



Arizona State Senate Issue Brief

August 3, 2018

Note to Reader:

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STUDENTS FIRST

INTRODUCTION

In 1994, Arizona's system of school capital finance was declared unconstitutional by a court decision in *Roosevelt v. Bishop* because it failed to conform to the state Constitution's "general and uniform" clause. The Arizona Supreme Court opined that the system relied too heavily on secondary property tax revenue, which is driven by property value, and created an unequalized system with funding disparities between school districts.

The state twice attempted to address the Court's ruling, first in 1996 through an amended system based on the original financing system, and again in 1997 with the creation of a new system, the Assistance to Build Classrooms program. In *Hull v. Albrecht*, the Court rejected both proposals and imposed on the state a deadline of June 30, 1998, to develop a constitutional system of school capital finance or risk closure of K-12 public schools. On July 9, 1998, during a special session, legislation was passed reforming the way traditional K-12 public schools (not including charter schools) finance capital investment and construction in Arizona. This legislation was called Students Fair and Immediate Resources for Students Today, commonly known as Students FIRST.

Since 1998, the Students FIRST program has served as Arizona's school capital finance system, funded in part by Proposition 301 revenues dedicated from the state transaction privilege tax, state trust land revenues and annual legislative appropriations to the School Facilities Board (SFB). The Students FIRST program consists of three programs:

- Emergency Deficiencies Corrections – Funding to address emergency capital needs after school districts have exhausted all other available sources.
- Building Renewal – State grants to school districts to maintain existing school facilities.
- New School Construction – Funding to construct new school facilities, while retaining a limited ability to raise local funds

through bond issuances and capital overrides to supplement SFB funds.

SCHOOL FACILITIES BOARD

The Students FIRST program is administered by SFB, which consists of nine voting members appointed by the Governor. Additionally, the Superintendent of Public Instruction or his/her designee serves as a nonvoting member. Each voting member is appointed based on expertise in one of the following areas: school district governing board member, taxpayer representative, public procurement, school facilities management, demographics, teacher, engineering, architecture or owner of a private construction company whose business does not include school construction. Each member serves a term of four years. Day-to-day operations are managed by the Executive Director, who is also appointed by the Governor, subject to Senate confirmation.

MINIMUM BUILDING ADEQUACY STANDARDS

In September 1999, SFB established the Building Adequacy Guidelines, which serve as the minimum standards for SFB and school districts on how existing and new school facilities must be built and maintained. The standards range from statutorily set square footage requirements to specifications on building systems, classroom and non-classroom space (cafeteria, libraries, and athletic facilities) and energy efficiency measures. Compliance with these standards is the basis on which deficiencies corrections and new construction projects are approved by SFB.

The square footage requirements are calculated using the most recent 40th day student count and the gross square footage of all buildings. However, statute excludes certain space from SFB’s calculation, including: 1) district administration space; 2) space used for vehicle storage; 3) nonacademic space; and 4) up to 25%

of locally funded space that was approved after the creation of SFB; referred to as “invisible space.”

As a result of these exclusions, school districts are more likely to qualify for new school construction awards (see below).

DEFICIENCIES CORRECTION

The Deficiencies Correction Program was created to provide one-time funding to correct square footage or structural quality deficiencies in existing school facilities. The determination of deficiency was based on whether existing buildings were in compliance with minimum building adequacy standards. An initial statewide assessment of school facilities completed in 1999 identified the school district facilities that would require repair, renovation or replacement.

Students FIRST legislation required that all projects be completed by FY 2005. In order to address state budget shortfalls however, the completion date was delayed until the Deficiencies Corrections Program was completed in FY 2006. Over the course of the Deficiencies Corrections Program, the state provided \$1.314 billion for over 9,200 projects, including approximately 36,000 computers and statewide Internet connectivity for all school districts. The \$1.314 billion was funded in the following manner:

- Bonds.....\$ 1.1 billion
- General Fund.....\$176 million
- Fund Transfers.\$38 million

To ensure that the state’s \$1.3 billion investment is preserved, SFB is required to inspect 20 randomly selected school facilities every five years to ensure that school districts perform adequate preventative maintenance so that the school facilities will not fall below minimum building adequacy standards. Each school district is also required to submit an annual preventative maintenance report to SFB. If the school district is found to be in noncompliance,

the school district must use building renewal monies to return to compliance.

The Legislature established the Emergency Deficiencies Correction Fund in 2001 to address emergency capital needs that “seriously threaten the functioning of a school district, the preservation or protection of property, or public health, welfare, or safety.” A school district that experiences an emergency of this nature may apply for additional funding after exhausting all other funding sources available, such as insurance proceeds or building renewal monies. If there are insufficient monies in the Fund, school districts are allowed to levy an additional primary property tax levy to fund the repairs, with the approval of the county board of supervisors.

