House Engrossed Senate Bill

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KEN BENNETT
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CHAPTER 105

SENATE BILL 1102

AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

A. The school facilities board shall:

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

2. ~~Inventory and inspect all school buildings in this state in order to develop~~ MAINTAIN a database OF SCHOOL FACILITIES to administer the building renewal grant fund and new school facilities formula. THE FACILITIES LISTED IN THE DATABASE MUST INCLUDE ALL BUILDINGS THAT ARE OWNED BY SCHOOL DISTRICTS. The school facilities board shall ~~maintain the database and~~ ensure that the database is updated on at least an annual basis. Each school district shall report to the school facilities board no later than September 1 of each year information as required by the school facilities board for the administration of the building renewal grant fund and computation of new school facilities formula distributions, INCLUDING THE NATURE AND COST OF MAJOR REPAIRS, RENOVATIONS OR PHYSICAL IMPROVEMENTS TO OR REPLACEMENT OF BUILDING SYSTEMS OR EQUIPMENT THAT WERE MADE IN THE PREVIOUS YEAR AND THAT WERE PAID FOR EITHER WITH LOCAL MONIES OR MONIES PROVIDED BY THE SCHOOL FACILITIES BOARD FROM THE BUILDING RENEWAL GRANT FUND. EACH SCHOOL DISTRICT SHALL REPORT ANY SCHOOL OR SCHOOL BUILDINGS THAT HAVE BEEN CLOSED, THAT HAVE BEEN LEASED TO ANOTHER ENTITY OR THAT OPERATE AS A CHARTER SCHOOL. The school facilities board may review or audit the information, or both, to confirm the information submitted by a school district. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, IF A SCHOOL DISTRICT CONVERTS SPACE THAT IS LISTED IN THE DATABASE MAINTAINED PURSUANT TO THIS PARAGRAPH TO SPACE THAT WILL BE USED FOR ADMINISTRATIVE PURPOSES, THE SCHOOL DISTRICT IS RESPONSIBLE FOR ANY COSTS ASSOCIATED WITH THE CONVERSION, MAINTENANCE AND REPLACEMENT OF THAT SPACE. IF A BUILDING IS SIGNIFICANTLY UPGRADED OR REMODELED, THE SCHOOL FACILITIES SHALL ADJUST THE AGE OF THAT SCHOOL FACILITY IN THE DATABASE AS FOLLOWS:

(a) DETERMINE THE BUILDING CAPACITY VALUE AS FOLLOWS:

(i) MULTIPLY THE STUDENT CAPACITY OF THE BUILDING BY THE PER PUPIL SQUARE FOOT CAPACITY ESTABLISHED BY SECTION 15-2041.

(ii) MULTIPLY THE PRODUCT DETERMINED IN ITEM (i) OF THIS SUBDIVISION BY THE COST PER SQUARE FOOT ESTABLISHED BY SECTION 15-2041.

(b) DIVIDE THE COST OF THE RENOVATION BY THE BUILDING CAPACITY VALUE DETERMINED IN SUBDIVISION (a) OF THIS PARAGRAPH.

(c) MULTIPLY THE QUOTIENT DETERMINED IN SUBDIVISION (b) OF THIS PARAGRAPH BY THE CURRENTLY LISTED AGE OF THE BUILDING IN THE DATABASE.

(d) SUBTRACT THE PRODUCT DETERMINED IN SUBDIVISION (c) OF THIS PARAGRAPH FROM THE CURRENTLY LISTED AGE OF THE BUILDING IN THE DATABASE,

ROUNDED TO THE NEAREST WHOLE NUMBER. IF THE RESULT IS A NEGATIVE NUMBER, USE ZERO.

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

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

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

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

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

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

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

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

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

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

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

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

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

12. In each even-numbered year, report electronically to the joint committee on capital review the amounts necessary to fulfill the requirements of section 15-2041 for the Arizona state schools for the deaf and the blind for the following two fiscal years. The Arizona state schools for the deaf and the blind shall incorporate the findings of the report in any request for new school facilities monies. Any monies provided to the Arizona state schools for the deaf and the blind for new school facilities are subject to legislative appropriation.

