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REFERENCE TITLE: **military airports; school construction; expansion**

State of Arizona
Senate
Forty-fifth Legislature
Second Regular Session
2002

SB 1108

Introduced by
Senator Cirillo

AN ACT

AMENDING SECTION 15-341, ARIZONA REVISED STATUTES; AMENDING SECTION 15-2002, AS AMENDED BY LAWS 2001, CHAPTER 11, SECTION 3 AND CHAPTER 23, SECTION 6; REPEALING SECTION 15-2002, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 297, SECTION 2; AMENDING SECTION 15-2041, ARIZONA REVISED STATUTES; BLENDING MULTIPLE ENACTMENTS; RELATING TO SCHOOL DISTRICT GOVERNING BOARDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-341, Arizona Revised Statutes, is amended to
3 read:

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

5 A. The governing board shall:

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

9 2. Maintain the schools established by it for the attendance of each
10 pupil for a period of not less than one hundred seventy-five school days or
11 two hundred school days, as applicable, or its equivalent as approved by the
12 superintendent of public instruction for a school district operating on a
13 year-round operation basis, to offer an educational program on the basis of a
14 four day school week or to offer an alternative kindergarten program on the
15 basis of a three day school week, in each school year, and if the funds of
16 the district are sufficient, for a longer period, and as far as practicable
17 with equal rights and privileges.

18 3. Exclude from schools all books, publications, papers or audiovisual
19 materials of a sectarian, partisan or denominational character.

20 4. Manage and control the school property within its district.

21 5. Acquire school furniture, apparatus, equipment, library books and
22 supplies for the use of the schools.

23 6. Prescribe the curricula and criteria for the promotion and
24 graduation of pupils as provided in sections 15-701 and 15-701.01.

25 7. Furnish, repair and insure, at full insurable value, the school
26 property of the district.

27 8. Construct school buildings on approval by a vote of the district
28 electors.

29 9. Make in the name of the district conveyances of property belonging
30 to the district and sold by the board.

31 10. Purchase school sites when authorized by a vote of the district at
32 an election conducted as nearly as practicable in the same manner as the
33 election provided in section 15-481 and held on a date prescribed in section
34 15-491, subsection E, but such authorization shall not necessarily specify
35 the site to be purchased and such authorization shall not be necessary to
36 exchange unimproved property as provided in section 15-342, paragraph 23.

37 11. Construct, improve and furnish buildings used for school purposes
38 when such buildings or premises are leased from the national park service.

39 12. Purchase school sites or construct, improve and furnish school
40 buildings from the proceeds of the sale of school property only on approval
41 by a vote of the district electors.

42 13. Hold pupils to strict account for disorderly conduct on school
43 property.

44 14. Discipline students for disorderly conduct on the way to and from
45 school.

1 15. Except as provided in section 15-1224, deposit all monies received
2 by the district as gifts, grants and devises with the county treasurer who
3 shall credit the deposits as designated in the uniform system of financial
4 records. If not inconsistent with the terms of the gifts, grants and devises
5 given, any balance remaining after expenditures for the intended purpose of
6 the monies have been made shall be used for reduction of school district
7 taxes for the budget year, except that in the case of accommodation schools
8 the county treasurer shall carry the balance forward for use by the county
9 school superintendent for accommodation schools for the budget year.

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

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

18 18. Use school monies received from the state and county school
19 apportionment exclusively for payment of salaries of teachers and other
20 employees and contingent expenses of the district.

21 19. Make an annual report to the county school superintendent on or
22 before October 1 each year in the manner and form and on the blanks
23 prescribed by the superintendent of public instruction or county school
24 superintendent. The board shall also make reports directly to the county
25 school superintendent or the superintendent of public instruction whenever
26 required.

27 20. Deposit all monies received by school districts other than student
28 activities monies or monies from auxiliary operations as provided in sections
29 15-1125 and 15-1126 with the county treasurer to the credit of the school
30 district except as provided in paragraph 21 of this subsection and sections
31 15-1223 and 15-1224, and the board shall expend the monies as provided by law
32 for other school funds.

