Senate Engrossed House Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

CHAPTER 101

HOUSE BILL 2332

AN ACT

AMENDING SECTION 15-213.01, ARIZONA REVISED STATUTES; AMENDING SECTION 15-213.01, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING SECTION 15-342, ARIZONA REVISED STATUTES; AMENDING SECTION 15-342, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING TITLE 15, CHAPTER 9, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-910.02; AMENDING SECTION 34-201, ARIZONA REVISED STATUTES; AMENDING SECTION 34-201, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING SECTIONS 42-11054, 44-1375, 44-1375.01 AND 44-1375.02, ARIZONA REVISED STATUTES; RELATING TO SCHOOL DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 15-213.01, Arizona Revised Statutes, is amended to read:

15-213.01. Procurement practices; guaranteed energy cost savings contracts; definitions

A. Notwithstanding section 15-213, subsection A, a school district may contract for the procurement of a guaranteed energy cost savings contract with a qualified provider through a competitive sealed proposal process as provided by the procurement practices adopted by the state board of education. ~~To the extent the qualified provider subcontracts with contractors who will be involved in any construction associated with the guaranteed energy cost savings contract, the qualified provider must follow the provisions of section 41-2533 in selecting these contractors.~~

B. A school district may enter into a guaranteed energy cost savings contract with a qualified provider if it determines that the amount it would spend on the energy cost savings measures recommended in the proposal would not exceed the amount to be saved in energy and operational costs over the expected life of the energy cost savings measures implemented or within twenty-five years, whichever is shorter, after the date installation or implementation is complete, if the recommendations in the proposal are followed. THE SCHOOL DISTRICT SHALL RETAIN THE COST SAVINGS ACHIEVED BY A GUARANTEED ENERGY COST SAVING CONTRACT, AND THESE COST SAVINGS MAY BE USED TO PAY FOR THE CONTRACT AND PROJECT IMPLEMENTATION. A SCHOOL DISTRICT SHALL NOT USE EXCESS UTILITIES MONIES FOR THE CONTRACT OR FOR PROJECT IMPLEMENTATION.

C. The school district shall use objective criteria in selecting the qualified provider, including the cost of the contract, the energy and operational cost savings, the net projected energy savings, the quality of the technical approach, the quality of the project management plan, the financial solvency of the qualified provider and the experience of the qualified provider with projects of similar size and scope. The school district shall set forth each criterion with its respective numerical weighting in the request for proposal.

D. In selecting a contractor to perform any construction work related to performing the guaranteed energy cost savings contract, the qualified provider may develop and use a prequalification process for contractors ~~wishing to bid on this work~~. These prequalifications may require the contractor to demonstrate that the contractor is adequately bonded to perform the work and that the contractor has not failed to perform on a prior job. ~~The qualified provider may use performance specifications in soliciting bids from contractors.~~

E. ~~An in-depth feasibility~~ A study shall be performed by the selected qualified provider in order to establish the exact scope of the guaranteed energy cost savings contract, the fixed cost savings guarantee amount and the methodology for determining actual savings. This report shall be reviewed and approved by the school district ~~prior to~~ BEFORE the actual installation

of any equipment. The qualified provider shall transmit a copy of the approved ~~in-depth feasibility~~ study to the ~~superintendent of public instruction~~ SCHOOL FACILITIES BOARD AND THE DEPARTMENT OF COMMERCE ENERGY OFFICE.

F. The guaranteed energy COST savings contract shall require that ~~a qualified provider perform an energy audit of the facility or facilities one year after the energy cost savings measures are installed or implemented and every three years thereafter for the length of the contract. The qualified provider shall transmit a copy of the audit to the superintendent of public instruction. The qualified provider shall pay the cost of the audit.~~ in determining whether the projected energy savings calculations have been met, the energy or operational cost savings shall be computed by comparing the energy baseline before installation or implementation of the energy cost savings measures with the energy consumed and operational costs avoided after installation or implementation of the energy cost savings measures. The qualified provider and the school district may agree to make modifications to the energy baseline only for any of the following:

1. Changes in utility rates.
2. Changes in the number of days in the utility billing cycle.
3. Changes in the square footage of the facility.
4. Changes in the operational schedule of the facility.
5. Changes in facility temperature.
6. Significant changes in the weather.
7. Significant changes in the amount of equipment or lighting utilized in the facility.
8. SIGNIFICANT CHANGES IN THE NATURE OR INTENSITY OF ENERGY USE SUCH AS THE CHANGE OF CLASSROOM SPACE TO LABORATORY SPACE.

G. The information to develop the energy baseline shall be derived from actual energy measurements or shall be calculated from energy measurements at the facility where energy cost savings measures are to be installed or implemented. The measurements shall be taken in the year preceding the installation or implementation of energy cost savings measures.

H. When submitting a proposal for the installation of equipment, the qualified provider shall include information on the projected energy savings associated with each proposed energy cost savings measure.

I. A school district, or two or more school districts, may enter into an installment payment contract or lease-purchase agreement with a qualified provider for the purchase and installation or implementation of energy cost savings measures. The guaranteed energy cost savings contract may provide for payments over a period of not more than the expected life of the energy cost savings measures implemented or twenty-five years, whichever is shorter. The contract shall provide that all payments, except obligations on termination of the contract before its expiration, shall be made over time.

J. The guaranteed energy cost savings contract shall include a written guarantee of the qualified provider that either the energy or operational

costs savings, or both, will meet or exceed the costs of the energy cost savings measures over the expected life of the energy cost savings measures implemented or within twenty-five years, whichever is shorter. The qualified provider shall:

1. FOR THE FIRST THREE YEARS OF SAVINGS, PREPARE A MEASUREMENT AND VERIFICATION REPORT ON AN ANNUAL BASIS IN ADDITION TO AN ANNUAL RECONCILIATION OF SAVINGS.

2. Reimburse the school district for any shortfall of guaranteed energy cost savings on an annual basis.

K. The school district may obtain any required financing as part of the original competitive sealed proposal process FROM THE QUALIFIED PROVIDER OR A THIRD-PARTY FINANCING INSTITUTION.

L. A qualified provider that is awarded the contract shall give a sufficient bond to the school district for its faithful performance of the equipment installment.

M. ~~When selecting subcontractors to perform construction work,~~ The qualified provider is required to make public information in the subcontractor's bids only if the qualified provider is awarded the guaranteed energy COST savings contract by the school district.

N. FOR ALL PROJECTS CARRIED OUT UNDER THIS SECTION, THE DISTRICT SHALL REPORT TO THE DEPARTMENT OF COMMERCE ENERGY OFFICE AND THE SCHOOL FACILITIES BOARD:

1. THE NAME OF THE PROJECT.

2. THE QUALIFIED PROVIDER.

3. THE TOTAL COST OF THE PROJECT.

4. THE EXPECTED ENERGY AND COST SAVINGS.

O. FOR ALL PROJECTS CARRIED OUT UNDER THIS SECTION, THE DISTRICT SHALL REPORT TO THE SCHOOL FACILITIES BOARD, BY OCTOBER 15 EACH YEAR, THE ACTUAL ENERGY AND COST SAVINGS.