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

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

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

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

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

1. Shall analyze applications for monies submitted to the board by school districts.
2. Shall assist the board in developing forms and procedures for the distribution and review of applications and the distribution of monies to school districts.
3. May review or audit, or both, the expenditure of monies by a school district for deficiencies corrections and new school facilities.
4. Shall assist the board in the preparation of the board's annual report.
5. Shall research and provide reports on issues of general interest to the board.
6. May aid school districts in the development of reasonable and cost-effective school designs in order to avoid statewide duplicated efforts and unwarranted expenditures in the area of school design.
7. May assist school districts in facilitating the development of multijurisdictional facilities.
8. Shall assist the board in any other appropriate matter or method as directed by the members of the board.
9. Shall establish procedures to ensure compliance with the notice and hearing requirements prescribed in section 15-905. The notice and hearing procedures adopted by the board shall include the requirement, with respect to the board's consideration of any application filed after July 1, 2001 or after December 31 of the year in which the property becomes territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461 for monies to fund the construction of new school facilities proposed to be located in territory in the vicinity of a military airport or ancillary military facility, that the military airport receive notification of the application by first class mail at least thirty days before any hearing concerning the application.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15-2011. Minimum school facility adequacy requirements; definition

A. The school facilities board, as determined and prescribed in this chapter, shall provide funding to school districts for new construction as the number of pupils in the district fills the existing school facilities and requires more pupil space.

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

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

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

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

4. The buildings are structurally sound.

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

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

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

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

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

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

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

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

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

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

2. Geographic factors.

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

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

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

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

(a) Total gross square footage.

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

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

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

5. Include all portable and modular buildings.

6. Include in the net square footage new construction funded wholly or partially by the school facilities board based on the square footage funded by the school facilities board. If the new construction is to exceed the

square footage funded by the school facilities board, the excess square footage shall not be included in the net square footage if any of the following applies:

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

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

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

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

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

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

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

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

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

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

J. A CHILD CARE FACILITY THAT PROVIDES SERVICES UTILIZING THE PRACTICE OF A DOCUMENTED EDUCATIONAL PHILOSOPHY INCLUDING LEAST RESTRICTIVE ENVIRONMENT PURSUANT TO SECTION 36-883.05 MAY INCORPORATE THE MINIMUM SCHOOL FACILITY ADEQUACY GUIDELINES PURSUANT TO SUBSECTION F OF THIS SECTION WHEN SELECTING A FACILITY IF THE GUIDELINES DO NOT CONFLICT WITH FACILITY REQUIREMENTS ESTABLISHED BY THE DEPARTMENT OF HEALTH SERVICES.

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

15-2032. <u>School facilities board building renewal grant fund; definitions</u>

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

B. The school facilities board shall distribute monies from the fund based on grant requests from school districts to fund primary building renewal projects. Project requests shall be prioritized by the school facilities board, with priority given to school districts that have provided routine preventative maintenance on the facility, and to school districts that can provide a match of monies provided by the fund. The school facilities board shall approve only projects that will be completed within twelve months, unless similar projects on average take longer to complete.

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

1. Major renovations and repairs to a building.

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

3. Infrastructure costs.

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

1. New construction.

2. Remodeling interior space for aesthetic or preferential reasons.

3. Exterior beautification.

4. Demolition.

5. Routine preventative maintenance.

6. Any project in a building, or part of a building, that is being leased to another entity, including a charter school that is sponsored by a school district pursuant to section 15-183.

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

F. For the purposes of this section:

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

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

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

Sec. 4. Section 15-2041, Arizona Revised Statutes, is amended to read:

15-2041. New school facilities fund; capital plan; report

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

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

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

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

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

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

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

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

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

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

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

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

1. The school facilities board shall review and evaluate the enrollment projections. On or before March 1, following the submission of the enrollment projections, the school facilities board shall either approve the projections as submitted or revise the projections. In determining new construction requirements, the school facilities board shall determine the net new growth of pupils that will require additional square footage that exceeds the building adequacy standards prescribed in section 15-2011. If the projected growth and the existing number of pupils exceed three hundred fifty pupils who are served in a school district other than the pupil's resident school district, the school facilities board, the receiving school district and the resident school district shall develop a capital facilities plan on how to best serve those pupils. A small isolated school district as

defined in section 15-901 is not required to develop a capital facilities plan pursuant to this paragraph.

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

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

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

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

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

(ii) Geographic factors.