33 21. Establish a bank account in which the board may during a month
34 deposit miscellaneous monies received directly by the district. The board
35 shall remit monies deposited in the bank account at least monthly to the
36 county treasurer for deposit as provided in paragraph 20 of this subsection
37 and in accordance with the uniform system of financial records.

38 22. Employ an attorney admitted to practice in this state whose
39 principal practice is in the area of commercial real estate, or a real estate
40 broker who is licensed by this state and who is employed by a reputable
41 commercial real estate company, to negotiate a lease of five or more years
42 for the school district if the governing board decides to enter into a lease
43 of five or more years as lessor of school buildings or grounds as provided in
44 section 15-342, paragraph 7 or 10. Any lease of five or more years
45 negotiated pursuant to this paragraph shall provide that the lessee is

1 responsible for payment of property taxes pursuant to the requirements of
2 section 42-11104.

3 23. Prescribe and enforce policies and procedures for disciplinary
4 action against a teacher who engages in conduct which is a violation of the
5 policies of the governing board but which is not cause for dismissal of the
6 teacher or for revocation of the certificate of the teacher. Disciplinary
7 action may include suspension without pay for a period of time not to exceed
8 ten school days. Disciplinary action shall not include suspension with pay
9 or suspension without pay for a period of time longer than ten school days.
10 The procedures shall include notice, hearing and appeal provisions for
11 violations which are cause for disciplinary action. The governing board may
12 designate a person or persons to act on behalf of the board on these matters.

13 24. Prescribe and enforce policies and procedures for disciplinary
14 action against an administrator who engages in conduct which is a violation
15 of the policies of the governing board regarding duties of administrators but
16 which is not cause for dismissal of the administrator or for revocation of
17 the certificate of the administrator. Disciplinary action may include
18 suspension without pay for a period of time not to exceed ten school days.
19 Disciplinary action shall not include suspension with pay or suspension
20 without pay for a period of time longer than ten school days. The procedures
21 shall include notice, hearing and appeal provisions for violations which are
22 cause for disciplinary action. The governing board may designate a person or
23 persons to act on behalf of the board on these matters. For violations which
24 are cause for dismissal, the provisions of notice, hearing and appeal in
25 chapter 5, article 3 of this title shall apply. The filing of a timely
26 request for a hearing suspends the imposition of a suspension without pay or
27 a dismissal pending completion of the hearing.

28 25. Notwithstanding section 13-3108, prescribe and enforce policies and
29 procedures that prohibit a person from carrying or possessing a weapon on
30 school grounds unless the person is a peace officer or has obtained specific
31 authorization from the school administrator.

32 26. Prescribe and enforce policies and procedures relating to the
33 health and safety of all pupils participating in district sponsored practice
34 sessions, games or other interscholastic athletic activities, including the
35 provision of water. A school district and its employees are immune from
36 civil liability for the consequences of the good faith adoption and
37 implementation of policies and procedures pursuant to this paragraph.

38 27. Prescribe and enforce policies and procedures regarding the smoking
39 of tobacco within school buildings. The policies and procedures shall be
40 adopted in consultation with school district personnel and members of the
41 community and shall state whether smoking is prohibited in school
42 buildings. If smoking in school buildings is not prohibited, the policies
43 and procedures shall clearly state the conditions and circumstances under
44 which smoking is permitted, those areas in a school building which may be

1 designated as smoking areas and those areas in a school building which may
2 not be designated as smoking areas.

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

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

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

10 31. Secure insurance coverage for all construction projects for
11 purposes of general liability, property damage and workers' compensation and
12 secure performance and payment bonds for all construction projects.

13 32. Keep on file the resumes of all current and former employees who
14 provide instruction to pupils at a school. Resumes shall include an
15 individual's educational and teaching background and experience in a
16 particular academic content subject area. A school district shall inform
17 parents and guardians of the availability of the resume information and shall
18 make ~~these~~ THE RESUME INFORMATION available for inspection on request of
19 parents and guardians of pupils enrolled at a school. Nothing in this
20 paragraph shall be construed to require any school to release personally
21 identifiable information in relation to any teacher or employee including the
22 teacher's or employee's address, salary, social security number or telephone
23 number.

24 33. Report to local law enforcement AGENCIES any suspected crimes
25 against persons or property and any incidents that could potentially threaten
26 the safety or security of pupils, teachers or administrators. A school
27 district and its employees are immune from liability for any good faith
28 actions taken in furtherance of this paragraph.