~~N.~~ P. This section does not apply to the construction of new buildings.

Q. A SCHOOL DISTRICT MAY UTILIZE A SIMPLIFIED ENERGY PERFORMANCE CONTRACT FOR PROJECTS LESS THAN FIVE HUNDRED THOUSAND DOLLARS. SIMPLIFIED ENERGY PERFORMANCE CONTRACTS ARE NOT REQUIRED TO INCLUDE AN ENERGY SAVINGS GUARANTEE AND SHALL COMPLY WITH ALL REQUIREMENTS IN THIS SECTION EXCEPT FOR THE REQUIREMENTS THAT ARE SPECIFICALLY RELATED TO THE ENERGY SAVINGS GUARANTEE AND THE MEASUREMENT AND VERIFICATION OF THE GUARANTEED SAVINGS.

~~O.~~ R. For the purposes of this section:

1. "Construction" means the process of building, altering, repairing, improving or demolishing any school district structure or building, or other public improvements of any kind to any school district real property. Construction does not include the routine operation, routine repair or routine maintenance of existing structures, buildings or real property.

2. "Energy baseline" means a calculation of the amount of energy used in an existing facility before the installation or implementation of the energy cost savings measures.

3. "Energy cost savings measure" means a training program or facility alteration designed to reduce energy consumption or operating costs and may include one or more of the following, AND ANY RELATED METERS OR OTHER MEASURING DEVICES:

(a) Insulating the building structure or systems in the building.

(b) Storm windows or doors, caulking or weather stripping, ~~multi-glazed~~ MULTIGLAZED windows or door systems, additional glazing, reductions in glass area, or other window and door system modifications that reduce energy consumption.

(c) Automated or computerized energy control systems.

(d) Heating, ventilating or air conditioning system modifications or replacements.

(e) Replacing or modifying lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility unless an increase in illumination is necessary to conform to the applicable state or local building code for the lighting system after the proposed modifications are made.

(f) Indoor air quality improvements to increase air quality that conform to the applicable state or local building code requirements.

(g) Energy recovery systems.

(h) Installing a new or retrofitting an existing day lighting system.

(i) Any life safety measures that provide long-term operating cost reductions and that comply with state and local codes.

(j) Implementing operation programs through education, training and software that reduce the operating costs.

(k) PROCUREMENT OF LOW-COST UTILITY SUPPLIES OF ALL TYPES, INCLUDING ELECTRICITY, NATURAL GAS, PROPANE AND WATER.

(l) DEVICES THAT REDUCE WATER CONSUMPTION AND WATER COSTS OR THAT REDUCE SEWER CHARGES.

(m) RAINWATER HARVESTING SYSTEMS.

(n) COMBINED HEAT AND POWER SYSTEMS.

(o) RENEWABLE AND ALTERNATIVE ENERGY PROJECTS AND RENEWABLE ENERGY POWER SERVICE AGREEMENTS.

(p) SELF-GENERATION SYSTEMS.

(q) ANY ADDITIONAL BUILDING SYSTEMS AND INFRASTRUCTURE THAT PRODUCE ENERGY, OR THAT PROVIDE UTILITY OR OPERATIONAL COST SAVINGS NOT SPECIFICALLY MENTIONED IN THIS PARAGRAPH, IF THE IMPROVEMENTS MEET THE LIFE CYCLE COST REQUIREMENT AND ENHANCE BUILDING SYSTEM PERFORMANCE OR OCCUPANT COMFORT AND SAFETY.

4. "Guaranteed energy cost savings contract" means a contract for implementing one or more energy cost savings measures.

5. "LIFE CYCLE COST" MEANS THE SUM OF PRESENT VALUES OF INVESTMENT COSTS, CAPITAL COSTS, INSTALLATION COSTS, ENERGY COSTS, OPERATING COSTS, MAINTENANCE COSTS AND DISPOSAL COSTS OVER THE LIFE OF THE PROJECT, PRODUCT OR MEASURE AS PROVIDED BY FEDERAL LIFE CYCLE COST RULES, REGULATIONS AND CRITERIA CONTAINED IN THE UNITED STATES DEPARTMENT OF ENERGY FEDERAL ENERGY MANAGEMENT PROGRAM "GUIDANCE ON LIFE-CYCLE COST ANALYSIS" REQUIRED BY EXECUTIVE ORDER 13423, JANUARY 2007.

~~5.~~ 6. "Operational savings" means reductions in actual budget line items currently being expended or savings realized from the implementation or installation of energy cost savings measures.

~~6.~~ 7. "Qualified provider" means a person or a business experienced in designing, implementing or installing energy cost savings measures.

Sec. 2. Section 15-213.01, Arizona Revised Statutes, as amended by section 1 of this act, is amended to read:

15-213.01. Procurement practices; guaranteed energy cost savings contracts; definitions

A. Notwithstanding section 15-213, subsection A, a school district may contract for the procurement of a guaranteed energy cost savings contract with a qualified provider through a competitive sealed proposal process as provided by the procurement practices adopted by the state board of education. TO THE EXTENT THE QUALIFIED PROVIDER SUBCONTRACTS WITH CONTRACTORS WHO WILL BE INVOLVED IN ANY CONSTRUCTION ASSOCIATED WITH THE GUARANTEED ENERGY COST SAVINGS CONTRACT, THE QUALIFIED PROVIDER MUST FOLLOW THE PROVISIONS OF SECTION 41-2533 IN SELECTING THESE CONTRACTORS.

B. A school district may enter into a guaranteed energy cost savings contract with a qualified provider if it determines that the amount it would spend on the energy cost savings measures recommended in the proposal would not exceed the amount to be saved in energy and operational costs over the expected life of the energy cost savings measures implemented or within twenty-five years, whichever is shorter, after the date installation or implementation is complete, if the recommendations in the proposal are followed. ~~The school district shall retain the cost savings achieved by a guaranteed energy cost saving contract, and these cost savings may be used to pay for the contract and project implementation. A school district shall not use excess utilities monies for the contract or for project implementation.~~

C. The school district shall use objective criteria in selecting the qualified provider, including the cost of the contract, the energy and operational cost savings, the net projected energy savings, the quality of the technical approach, the quality of the project management plan, the financial solvency of the qualified provider and the experience of the qualified provider with projects of similar size and scope. The school district shall set forth each criterion with its respective numerical weighting in the request for proposal.

D. In selecting a contractor to perform any construction work related to performing the guaranteed energy cost savings contract, the qualified

provider may develop and use a prequalification process for contractors WISHING TO BID ON THIS WORK. These prequalifications may require the contractor to demonstrate that the contractor is adequately bonded to perform the work and that the contractor has not failed to perform on a prior job. THE QUALIFIED PROVIDER MAY USE PERFORMANCE SPECIFICATIONS IN SOLICITING BIDS FROM CONTRACTORS.