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

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

(c) Multiply the product obtained in subdivision (b) of this paragraph by the cost per square foot. The cost per square foot is ninety dollars for preschool children with disabilities, kindergarten programs and grades one through six, ninety-five dollars for grades seven and eight and one hundred ten dollars for grades nine through twelve. The cost per square foot shall

be adjusted annually for construction market considerations based on an index identified or developed by the joint legislative budget committee as necessary but not less than once each year. The school facilities board shall multiply the cost per square foot by 1.05 for any school district located in a rural area. The school facilities board may only modify the base cost per square foot prescribed in this subdivision for particular schools based on geographic conditions or site conditions. For the purposes of this subdivision, "rural area" means an area outside a thirty-five mile radius of a boundary of a municipality with a population of more than fifty thousand persons.

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

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

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

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

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

E. Monies for architectural and engineering fees, project management services and preconstruction services shall be distributed on the completion of the analysis by the school facilities board of the school district's

request. After receiving monies pursuant to this subsection, the school district shall submit a design development plan for the school or addition to the school facilities board before any monies for construction are distributed. If the school district's request meets the building adequacy standards, the school facilities board may review and comment on the district's plan with respect to the efficiency and effectiveness of the plan in meeting state square footage and facility standards before distributing the remainder of the monies. If the school facilities board modifies the cost per square foot as prescribed in subsection D, paragraph 3, subdivision (c) of this section, the school facilities board may deduct the cost of project management services and preconstruction services from the required cost per square foot. The school facilities board may decline to fund the project if the square footage is no longer required due to revised enrollment projections.

F. The school facilities board shall distribute the monies needed for land for new schools so that land may be purchased at a price that is less than or equal to fair market value and in advance of the construction of the new school. If necessary, the school facilities board may distribute monies for land to be leased for new schools if the duration of the lease exceeds the life expectancy of the school facility by at least fifty per cent. A school district shall not use land purchased or partially purchased with monies provided by the school facilities board for a purpose other than a site for a school facility without obtaining prior written approval from the school facilities board. A school district shall not lease, sell or take any action that would diminish the value of land purchased or partially purchased with monies provided by the school facilities board without obtaining prior written approval from the school facilities board. The proceeds derived through the sale of any land purchased or partially purchased, or the sale of buildings funded or partially funded, with monies provided by the school facilities board shall be returned to the state fund from which it was appropriated and to any other participating entity on a proportional basis. Except as provided in section 15-342, paragraph 33, if a school district acquires real property by donation at an appropriate school site approved by the school facilities board, the school facilities board shall distribute an amount equal to twenty per cent of the fair market value of the donated real property that can be used for academic purposes. The school district shall place the monies in the unrestricted capital outlay fund and increase the unrestricted capital budget limit by the amount of monies placed in the fund. Monies distributed under this subsection shall be distributed from the new school facilities fund. A school district that receives monies from the new school facilities fund for a donation of land pursuant to section 15-342, paragraph 33 shall not receive monies from the school facilities board for the donation of real property pursuant to this subsection. A school district shall not pay a consultant a percentage of the value of any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

N. The school facilities board shall submit electronically a report on project management services and preconstruction services to the governor, the president of the senate and the speaker of the house of representatives by December 31 of each year. The report shall compare projects that use project management and preconstruction services with those that do not. The report shall address cost, schedule and other measurable components of a construction project. School districts, construction manager at risk firms and project management firms that participate in a school facilities board

funded project shall provide the information required by the school facilities board in relation to this report.

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

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

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

36-883.05. <u>Child care facilities; infants; floor bedding; requirements; emergency evacuation; notice; definitions</u>

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

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

1. BE A MAT THAT MEETS THE FOLLOWING DIMENSIONS:

(a) IS NOT LESS THAN TWO INCHES AND NOT MORE THAN THREE INCHES THICK.

(b) IS NOT LESS THAN THREE FEET AND NOT MORE THAN FOUR FEET LONG.

(c) IS NOT LESS THAN TWO FEET AND NOT MORE THAN THREE FEET WIDE.

2. NOT BE ELEVATED OR RAISED IN ANY WAY.

3. BE COVERED WITH A WATERPROOF AND WASHABLE MATTRESS PAD, A WASHABLE ZIP COVER AND AN INDIVIDUALLY ASSIGNED SHEET.

4. BE ASSIGNED TO AN INDIVIDUAL INFANT AND NOT SHARED WITH ANOTHER INFANT.

5. BE TURNED OVER AT LEAST ONCE A WEEK.

6. BE PLACED AT LEAST EIGHTEEN INCHES APART, EIGHTEEN INCHES FROM ANY WALL AND TWO FEET FROM ANY OTHER OBJECT.

7. BE PLACED ON A FLOOR THAT IS VACUUMED AND SANITIZED EVERY DAY AND, IF THE FLOOR IS CARPETED, IS SHAMPOOED AT LEAST TWICE A MONTH.