29 34. In conjunction with local law enforcement AGENCIES and local
30 medical facilities, develop an emergency response plan for each school in the
31 school district in accordance with minimum standards developed jointly by the
32 department of education and the division of emergency management within the
33 department of emergency and military affairs.

34 35. Annually assign at least one school district employee to
35 participate in a multihazard crisis training program developed or selected by
36 the governing board.

37 B. Notwithstanding subsection A, paragraphs 8, 10 and 12 of this
38 section, the county school superintendent may construct, improve and furnish
39 school buildings or purchase or sell school sites in the conduct of an
40 accommodation school.

41 C. If any school district acquires real or personal property, whether
42 by purchase, exchange, condemnation, gift or otherwise, the governing board
43 shall pay to the county treasurer any taxes on the property that were unpaid
44 as of the date of acquisition, including penalties and interest. The lien

1 for unpaid delinquent taxes, penalties and interest on property acquired by a
2 school district:

3 1. Is not abated, extinguished, discharged or merged in the title to
4 the property.

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

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

17 E. A school district's governing board members and its school council
18 members are immune from civil liability for the consequences of adoption and
19 implementation of policies and procedures pursuant to subsection A of this
20 section and section 15-342. This waiver does not apply if the school
21 district's governing board members or its school council members are guilty
22 of gross negligence or intentional misconduct.

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

26 G. Notwithstanding any other provision of this title, a school
27 district governing board shall not take any action that would result in an
28 immediate reduction or a reduction within three years of pupil square footage
29 that would cause the school district to fall below the minimum adequate gross
30 square footage requirements prescribed in section 15-2011, subsection C,
31 unless the governing board notifies the school facilities board established
32 by section 15-2001 of the proposed action and receives written approval from
33 the school facilities board to take the action. A reduction includes an
34 increase in administrative space that results in a reduction of pupil square
35 footage or sale of school sites or buildings, or both. The sale of equipment
36 that results in an immediate reduction or a reduction within three years that
37 falls below the equipment requirements prescribed in section 15-2011,
38 subsection B is subject to commensurate withholding of school district
39 capital outlay revenue limit monies pursuant to the direction of the school
40 facilities board. Except as provided in section 15-342, paragraph 10,
41 proceeds from the sale of school sites, buildings or other equipment shall be
42 deposited in the school plant fund as provided in section 15-1102.

43 H. Subsections C through F of this section apply to a county board of
44 supervisors and a county school superintendent when operating and
45 administering an accommodation school.

1 I. A SCHOOL DISTRICT GOVERNING BOARD SHALL NOT CONSTRUCT ANY NEW
2 SCHOOL BUILDING OR EXPAND ANY EXISTING SCHOOL BUILDING THAT IS LOCATED IN
3 TERRITORY IN THE VICINITY OF A MILITARY AIRPORT AS DEFINED IN SECTION 28-8461
4 AFTER THE EFFECTIVE DATE OF THE AMENDMENT OF THIS SECTION. THIS SECTION
5 SHALL NOT BE CONSTRUED TO PROHIBIT MINOR REPAIRS AND ROUTINE MAINTENANCE TO
6 EXISTING SCHOOL BUILDINGS THAT ARE LOCATED IN TERRITORY IN THE VICINITY OF A
7 MILITARY AIRPORT.

8 Sec. 2. Section 15-2002, Arizona Revised Statutes, as amended by Laws
9 2001, chapter 11, section 3 and chapter 23, section 6, is amended to read:

10 15-2002. Powers and duties; executive director; staffing;
11 report

12 A. The school facilities board shall:

13 1. Make assessments of school facilities and equipment deficiencies
14 pursuant to section 15-2021 and approve the distribution of grants as
15 appropriate.

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

19 3. Inspect school buildings at least once every five years to ensure
20 compliance with the building adequacy standards prescribed in section 15-2011
21 with respect to construction of new buildings and maintenance of existing
22 buildings.

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

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

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

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

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

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

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

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

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

16 (d) A summary of the findings of common design elements and
17 characteristics of the highest performing schools and the lowest performing
18 schools based on academic productivity including the results of the parent
19 quality rating survey.