E. ~~A~~ AN IN-DEPTH FEASIBILITY study shall be performed by the selected qualified provider in order to establish the exact scope of the guaranteed energy cost savings contract, the fixed cost savings guarantee amount and the methodology for determining actual savings. This report shall be reviewed and approved by the school district before the actual installation of any equipment. The qualified provider shall transmit a copy of the approved IN-DEPTH FEASIBILITY study to the ~~school facilities board and the department of commerce energy office~~ SUPERINTENDENT OF PUBLIC INSTRUCTION.

F. The guaranteed energy cost savings contract shall require that A QUALIFIED PROVIDER PERFORM AN ENERGY AUDIT OF THE FACILITY OR FACILITIES ONE YEAR AFTER THE ENERGY COST SAVINGS MEASURES ARE INSTALLED OR IMPLEMENTED AND EVERY THREE YEARS THEREAFTER FOR THE LENGTH OF THE CONTRACT. THE QUALIFIED PROVIDER SHALL TRANSMIT A COPY OF THE AUDIT TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION. THE QUALIFIED PROVIDER SHALL PAY THE COST OF THE AUDIT. In determining whether the projected energy savings calculations have been met, the energy or operational cost savings shall be computed by comparing the energy baseline before installation or implementation of the energy cost savings measures with the energy consumed and operational costs avoided after installation or implementation of the energy cost savings measures. The qualified provider and the school district may agree to make modifications to the energy baseline only for any of the following:

1. Changes in utility rates.
2. Changes in the number of days in the utility billing cycle.
3. Changes in the square footage of the facility.
4. Changes in the operational schedule of the facility.
5. Changes in facility temperature.
6. Significant changes in the weather.
7. Significant changes in the amount of equipment or lighting utilized in the facility.

~~8. Significant changes in the nature or intensity of energy use such as the change of classroom space to laboratory space.~~

G. The information to develop the energy baseline shall be derived from actual energy measurements or shall be calculated from energy measurements at the facility where energy cost savings measures are to be installed or implemented. The measurements shall be taken in the year preceding the installation or implementation of energy cost savings measures.

H. When submitting a proposal for the installation of equipment, the qualified provider shall include information on the projected energy savings associated with each proposed energy cost savings measure.

I. A school district, or two or more school districts, may enter into an installment payment contract or lease-purchase agreement with a qualified provider for the purchase and installation or implementation of energy cost savings measures. The guaranteed energy cost savings contract may provide for payments over a period of not more than the expected life of the energy cost savings measures implemented or twenty-five years, whichever is shorter. The contract shall provide that all payments, except obligations on termination of the contract before its expiration, shall be made over time.

J. The guaranteed energy cost savings contract shall include a written guarantee of the qualified provider that either the energy or operational costs savings, or both, will meet or exceed the costs of the energy cost savings measures over the expected life of the energy cost savings measures implemented or within twenty-five years, whichever is shorter. The qualified provider shall~~:~~

~~1. For the first three years of savings, prepare a measurement and verification report on an annual basis in addition to an annual reconciliation of savings.~~

~~2.~~ reimburse the school district for any shortfall of guaranteed energy cost savings on an annual basis.

K. The school district may obtain any required financing as part of the original competitive sealed proposal process ~~from the qualified provider or a third-party financing institution~~.

L. A qualified provider that is awarded the contract shall give a sufficient bond to the school district for its faithful performance of the equipment installment.

M. WHEN SELECTING SUBCONTRACTORS TO PERFORM CONSTRUCTION WORK, the qualified provider is required to make public information in the subcontractor's bids only if the qualified provider is awarded the guaranteed energy cost savings contract by the school district.

~~N. For all projects carried out under this section, the district shall report to the department of commerce energy office:~~

~~1. The name of the project.~~

~~2. The qualified provider.~~

~~3. The total cost of the project.~~

~~4. The expected energy and cost savings.~~

~~O. For all projects carried out under this section, the district shall report to the school facilities board:~~

~~1. The name of the project.~~

~~2. The qualified provider.~~

~~3. The total cost of the project.~~

~~4. The expected energy and cost savings.~~

~~P. For all projects carried out under this section, the district shall report to the school facilities board, by October 15 each year, the actual energy and cost savings.~~

~~Q.~~ N. This section does not apply to the construction of new buildings.

~~R. A school district may utilize a simplified energy performance contract for projects less than five hundred thousand dollars. Simplified energy performance contracts are not required to include an energy savings guarantee and shall comply with all requirements in this section except for the requirements that are specifically related to the energy savings guarantee and the measurement and verification of the guaranteed savings.~~

~~S.~~ O. For the purposes of this section:

1. "Construction" means the process of building, altering, repairing, improving or demolishing any school district structure or building, or other public improvements of any kind to any school district real property. Construction does not include the routine operation, routine repair or routine maintenance of existing structures, buildings or real property.

2. "Energy baseline" means a calculation of the amount of energy used in an existing facility before the installation or implementation of the energy cost savings measures.

3. "Energy cost savings measure" means a training program or facility alteration designed to reduce energy consumption or operating costs and may include one or more of the following~~, and any related meters or other measuring devices~~:

(a) Insulating the building structure or systems in the building.

(b) Storm windows or doors, caulking or weather stripping, multiglazed windows or door systems, additional glazing, reductions in glass area, or other window and door system modifications that reduce energy consumption.

(c) Automated or computerized energy control systems.

(d) Heating, ventilating or air conditioning system modifications or replacements.

(e) Replacing or modifying lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility unless an increase in illumination is necessary to conform to the applicable state or local building code for the lighting system after the proposed modifications are made.

(f) Indoor air quality improvements to increase air quality that conform to the applicable state or local building code requirements.

(g) Energy recovery systems.

(h) Installing a new or retrofitting an existing day lighting system.

(i) Any life safety measures that provide long-term operating cost reductions and that comply with state and local codes.

(j) Implementing operation programs through education, training and software that reduce the operating costs.

~~(k) Procurement of low-cost utility supplies of all types, including electricity, natural gas, propane and water.~~

~~(l) Devices that reduce water consumption and water costs or that reduce sewer charges.~~

~~(m) Rainwater harvesting systems.~~

~~(n) Combined heat and power systems.~~

~~(o) Renewable and alternative energy projects and renewable energy power service agreements.~~

~~(p) Self-generation systems.~~

~~(q) Any additional building systems and infrastructure that produce energy, or that provide utility or operational cost savings not specifically mentioned in this paragraph, if the improvements meet the life cycle cost requirement and enhance building system performance or occupant comfort and safety.~~

4. "Guaranteed energy cost savings contract" means a contract for implementing one or more energy cost savings measures.

~~5. "Life cycle cost" means the sum of present values of investment costs, capital costs, installation costs, energy costs, operating costs, maintenance costs and disposal costs over the life of the project, product or measure as provided by federal life cycle cost rules, regulations and criteria contained in the United States department of energy federal energy management program "guidance on life cycle cost analysis" required by executive order 13423, January 2007.~~

~~6.~~ 5. "Operational savings" means reductions in actual budget line items currently being expended or savings realized from the implementation or installation of energy cost savings measures.