Funding for the Emergency Deficiencies Correction program consists of monies transferred from: 1) the Deficiencies Corrections Fund, which no longer exists; and 2) the New School Facilities Fund, as long as the transfer will not affect or disrupt any approved capital projects. Because the majority of new school construction has been financed with bonds in recent years, there is typically little to no excess funds available for the Emergency Deficiencies Correction program. SFB estimates the Emergency Deficiencies Correction fund will have a \$0 balance at the beginning of FY 2018.

BUILDING RENEWAL

The Building Renewal Program provided school districts with funding to maintain the adequacy of existing facilities. The funding was determined by a statutory formula that was allocated on a building-by-building basis and took into account the building’s square footage, age, student capacity and prior renovations.

In 2008, the Legislature created the Building Renewal Grant (BRG) Fund to replace the Building Renewal Program. The BRG Fund largely retained the same purpose, requirements and restrictions as the Building Renewal Program

but replaced the statutory formula with a needs-based grant system. Project requests are prioritized by SFB, with priority given to school districts that have provided preventive maintenance on the facility. SFB must categorize each eligible project as either critical or noncritical, with priority given to critical projects. Statute designates critical projects as projects that immediately impact student safety or building closures or that result in operational disruptions. BRG monies must be used for any of the following purposes: 1) major renovations and repairs to a building that is used for student instruction or other academic purposes; 2) upgrading systems and areas that maintain or extend the useful life of the building; or 3) infrastructure costs.

BRG monies may not be used for: 1) new construction; 2) remodeling interior space for aesthetic reasons; 3) exterior beautification; 4) demolition; 5) routine preventive maintenance; or 6) any project in a building being leased to another entity.

Building renewal projects typically fall under one of eight categories: 1) electrical; 2) general renovation; 3) HVAC; 4) plumbing; 5) roofing; 6) special equipment; 7) special systems; and 8) surfaces. The majority of Building Renewal projects and funds are awarded for upgrades to schools’ HVAC systems and roofs.

NEW SCHOOL FACILITIES

The New School Construction Program distributes funding to school districts for the purchase of land and costs of construction for new schools. School districts qualify for new space based on annual capital plans and enrollment projections. SFB provides funding if enrollment projections indicate that additional space will be needed because school district-wide square footage per pupil falls below the statutory minimum in the current year.

SFB distributes new school facilities monies to school districts based on the following new school construction formula:

(No. of Pupils x Square Foot per Pupil x Cost per Square Foot)

Statute dictates the required square footage per pupil (see Table 1) and the cost per square foot. SFB is statutorily permitted to increase monies in excess of the formula under four conditions: 1) inflation index as identified by the Joint Legislative Budget Committee; 2) five percent increase for rural areas; 3) geographic conditions; and 4) site conditions.

If a project is completed at a cost below the formula amount, a school district may use the excess funds on the same project within one year.

per <u>Type of School</u>	Sq. foot <u>Per Pupil</u>	Funding <u>Sq. foot</u>
K-6	90	\$147.00
7-8	100	\$155.19
9-12 (<1,800 pupils)	134	\$179.69
9-12 (≥1,800 pupils)	125	\$179.69

Note: Cost per square foot is increased by five percent for rural school districts.

Beginning in FY 2003, the state took a variety of cost saving measures to mitigate budget shortfalls.

Previously, the state paid for new construction costs on a cash-basis through legislative appropriations from the state General Fund. In FY 2003 – FY 2005, FY 2008 and FY 2009 however, the state implemented debt financing through lease-purchase agreements to pay for new construction. For each agreement, SFB issued Certificates of Participation that are typically repaid over a period of 15 years. After SFB refinanced these agreements in 2015, the outstanding amount of General Fund lease-purchase principal to be paid will be over \$700 million by the end of FY 2017.

From FY 2009 through FY 2013, the Legislature placed a moratorium on all new school construction but exempted lease-to-purchase authority and land acquisition. The moratorium was lifted in FY 2014.

Finally, in FY 2011 SFB issued Qualified School Construction Bonds, as authorized by the federal American Reinvestment and Recovery Act of 2009, to finance \$91 million worth of lease-to-own transactions that funded the construction of five new schools and additional space for three schools.

ADDITIONAL RESOURCES

- Roosevelt v. Bishop, 179 Ariz. 233 877 P.2nd 806 (Ariz. 1994)
- Hull v. Albrecht, 190 Ariz. 520 950 P.2nd 1141 (Ariz. 1997)
- Hull v. Albrecht, 192 Ariz. 34 960 P.2nd 634 (Ariz. 1998)
- Arizona School Facilities Board
602-542-6501
www.azsfb.gov/sfb
- Annual Appropriations Report, Joint Legislative Budget Committee
www.azleg.gov/jlbc.htm