20 For the purposes of this paragraph, "academic productivity" means academic
21 year advancement per calendar year as measured with student-level data using
22 the statewide nationally standardized norm-referenced achievement test.

23 10. By December 1 of each even-numbered year, report to the joint
24 committee on capital review the estimated amounts necessary to fulfill the
25 requirements of sections 15-2021, 15-2022, 15-2031 and 15-2041 for the
26 following two fiscal years. By December 1 of each odd-numbered year, the
27 board shall provide to the joint committee on capital review an update of the
28 estimated amounts necessary to fulfill the requirements of sections 15-2021,
29 15-2022, 15-2031 and 15-2041 for the following fiscal year. No later than
30 January 1 of each year, the board shall instruct the state treasurer as to
31 the amounts under the transaction privilege tax to be credited in equal
32 quarterly installments for the following state fiscal year. The board shall
33 provide copies of both reports to the president of the senate, the speaker of
34 the house of representatives and the governor.

35 11. Adopt minimum school facility adequacy guidelines to provide the
36 minimum quality and quantity of school buildings and the facilities and
37 equipment necessary and appropriate to enable pupils to achieve the
38 educational goals of the Arizona state schools for the deaf and the
39 blind. The school facilities board shall establish minimum school facility
40 adequacy guidelines applicable to the Arizona state schools for the deaf and
41 the blind by December 31, 2000.

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

44 C. The governor shall appoint an executive director of the school
45 facilities board pursuant to section 38-211. The executive director is

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

8 1. Shall analyze applications for monies submitted to the board by
9 school districts.

10 2. Shall assist the board in developing forms and procedures for the
11 distribution and review of applications and the distribution of monies to
12 school districts.

13 3. May review or audit, or both, the expenditure of monies by a school
14 district for deficiencies corrections, building renewal and new school
15 facilities.

16 4. Shall assist the board in the preparation of the board's annual
17 report.

18 5. Shall research and provide reports on issues of general interest to
19 the board.

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

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

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

27 9. Shall establish procedures to ensure compliance with the notice and
28 hearing requirements prescribed in section 15-905. ~~The notice and hearing
29 procedures adopted by the board shall include the requirement, with respect
30 to the board's consideration of any application filed after July 1, 2001 for
31 monies to fund the construction of new school facilities proposed to be
32 located in territory in the vicinity of a military airport as defined in
33 section 28-8461, that the military airport receive notification of the
34 application by first class mail at least thirty days before any hearing
35 concerning the application.~~

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

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

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

1 13. Shall provide technical support to school districts as requested by
2 school districts in connection with the construction of new school facilities
3 and the maintenance of existing school facilities.

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

7 E. The school facilities board shall contract with one or more private
8 building inspectors to complete an initial assessment of school facilities
9 and equipment provided in section 15-2021 and shall inspect each school
10 building in this state at least once every five years to ensure compliance
11 with section 15-2011. A copy of the inspection report, together with any
12 recommendations for building maintenance, shall be provided to the school
13 facilities board and the governing board of the school district.

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

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

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

25 I. The board may contract for construction services and materials that
26 are necessary to correct existing deficiencies in school district facilities
27 as determined pursuant to section 15-2021. The board may procure the
28 construction services necessary pursuant to this subsection by any method,
29 including construction-manager-at-risk, design-build, design-bid-build or
30 job-order-contracting as provided by title 41, chapter 23. The construction
31 planning and services performed pursuant to this subsection are exempt from
32 ~~the provisions of~~ section 41-791.01.

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

37 Sec. 3. Repeal

38 Section 15-2002, Arizona Revised Statutes, as amended by Laws 2001,
39 chapter 297, section 2, is repealed.

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

41 15-2041. New school facilities fund; capital plan

42 A. A new school facilities fund is established consisting of monies
43 appropriated by the legislature and monies credited to the fund pursuant to
44 section 37-221 or 42-5030.01. The school facilities board shall administer
45 the fund and distribute monies, as a continuing appropriation, to school

1 districts for the purpose of constructing new school facilities. On June 30
2 of each fiscal year, any unobligated contract monies in the new school
3 facilities fund shall be transferred to the capital reserve fund established
4 by section 15-2003.