~~7.~~ 6. "Qualified provider" means a person or a business experienced in designing, implementing or installing energy cost savings measures.

Sec. 3. Section 15-342, Arizona Revised Statutes, is amended to read:

15-342. <u>Discretionary powers</u>

The governing board may:

1. Expel pupils for misconduct.

2. Exclude from grades one through eight children under six years of age.

3. Make such separation of groups of pupils as it deems advisable.

4. Maintain such special schools during vacation as deemed necessary for the benefit of the pupils of the school district.

5. Permit a superintendent or principal or representatives of the superintendent or principal to travel for a school purpose, as determined by a majority vote of the board. The board may permit members and members-elect of the board to travel within or without the school district for a school purpose and receive reimbursement. Any expenditure for travel and subsistence pursuant to this paragraph shall be as provided in title 38, chapter 4, article 2. The designated post of duty referred to in section 38-621 shall be construed, for school district governing board members, to be the member's actual place of residence, as opposed to the school district office or the school district boundaries. Such expenditures shall be a charge against the budgeted school district funds. The governing board of a school district shall prescribe procedures and amounts for reimbursement of

lodging and subsistence expenses. Reimbursement amounts shall not exceed the maximum amounts established pursuant to section 38-624, subsection C.

6. Construct or provide in rural districts housing facilities for teachers and other school employees which the board determines are necessary for the operation of the school.

7. Sell or lease to the state, a county, a city or a tribal government agency~~,~~ any school property required for a public purpose, provided the sale or lease of the property will not affect the normal operations of a school within the school district.

8. Annually budget and expend funds for membership in an association of school districts within this state.

9. Enter into leases or lease-purchase agreements for school buildings or grounds, or both, as lessor or as lessee, for periods of less than five years subject to voter approval for construction of school buildings as prescribed in section 15-341, subsection A, paragraph 8.

10. Subject to chapter 16 of this title, sell school sites or enter into leases or lease-purchase agreements for school buildings and grounds, as lessor or as lessee, for a period of five years or more, but not to exceed ninety-nine years, if authorized by a vote of the school district electors in an election called by the governing board as provided in section 15-491, except that authorization by the school district electors in an election is not required if one of the following requirements is met:

(a) The market value of the school property is less than fifty thousand dollars OR THE PROPERTY IS PROCURED THROUGH AN ENERGY PERFORMANCE CONTRACT, WHICH AMONG OTHER ITEMS INCLUDES A RENEWABLE ENERGY POWER SERVICE AGREEMENT, OR A SIMPLIFIED ENERGY PERFORMANCE CONTRACT PURSUANT TO SECTION 15-213.01.

(b) The buildings and sites are completely funded with monies distributed by the school facilities board.

(c) The transaction involves the sale of improved or unimproved property pursuant to an agreement with the school facilities board in which the school district agrees to sell the improved or unimproved property and transfer the proceeds of the sale to the school facilities board in exchange for monies from the school facilities board for the acquisition of a more suitable school site. For a sale of property acquired by a school district prior to July 9, 1998, a school district shall transfer to the school facilities board that portion of the proceeds that equals the cost of the acquisition of a more suitable school site. If there are any remaining proceeds after the transfer of monies to the school facilities board, a school district shall only use those remaining proceeds for future land purchases approved by the school facilities board, or for capital improvements not funded by the school facilities board for any existing or future facility.

(d) The transaction involves the sale of improved or unimproved property pursuant to a formally adopted plan and the school district uses the

proceeds of this sale to purchase other property that will be used for similar purposes as the property that was originally sold, provided that the sale proceeds of the improved or unimproved property are used within two years after the date of the original sale to purchase the replacement property. If the sale proceeds of the improved or unimproved property are not used within two years after the date of the original sale to purchase replacement property, the sale proceeds shall be used towards payment of any outstanding bonded indebtedness. If any sale proceeds remain after paying for outstanding bonded indebtedness, or if the district has no outstanding bonded indebtedness, sale proceeds shall be used to reduce the district's primary tax levy. A school district shall not use ~~the provisions of~~ this subdivision unless all of the following conditions exist:

(i) The school district is the sole owner of the improved or unimproved property that the school district intends to sell.

(ii) The school district did not purchase the improved or unimproved property that the school district intends to sell with monies that were distributed pursuant to chapter 16 of this title.

(iii) The transaction does not violate section 15-341, subsection G.

11. Review the decision of a teacher to promote a pupil to a grade or retain a pupil in a grade in a common school or to pass or fail a pupil in a course in high school. The pupil has the burden of proof to overturn the decision of a teacher to promote, retain, pass or fail the pupil. In order to sustain the burden of proof, the pupil shall demonstrate to the governing board that the pupil has mastered the academic standards adopted by the state board of education pursuant to sections 15-701 and 15-701.01. If the governing board overturns the decision of a teacher pursuant to this paragraph, the governing board shall adopt a written finding that the pupil has mastered the academic standards. Notwithstanding title 38, chapter 3, article 3.1, the governing board shall review the decision of a teacher to promote a pupil to a grade or retain a pupil in a grade in a common school or to pass or fail a pupil in a course in high school in executive session unless a parent or legal guardian of the pupil or the pupil, if emancipated, disagrees that the review should be conducted in executive session and then the review shall be conducted in an open meeting. If the review is conducted in executive session, the board shall notify the teacher of the date, time and place of the review and shall allow the teacher to be present at the review. If the teacher is not present at the review, the board shall consult with the teacher before making its decision. Any request, including the written request as provided in section 15-341, the written evidence presented at the review and the written record of the review, including the decision of the governing board to accept or reject the teacher's decision, shall be retained by the governing board as part of its permanent records.

12. Provide transportation or site transportation loading and unloading areas for any child or children if deemed for the best interest of the district, whether within or without the district, county or state.

13. Enter into intergovernmental agreements and contracts with school districts or other governing bodies as provided in section 11-952.

14. Include in the curricula which it prescribes for high schools in the school district career and technical education, vocational education and technology education programs and career and technical, vocational and technology program improvement services for the high schools, subject to approval by the state board of education. The governing board may contract for the provision of career and technical, vocational and technology education as provided in section 15-789.

15. Suspend a teacher or administrator from the teacher's or administrator's duties without pay for a period of time of not to exceed ten school days, if the board determines that suspension is warranted pursuant to section 15-341, subsection A, paragraphs 23 and 24.

16. Dedicate school property within an incorporated city or town to such city or town or within a county to that county for use as a public right-of-way if both of the following apply:

(a) Pursuant to an ordinance adopted by such city, town or county, there will be conferred upon the school district privileges and benefits which may include benefits related to zoning.

(b) The dedication will not affect the normal operation of any school within the district.