C. THE RATIO OF STAFF MEMBERS TO RESTING INFANTS IN THE RESTING AREA MUST BE AT LEAST ONE STAFF MEMBER TO EVERY FOUR INFANTS. A STAFF MEMBER IN THE RESTING AREA MUST BE SUPERVISED FOR THE FIRST NINETY DAYS OF EMPLOYMENT TO ENSURE THE STAFF MEMBER'S PROPER USE OF THE FLOOR BEDDING PURSUANT TO THIS SECTION. ANY STAFF MEMBER IN THE RESTING AREA SHALL HAVE CURRENT CERTIFICATION IN CARDIOPULMONARY RESUSCITATION AND FIRST AID.

D. IF AN EMERGENCY REQUIRING EVACUATION OCCURS, THE INFANT NURSERY STAFF SHALL PLACE THE INFANTS IN AN EVACUATION CRIB AND MOVE THE INFANTS IN THE CRIB TO A DESIGNATED EVACUATION ASSEMBLY AREA. EVACUATION CRIBS MUST BE STORED NOT MORE THAN TEN FEET FROM THE EXTERIOR EXIT. IF STORED ON THE OUTSIDE OF THE BUILDING, AN EVACUATION CRIB MUST BE PROTECTED FROM WEATHER. ON ARRIVAL AT THE DESIGNATED EVACUATION ASSEMBLY AREA, ALL INFANTS MUST BE PHYSICALLY ACCOUNTED FOR AGAINST THE SIGN-IN LOG AND THE RESULTS REPORTED TO THE DIRECTOR OF THE CHILD CARE FACILITY IMMEDIATELY. THE INFANT NURSERY SUPERVISOR IS RESPONSIBLE FOR BRINGING ALL ATTENDANCE SHEETS, CHILD ROSTERS AND INFORMATION SHEETS TO THE EVACUATION ASSEMBLY AREA. THE CHILD CARE FACILITY STAFF SHALL TAKE APPROPRIATE SUPPLIES DURING THE EVACUATION TO PROTECT THE CHILDREN, IF POSSIBLE, DURING INCLEMENT WEATHER.

E. A FACILITY SHALL PROVIDE THE DEPARTMENT WRITTEN NOTICE THIRTY DAYS BEFORE IMPLEMENTING THE USE OF FLOOR BEDDING PURSUANT TO THIS SECTION.

F. IF A LICENSED FACILITY DOES NOT COMPLY WITH THE REQUIREMENTS OF THIS SECTION, THE DEPARTMENT MAY REQUIRE THE INSTALLATION OF CRIBS.

G. A CHILD CARE FACILITY THAT PROVIDES SERVICES UTILIZING THE PRACTICE OF A DOCUMENTED EDUCATIONAL PHILOSOPHY INCLUDING LEAST RESTRICTIVE ENVIRONMENT MAY INCORPORATE THE MINIMUM SCHOOL FACILITY ADEQUACY GUIDELINES PURSUANT TO SECTION 15-2011 WHEN SELECTING A FACILITY IF THE GUIDELINES DO NOT CONFLICT WITH FACILITY REQUIREMENTS ESTABLISHED BY THE ARIZONA DEPARTMENT OF HEALTH SERVICES.

H. FOR THE PURPOSES OF THIS SECTION:

1. "INFANT" MEANS EITHER:

(a) A CHILD TWELVE MONTHS OR YOUNGER.

(b) A CHILD EIGHTEEN MONTHS OR YOUNGER IF NOT WALKING.

2. "RESTING AREA" MEANS A SPACE WITHIN THE CLASSROOM SEPARATE FROM THE ACTIVITY AREA THAT CONTAINS ONLY THE FLOOR BEDDING, INFANTS AND STAFF MEMBERS.

APPROVED BY THE GOVERNOR APRIL 22, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2014.

Passed the House April 15, 2014,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate March 4, 2014,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

President of the Senate

Susan Acevedo

Assistant Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR
This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1102

SENATE CONCURS IN HOUSE AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 16, 2014

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

17 day of April, 2014

at 8:20 o'clock A M.

Mikhaila Howard
Secretary to the Governor

Approved this 22. day of

April

at 2:29 o'clock P. M.

Janice K. Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 23rd day of April, 2014

at 940 o'clock A M.

Secretary of State

S.B. 1102