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

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

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

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

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

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

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

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

23 C. If the capital plan indicates a need for a new school or an
24 addition to an existing school within the next four years or a need for land
25 within the next ten years, the school district shall submit its plan to the
26 school facilities board and shall request monies from the new school
27 facilities fund for the new construction or land. Monies provided for land
28 shall be in addition to any monies provided pursuant to subsection D of this
29 section.

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

32 1. The school facilities board shall review and evaluate the
33 enrollment projections and either approve the projections as submitted or
34 revise the projections. In determining new construction requirements, the
35 school facilities board shall determine the net new growth of pupils that
36 will require additional square footage that exceeds the building adequacy
37 standards prescribed in section 15-2011.

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

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

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

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

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

29 (ii) Geographic factors.

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

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

34 (c) Multiply the product obtained in subdivision (b) of this paragraph
35 by the cost per square foot. The cost per square foot is ninety dollars for
36 preschool children with disabilities, kindergarten programs and grades one
37 through six, ninety-five dollars for grades seven and eight and one hundred
38 ten dollars for grades nine through twelve. The cost per square foot shall
39 be adjusted annually for construction market considerations based on an index
40 identified or developed by the joint legislative budget committee as
41 necessary but not less than once each year. The school facilities board
42 shall multiply the cost per square foot by 1.05 for any school district
43 located in a rural area. The school facilities board may modify the base
44 cost per square foot prescribed in this subdivision for particular schools
45 based on geographic conditions or site conditions. For purposes of this

1 subdivision, "rural area" means an area outside a thirty-five mile radius of
2 a boundary of a municipality with a population of more than fifty thousand
3 persons according to the most recent United States decennial census.

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

16 E. Monies for architectural and engineering fees shall be distributed
17 on the completion of the analysis by the school facilities board of the
18 school district's request. After receiving monies pursuant to this
19 subsection, the school district shall submit a design development plan for
20 the school or addition to the school facilities board before any monies for
21 construction are distributed. If the school district's request meets the
22 building adequacy standards, the school facilities board may review and
23 comment on the district's plan with respect to the efficiency and
24 effectiveness of the plan in meeting state square footage and facility
25 standards before distributing the remainder of the monies. The school
26 facilities board may decline to fund the project if the square footage is no
27 longer required due to revised enrollment projections.

28 F. The school facilities board shall distribute the monies needed for
29 land for new schools so that land may be purchased at a price that is less
30 than or equal to fair market value and in advance of the construction of the
31 new school. If necessary, the school facilities board may distribute monies
32 for land to be leased for new schools if the duration of the lease exceeds
33 the life expectancy of the school facility by at least fifty per cent. The
34 proceeds derived through the sale of any land purchased or partially
35 purchased with monies provided by the school facilities board shall be
36 returned to the state fund from which it was appropriated and to any other
37 participating entity on a proportional basis. If a school district acquires
38 real property by donation at an appropriate school site approved by the
39 school facilities board, the school facilities board shall distribute an
40 amount equal to twenty per cent of the fair market value of the donated real
41 property that can be used for academic purposes. The school district shall
42 place the monies in the unrestricted capital outlay fund and increase the
43 unrestricted capital outlay limit by the amount of monies placed in the
44 fund. Monies distributed under this subsection shall be distributed from the
45 new school facilities fund.

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

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

27 I. If a school district has surplus monies received from the new
28 ~~schools~~ SCHOOL facilities fund, the school district may use the surplus
29 monies for any other capital purpose.

30 ~~J. The board's consideration of any application filed after July 1,~~
31 ~~2001 for monies to fund the construction of new school facilities proposed to~~
32 ~~be located in territory in the vicinity of a military airport as defined in~~
33 ~~section 28-8461 shall include, if after notice is transmitted to the military~~
34 ~~airport pursuant to section 15-2002 and before the public hearing the~~
35 ~~military airport provides comments and analysis concerning compatibility of~~
36 ~~the proposed school facilities with the high noise or accident potential~~
37 ~~generated by military airport operations that may have an adverse effect on~~
38 ~~public health and safety, consideration and analysis of the comments and~~
39 ~~analysis provided by the military airport before making a final~~
40 ~~determination.~~