17. Enter into option agreements for the purchase of school sites.

18. Donate surplus or outdated learning materials to nonprofit community organizations where the governing board determines that the anticipated cost of selling the learning materials equals or exceeds the estimated market value of the materials.

19. Prescribe policies for the assessment of reasonable fees for students to use district-provided parking facilities. The fees are to be applied by the district solely against costs incurred in operating or securing the parking facilities. Any policy adopted by the governing board pursuant to this paragraph shall include a fee waiver provision in appropriate cases of need or economic hardship.

20. Establish alternative educational programs that are consistent with the laws of this state to educate pupils, including pupils who have been reassigned pursuant to section 15-841, subsection E or F.

21. Require a period of silence to be observed at the commencement of the first class of the day in the schools. If a governing board chooses to require a period of silence to be observed, the teacher in charge of the room in which the first class is held shall announce that a period of silence not to exceed one minute in duration will be observed for meditation, and during that time no activities shall take place and silence shall be maintained.

22. Require students to wear uniforms.

23. Exchange unimproved property or improved property, including school sites, where the governing board determines that the improved property is unnecessary for the continued operation of the school district without

requesting authorization by a vote of the school district electors if the governing board determines that the exchange is necessary to protect the health, safety or welfare of pupils or when the governing board determines that the exchange is based on sound business principles for either:

(a) Unimproved or improved property of equal or greater value.

(b) Unimproved property that the owner contracts to improve if the value of the property ultimately received by the school district is of equal or greater value.

24. For common and high school pupils, assess reasonable fees for optional extracurricular activities and programs conducted when the common or high school is not in session, except that no fees shall be charged for pupils' access to or use of computers or related materials. For high school pupils, the governing board may assess reasonable fees for fine arts and vocational education courses and for optional services, equipment and materials offered to the pupils beyond those required to successfully complete the basic requirements of any other course, except that no fees shall be charged for pupils' access to or use of computers or related materials. Fees assessed pursuant to this paragraph shall be adopted at a public meeting after notice has been given to all parents of pupils enrolled at schools in the district and shall not exceed the actual costs of the activities, programs, services, equipment or materials. The governing board shall authorize principals to waive the assessment of all or part of a fee assessed pursuant to this paragraph if it creates an economic hardship for a pupil. For the purposes of this paragraph, "extracurricular activity" means any optional, noncredit, educational or recreational activity which supplements the education program of the school, whether offered before, during or after regular school hours.

25. Notwithstanding section 15-341, subsection A, paragraphs 8 and 10, construct school buildings and purchase or lease school sites, without a vote of the school district electors, if the buildings and sites are totally funded from one or more of the following:

(a) Monies in the unrestricted capital outlay fund, except that the estimated cost shall not exceed two hundred fifty thousand dollars for a district that utilizes ~~the provisions of~~ section 15-949.

(b) Monies distributed from the school facilities board established by section 15-2001.

(c) Monies specifically donated for the purpose of constructing school buildings.

Nothing in this paragraph shall be construed to eliminate the requirement for an election to raise revenues for a capital outlay override pursuant to section 15-481 or a bond election pursuant to section 15-491.

26. Conduct a background investigation that includes a fingerprint check conducted pursuant to section 41-1750, subsection G for certificated personnel and personnel who are not paid employees of the school district, as a condition of employment. A school district may release the results of a

background check to another school district for employment purposes. The school district may charge the costs of fingerprint checks to its fingerprinted employee, except that the school district may not charge the costs of fingerprint checks for personnel who are not paid employees of the school district.

27. Sell advertising space on the exterior of school buses as follows:

(a) Advertisements shall be age appropriate and not contain promotion of any substance that is illegal for minors such as alcohol, tobacco and drugs or gambling. Advertisements shall comply with the state sex education policy of abstinence.

(b) Advertising approved by the governing board may appear only on the sides of the bus in the following areas:

(i) The signs shall be below the seat level rub rail and not extend above the bottom of the side windows.

(ii) The signs shall be at least three inches from any required lettering, lamp, wheel well or reflector behind the service door or stop signal arm.

(iii) The signs shall not extend from the body of the bus so as to allow a handhold or present a danger to pedestrians.

(iv) The signs shall not interfere with the operation of any door or window.

(v) The signs shall not be placed on any emergency doors.

(c) Establish a school bus advertisement fund that is comprised of revenues from the sale of advertising space on school buses. The monies in a school bus advertisement fund are not subject to reversion and shall be used for the following purposes:

(i) To comply with the energy conservation measures prescribed in section 15-349 in school districts that are in area A as defined in section 49-541, and any remaining monies shall be used to purchase alternative fuel support vehicles and any other pupil related costs as determined by the governing board.

(ii) For any pupil related costs as determined by the governing board in school districts not subject to ~~the provisions of~~ item (i) of this subdivision.

28. Assess reasonable damage deposits to pupils in grades seven through twelve for the use of textbooks, musical instruments, band uniforms or other equipment required for academic courses. The governing board shall adopt policies on any damage deposits assessed pursuant to this paragraph at a public meeting called for this purpose after providing notice to all parents of pupils in grades seven through twelve in the school district. Principals of individual schools within the district may waive the damage deposit requirement for any textbook or other item if the payment of the damage deposit would create an economic hardship for the pupil. The school district shall return the full amount of the damage deposit for any textbook or other

1 item if the pupil returns the textbook or other item in reasonably good
2 condition within the time period prescribed by the governing board. For the
3 purposes of this paragraph, "in reasonably good condition" means the textbook
4 or other item is in the same or a similar condition as it was when the pupil
5 received it, plus ordinary wear and tear.
6 29. Notwithstanding section 15-1105, expend surplus monies in the civic
7 center school fund for maintenance and operations or unrestricted capital
8 outlay, if sufficient monies are available in the fund after meeting the
9 needs of programs established pursuant to section 15-1105.
10 30. Notwithstanding section 15-1143, expend surplus monies in the
11 community school program fund for maintenance and operations or unrestricted
12 capital outlay, if sufficient monies are available in the fund after meeting
13 the needs of programs established pursuant to section 15-1142.
14 31. Adopt guidelines for standardization of the format of the school
15 report cards required by section 15-746 for schools within the district.
16 32. Adopt policies that require parental notification when a law
17 enforcement officer interviews a pupil on school grounds. Policies adopted
18 pursuant to this paragraph shall not impede a peace officer from the
19 performance of the peace officer's duties. If the school district governing
20 board adopts a policy that requires parental notification:
21 (a) The policy may provide reasonable exceptions to the parental
22 notification requirement.
23 (b) The policy shall set forth whether and under what circumstances a
24 parent may be present when a law enforcement officer interviews the pupil,
25 including reasonable exceptions to the circumstances under which a parent may
26 be present when a law enforcement officer interviews the pupil, and shall
27 specify a reasonable maximum time after a parent is notified that an
28 interview of a pupil by a law enforcement officer may be delayed to allow the
29 parent to be present.
30 33. Enter into voluntary partnerships with any party to finance with
31 funds other than school district funds and cooperatively design school
32 facilities that comply with the adequacy standards prescribed in section
33 15-2011 and the square footage per pupil requirements pursuant to section
34 15-2041, subsection D, paragraph 3, subdivision (b). The design plans and
35 location of any such school facility shall be submitted to the school
36 facilities board for approval pursuant to section 15-2041, subsection O. If
37 the school facilities board approves the design plans and location of any
38 such school facility, the party in partnership with the school district may
39 cause to be constructed and the district may begin operating the school
40 facility before monies are distributed from the school facilities board
41 pursuant to section 15-2041. Monies distributed from the new school
42 facilities fund to a school district in a partnership with another party to
43 finance and design the school facility shall be paid to the school district
44 pursuant to section 15-2041. The school district shall reimburse the party
45 in partnership with the school district from the monies paid to the school

