty per cent. The  
29 proceeds derived through the sale of any land purchased or partially  
30 purchased with monies provided by the school facilities board shall be  
31 returned to the state fund from which it was appropriated and to any other  
32 participating entity on a proportional basis. Except as provided in section  
33 15-342, paragraph 33, if a school district acquires real property by donation  
34 at an appropriate school site approved by the school facilities board, the  
35 school facilities board shall distribute an amount equal to twenty per cent  
36 of the fair market value of the donated real property that can be used for  
37 academic purposes. The school district shall place the monies in the  
38 unrestricted capital outlay fund and increase the unrestricted capital budget  
39 limit by the amount of monies placed in the fund. Monies distributed under  
40 this subsection shall be distributed from the new school facilities fund. A  
41 school district that receives monies from the new school facilities fund for  
42 a donation of land pursuant to section 15-342, paragraph 33 shall not receive  
43 monies from the school facilities board for the donation of real property  
44 pursuant to this subsection. A school district shall not pay a consultant a  
45 percentage of the value of any of the following:

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

3           (a) Entities that have offered to provide construction services to the  
4 school district.

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

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

8           (d) Entities that develop land for residential use in that school  
9 district.

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

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

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

31          H. School districts that receive monies from the new school facilities  
32 fund shall establish a district new school facilities fund and shall use the  
33 monies in the district new school facilities fund only for the purposes  
34 prescribed in this section. By October 15 of each year, each school district  
35 shall report to the school facilities board the projects funded at each  
36 school in the previous fiscal year with monies from the district new school  
37 facilities fund and shall provide an accounting of the monies remaining in  
38 the new school facilities fund at the end of the previous fiscal year.

39          I. If a school district has surplus monies received from the new  
40 school facilities fund, the school district may use the surplus monies only  
41 for capital purposes for the project for up to one year after completion of  
42 the project. If the school district possesses surplus monies from the new  
43 school construction project that have not been expended within one year of  
44 the completion of the project, the school district shall return the surplus

1 monies to the school facilities board for deposit in the new school  
2 facilities fund.

3 J. The board's consideration of any application filed after July 1,  
4 2001 or after December 31 of the year in which the property becomes territory  
5 in the vicinity of a military airport or ancillary military facility as  
6 defined in section 28-8461 for monies to fund the construction of new school  
7 facilities proposed to be located in territory in the vicinity of a military  
8 airport or ancillary military facility shall include, if after notice is  
9 transmitted to the military airport pursuant to section 15-2002 and before  
10 the public hearing the military airport provides comments and analysis  
11 concerning compatibility of the proposed school facilities with the high  
12 noise or accident potential generated by military airport or ancillary  
13 military facility operations that may have an adverse effect on public health  
14 and safety, consideration and analysis of the comments and analysis provided  
15 by the military airport before making a final determination.

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

21 L. The school facilities board shall establish a separate account in  
22 the new school facilities fund designated as the litigation account to pay  
23 attorney fees, expert witness fees and other costs associated with litigation  
24 in which the school facilities board pursues the recovery of damages for  
25 deficiencies correction that resulted from alleged construction defects or  
26 design defects that the school facilities board believes caused or  
27 contributed to a failure of the school building to conform to the building  
28 adequacy requirements prescribed in section 15-2011. Attorney fees paid  
29 pursuant to this subsection shall not exceed the market rate for similar  
30 types of litigation. ~~Monies recovered as damages pursuant to this subsection~~  
31 ~~shall be used to offset debt service on the correction of existing~~  
32 ~~deficiencies as prescribed by section 15-2021.~~ The joint committee on  
33 capital review shall conduct an annual review of the litigation account,  
34 including the costs associated with current and potential litigation.

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

40 N. The school facilities board shall submit a report on project  
41 management services and preconstruction services to the governor, the  
42 president of the senate and the speaker of the house of representatives by  
43 December 31 of each year. The report shall compare projects that use project  
44 management and preconstruction services with those that do not. The report  
45 shall address cost, schedule and other measurable components of a

1 construction project. School districts, construction manager at risk firms  
2 and project management firms that participate in a school facilities board  
3 funded project shall provide the information required by the school  
4 facilities board in relation to this report.

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

APPROVED BY THE GOVERNOR JULY 7, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 7, 2008.