district pursuant to section 15-2041, in accordance with the voluntary partnership agreement. 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 section 15-2041, subsection O meet the minimum adequacy standards prescribed in section 15-2011. If the cost to construct the school facility exceeds the amount that the school district receives from the new school facilities fund, the partnership agreement between the school district and the other party shall specify that, except as otherwise provided by the other party, any such excess costs shall be the responsibility of the school district. The school district governing board shall adopt a resolution in a public meeting that AN analysis has been conducted on the prospective effects of the decision to operate a new school with existing monies from the school district's maintenance and operations budget and how this decision may affect other schools in the school district. If a school district acquires land by donation at an appropriate school site approved by the school facilities board and a school facility is financed and built on the land pursuant to this paragraph, the school facilities board shall distribute an amount equal to twenty per cent of the fair market value of the land 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 the monies placed in the fund. Monies distributed under this paragraph shall be distributed from the new school facilities fund pursuant to section 15-2041. If a school district acquires land by donation at an appropriate school site approved by the school facilities board and a school facility is financed and built on the land pursuant to this paragraph, the school district shall not receive monies from the school facilities board for the donation of real property pursuant to section 15-2041, subsection F. It is unlawful for:

(a) A county, city or town to require as a condition of any land use approval that a landowner or landowners that entered into a partnership pursuant to this paragraph provide any contribution, donation or gift, other than a site donation, to a school district. This subdivision only applies to the property in the voluntary partnership agreement pursuant to this paragraph.

(b) A county, city or town to require as a condition of any land use approval that the landowner or landowners located within the geographic boundaries of the school subject to the voluntary partnership pursuant to this paragraph provide any donation or gift to the school district except as provided in the voluntary partnership agreement pursuant to this paragraph.

(c) A community facilities district established pursuant to title 48, chapter 4, article 6 to be used for reimbursement of financing the construction of a school pursuant to this paragraph.

(d) ~~For~~ A school district to enter into an agreement pursuant to this paragraph with any party other than a master planned community party. Any

land area consisting of at least three hundred twenty acres that is the subject of a development agreement with a county, city or town entered into pursuant to section 9-500.05 or 11-1101 shall be deemed to be a master planned community. For the purposes of this subdivision, "master planned community" means a land area consisting of at least three hundred twenty acres, which may be noncontiguous, that is the subject of a zoning ordinance approved by the governing body of the county, city or town in which the land is located that establishes the use of the land area as a planned area development or district, planned community development or district, planned unit development or district or other land use category or district that is recognized in the local ordinance of such county, city or town and that specifies the use of such land is for a master planned development.

Sec. 4. Section 15-342, Arizona Revised Statutes, as amended by section 3 of this act, is amended to read:

15-342. Discretionary powers

The governing board may:

1. Expel pupils for misconduct.

2. Exclude from grades one through eight children under six years of age.

3. Make such separation of groups of pupils as it deems advisable.

4. Maintain such special schools during vacation as deemed necessary for the benefit of the pupils of the school district.

5. Permit a superintendent or principal or representatives of the superintendent or principal to travel for a school purpose, as determined by a majority vote of the board. The board may permit members and members-elect of the board to travel within or without the school district for a school purpose and receive reimbursement. Any expenditure for travel and subsistence pursuant to this paragraph shall be as provided in title 38, chapter 4, article 2. The designated post of duty referred to in section 38-621 shall be construed, for school district governing board members, to be the member's actual place of residence, as opposed to the school district office or the school district boundaries. Such expenditures shall be a charge against the budgeted school district funds. The governing board of a school district shall prescribe procedures and amounts for reimbursement of lodging and subsistence expenses. Reimbursement amounts shall not exceed the maximum amounts established pursuant to section 38-624, subsection C.

6. Construct or provide in rural districts housing facilities for teachers and other school employees which the board determines are necessary for the operation of the school.

7. Sell or lease to the state, a county, a city or a tribal government agency any school property required for a public purpose, provided the sale or lease of the property will not affect the normal operations of a school within the school district.

8. Annually budget and expend funds for membership in an association of school districts within this state.

9. Enter into leases or lease-purchase agreements for school buildings or grounds, or both, as lessor or as lessee, for periods of less than five years subject to voter approval for construction of school buildings as prescribed in section 15-341, subsection A, paragraph 8.

10. Subject to chapter 16 of this title, sell school sites or enter into leases or lease-purchase agreements for school buildings and grounds, as lessor or as lessee, for a period of five years or more, but not to exceed ninety-nine years, if authorized by a vote of the school district electors in an election called by the governing board as provided in section 15-491, except that authorization by the school district electors in an election is not required if one of the following requirements is met:

(a) The market value of the school property is less than fifty thousand dollars ~~or the property is procured through an energy performance contract, which among other items includes a renewable energy power service agreement, or a simplified energy performance contract pursuant to section 15-213.01~~.

(b) The buildings and sites are completely funded with monies distributed by the school facilities board.

(c) The transaction involves the sale of improved or unimproved property pursuant to an agreement with the school facilities board in which the school district agrees to sell the improved or unimproved property and transfer the proceeds of the sale to the school facilities board in exchange for monies from the school facilities board for the acquisition of a more suitable school site. For a sale of property acquired by a school district prior to July 9, 1998, a school district shall transfer to the school facilities board that portion of the proceeds that equals the cost of the acquisition of a more suitable school site. If there are any remaining proceeds after the transfer of monies to the school facilities board, a school district shall only use those remaining proceeds for future land purchases approved by the school facilities board, or for capital improvements not funded by the school facilities board for any existing or future facility.

(d) The transaction involves the sale of improved or unimproved property pursuant to a formally adopted plan and the school district uses the proceeds of this sale to purchase other property that will be used for similar purposes as the property that was originally sold, provided that the sale proceeds of the improved or unimproved property are used within two years after the date of the original sale to purchase the replacement property. If the sale proceeds of the improved or unimproved property are not used within two years after the date of the original sale to purchase replacement property, the sale proceeds shall be used towards payment of any outstanding bonded indebtedness. If any sale proceeds remain after paying for outstanding bonded indebtedness, or if the district has no outstanding bonded indebtedness, sale proceeds shall be used to reduce the district's

primary tax levy. A school district shall not use this subdivision unless all of the following conditions exist:

(i) The school district is the sole owner of the improved or unimproved property that the school district intends to sell.

(ii) The school district did not purchase the improved or unimproved property that the school district intends to sell with monies that were distributed pursuant to chapter 16 of this title.

(iii) The transaction does not violate section 15-341, subsection G.

11. Review the decision of a teacher to promote a pupil to a grade or retain a pupil in a grade in a common school or to pass or fail a pupil in a course in high school. The pupil has the burden of proof to overturn the decision of a teacher to promote, retain, pass or fail the pupil. In order to sustain the burden of proof, the pupil shall demonstrate to the governing board that the pupil has mastered the academic standards adopted by the state board of education pursuant to sections 15-701 and 15-701.01. If the governing board overturns the decision of a teacher pursuant to this paragraph, the governing board shall adopt a written finding that the pupil has mastered the academic standards. Notwithstanding title 38, chapter 3, article 3.1, the governing board shall review the decision of a teacher to promote a pupil to a grade or retain a pupil in a grade in a common school or to pass or fail a pupil in a course in high school in executive session unless a parent or legal guardian of the pupil or the pupil, if emancipated, disagrees that the review should be conducted in executive session and then the review shall be conducted in an open meeting. If the review is conducted in executive session, the board shall notify the teacher of the date, time and place of the review and shall allow the teacher to be present at the review. If the teacher is not present at the review, the board shall consult with the teacher before making its decision. Any request, including the written request as provided in section 15-341, the written evidence presented at the review and the written record of the review, including the decision of the governing board to accept or reject the teacher's decision, shall be retained by the governing board as part of its permanent records.

12. Provide transportation or site transportation loading and unloading areas for any child or children if deemed for the best interest of the district, whether within or without the district, county or state.

13. Enter into intergovernmental agreements and contracts with school districts or other governing bodies as provided in section 11-952.

14. Include in the curricula which it prescribes for high schools in the school district career and technical education, vocational education and technology education programs and career and technical, vocational and technology program improvement services for the high schools, subject to approval by the state board of education. The governing board may contract for the provision of career and technical, vocational and technology education as provided in section 15-789.

15. Suspend a teacher or administrator from the teacher's or administrator's duties without pay for a period of time of not to exceed ten school days, if the board determines that suspension is warranted pursuant to section 15-341, subsection A, paragraphs 23 and 24.

16. Dedicate school property within an incorporated city or town to such city or town or within a county to that county for use as a public right-of-way if both of the following apply:

(a) Pursuant to an ordinance adopted by such city, town or county, there will be conferred upon the school district privileges and benefits which may include benefits related to zoning.

(b) The dedication will not affect the normal operation of any school within the district.

17. Enter into option agreements for the purchase of school sites.

18. Donate surplus or outdated learning materials to nonprofit community organizations where the governing board determines that the anticipated cost of selling the learning materials equals or exceeds the estimated market value of the materials.

19. Prescribe policies for the assessment of reasonable fees for students to use district-provided parking facilities. The fees are to be applied by the district solely against costs incurred in operating or securing the parking facilities. Any policy adopted by the governing board pursuant to this paragraph shall include a fee waiver provision in appropriate cases of need or economic hardship.

20. Establish alternative educational programs that are consistent with the laws of this state to educate pupils, including pupils who have been reassigned pursuant to section 15-841, subsection E or F.

21. Require a period of silence to be observed at the commencement of the first class of the day in the schools. If a governing board chooses to require a period of silence to be observed, the teacher in charge of the room in which the first class is held shall announce that a period of silence not to exceed one minute in duration will be observed for meditation, and during that time no activities shall take place and silence shall be maintained.

22. Require students to wear uniforms.

23. Exchange unimproved property or improved property, including school sites, where the governing board determines that the improved property is unnecessary for the continued operation of the school district without requesting authorization by a vote of the school district electors if the governing board determines that the exchange is necessary to protect the health, safety or welfare of pupils or when the governing board determines that the exchange is based on sound business principles for either:

(a) Unimproved or improved property of equal or greater value.

(b) Unimproved property that the owner contracts to improve if the value of the property ultimately received by the school district is of equal or greater value.

24. For common and high school pupils, assess reasonable fees for optional extracurricular activities and programs conducted when the common or high school is not in session, except that no fees shall be charged for pupils' access to or use of computers or related materials. For high school pupils, the governing board may assess reasonable fees for fine arts and vocational education courses and for optional services, equipment and materials offered to the pupils beyond those required to successfully complete the basic requirements of any other course, except that no fees shall be charged for pupils' access to or use of computers or related materials. Fees assessed pursuant to this paragraph shall be adopted at a public meeting after notice has been given to all parents of pupils enrolled at schools in the district and shall not exceed the actual costs of the activities, programs, services, equipment or materials. The governing board shall authorize principals to waive the assessment of all or part of a fee assessed pursuant to this paragraph if it creates an economic hardship for a pupil. For the purposes of this paragraph, "extracurricular activity" means any optional, noncredit, educational or recreational activity which supplements the education program of the school, whether offered before, during or after regular school hours.

25. Notwithstanding section 15-341, subsection A, paragraphs 8 and 10, construct school buildings and purchase or lease school sites, without a vote of the school district electors, if the buildings and sites are totally funded from one or more of the following:

(a) Monies in the unrestricted capital outlay fund, except that the estimated cost shall not exceed two hundred fifty thousand dollars for a district that utilizes section 15-949.

(b) Monies distributed from the school facilities board established by section 15-2001.

(c) Monies specifically donated for the purpose of constructing school buildings.

Nothing in this paragraph shall be construed to eliminate the requirement for an election to raise revenues for a capital outlay override pursuant to section 15-481 or a bond election pursuant to section 15-491.

26. Conduct a background investigation that includes a fingerprint check conducted pursuant to section 41-1750, subsection G for certificated personnel and personnel who are not paid employees of the school district, as a condition of employment. A school district may release the results of a background check to another school district for employment purposes. The school district may charge the costs of fingerprint checks to its fingerprinted employee, except that the school district may not charge the costs of fingerprint checks for personnel who are not paid employees of the school district.

27. Sell advertising space on the exterior of school buses as follows:

(a) Advertisements shall be age appropriate and not contain promotion of any substance that is illegal for minors such as alcohol, tobacco and drugs or gambling. Advertisements shall comply with the state sex education policy of abstinence.

(b) Advertising approved by the governing board may appear only on the sides of the bus in the following areas:

(i) The signs shall be below the seat level rub rail and not extend above the bottom of the side windows.

(ii) The signs shall be at least three inches from any required lettering, lamp, wheel well or reflector behind the service door or stop signal arm.

(iii) The signs shall not extend from the body of the bus so as to allow a handhold or present a danger to pedestrians.

(iv) The signs shall not interfere with the operation of any door or window.

(v) The signs shall not be placed on any emergency doors.

(c) Establish a school bus advertisement fund that is comprised of revenues from the sale of advertising space on school buses. The monies in a school bus advertisement fund are not subject to reversion and shall be used for the following purposes:

(i) To comply with the energy conservation measures prescribed in section 15-349 in school districts that are in area A as defined in section 49-541, and any remaining monies shall be used to purchase alternative fuel support vehicles and any other pupil related costs as determined by the governing board.

(ii) For any pupil related costs as determined by the governing board in school districts not subject to item (i) of this subdivision.

28. Assess reasonable damage deposits to pupils in grades seven through twelve for the use of textbooks, musical instruments, band uniforms or other equipment required for academic courses. The governing board shall adopt policies on any damage deposits assessed pursuant to this paragraph at a public meeting called for this purpose after providing notice to all parents of pupils in grades seven through twelve in the school district. Principals of individual schools within the district may waive the damage deposit requirement for any textbook or other item if the payment of the damage deposit would create an economic hardship for the pupil. The school district shall return the full amount of the damage deposit for any textbook or other item if the pupil returns the textbook or other item in reasonably good condition within the time period prescribed by the governing board. For the purposes of this paragraph, "in reasonably good condition" means the textbook or other item is in the same or a similar condition as it was when the pupil received it, plus ordinary wear and tear.

29. Notwithstanding section 15-1105, expend surplus monies in the civic center school fund for maintenance and operations or unrestricted capital

outlay, if sufficient monies are available in the fund after meeting the needs of programs established pursuant to section 15-1105.

30. Notwithstanding section 15-1143, expend surplus monies in the community school program fund for maintenance and operations or unrestricted capital outlay, if sufficient monies are available in the fund after meeting the needs of programs established pursuant to section 15-1142.

31. Adopt guidelines for standardization of the format of the school report cards required by section 15-746 for schools within the district.

32. Adopt policies that require parental notification when a law enforcement officer interviews a pupil on school grounds. Policies adopted pursuant to this paragraph shall not impede a peace officer from the performance of the peace officer's duties. If the school district governing board adopts a policy that requires parental notification:

(a) The policy may provide reasonable exceptions to the parental notification requirement.

(b) The policy shall set forth whether and under what circumstances a parent may be present when a law enforcement officer interviews the pupil, including reasonable exceptions to the circumstances under which a parent may be present when a law enforcement officer interviews the pupil, and shall specify a reasonable maximum time after a parent is notified that an interview of a pupil by a law enforcement officer may be delayed to allow the parent to be present.

33. Enter into voluntary partnerships with any party to finance with funds other than school district funds and cooperatively design school facilities that comply with the adequacy standards prescribed in section 15-2011 and the square footage per pupil requirements pursuant to section 15-2041, subsection D, paragraph 3, subdivision (b). The design plans and location of any such school facility shall be submitted to the school facilities board for approval pursuant to section 15-2041, subsection O. If the school facilities board approves the design plans and location of any such school facility, the party in partnership with the school district may cause to be constructed and the district may begin operating the school facility before monies are distributed from the school facilities board pursuant to section 15-2041. Monies distributed from the new school facilities fund to a school district in a partnership with another party to finance and design the school facility shall be paid to the school district pursuant to section 15-2041. The school district shall reimburse the party in partnership with the school district from the monies paid to the school district pursuant to section 15-2041, in accordance with the voluntary partnership agreement. 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 section 15-2041, subsection O meet the minimum adequacy standards prescribed in section 15-2011. If the cost to construct the school facility exceeds the amount that the school district receives from the new school facilities fund,

the partnership agreement between the school district and the other party shall specify that, except as otherwise provided by the other party, any such excess costs shall be the responsibility of the school district. The school district governing board shall adopt a resolution in a public meeting that an analysis has been conducted on the prospective effects of the decision to operate a new school with existing monies from the school district's maintenance and operations budget and how this decision may affect other schools in the school district. If a school district acquires land by donation at an appropriate school site approved by the school facilities board and a school facility is financed and built on the land pursuant to this paragraph, the school facilities board shall distribute an amount equal to twenty per cent of the fair market value of the land 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 the monies placed in the fund. Monies distributed under this paragraph shall be distributed from the new school facilities fund pursuant to section 15-2041. If a school district acquires land by donation at an appropriate school site approved by the school facilities board and a school facility is financed and built on the land pursuant to this paragraph, the school district shall not receive monies from the school facilities board for the donation of real property pursuant to section 15-2041, subsection F. It is unlawful for:

(a) A county, city or town to require as a condition of any land use approval that a landowner or landowners that entered into a partnership pursuant to this paragraph provide any contribution, donation or gift, other than a site donation, to a school district. This subdivision only applies to the property in the voluntary partnership agreement pursuant to this paragraph.

(b) A county, city or town to require as a condition of any land use approval that the landowner or landowners located within the geographic boundaries of the school subject to the voluntary partnership pursuant to this paragraph provide any donation or gift to the school district except as provided in the voluntary partnership agreement pursuant to this paragraph.

(c) A community facilities district established pursuant to title 48, chapter 4, article 6 to be used for reimbursement of financing the construction of a school pursuant to this paragraph.

(d) A school district to enter into an agreement pursuant to this paragraph with any party other than a master planned community party. Any land area consisting of at least three hundred twenty acres that is the subject of a development agreement with a county, city or town entered into pursuant to section 9-500.05 or 11-1101 shall be deemed to be a master planned community. For the purposes of this subdivision, "master planned community" means a land area consisting of at least three hundred twenty acres, which may be noncontiguous, that is the subject of a zoning ordinance approved by the governing body of the county, city or town in which the land

is located that establishes the use of the land area as a planned area development or district, planned community development or district, planned unit development or district or other land use category or district that is recognized in the local ordinance of such county, city or town and that specifies the use of such land is for a master planned development.

Sec. 5. Title 15, chapter 9, article 1, Arizona Revised Statutes, is amended by adding section 15-910.02, to read:

15-910.02. Energy and water savings accounts

A. EACH SCHOOL DISTRICT MAY ESTABLISH AN ENERGY AND WATER SAVINGS ACCOUNT THAT CONSISTS OF A DESIGNATED POOL OF CAPITAL INVESTMENT MONIES TO FUND ENERGY OR WATER SAVING PROJECTS IN SCHOOL FACILITIES. A SCHOOL DISTRICT MAY DEPOSIT IN THE ACCOUNT MONIES FROM ONE OR MORE COMPANIES THAT PROVIDE UTILITY, ENERGY OR WATER SERVICES TO THE SCHOOL DISTRICT PURSUANT TO CONTRACTS THAT ARE EXECUTED BETWEEN THE COMPANIES AND THE SCHOOL DISTRICT AND THAT ARE DESIGNED TO SAVE ENERGY OR WATER IN SCHOOL FACILITIES. A SCHOOL DISTRICT MAY USE MONIES IN THE ENERGY AND WATER SAVINGS ACCOUNT FOR PAYMENTS UNDER A PERFORMANCE CONTRACT ENTERED INTO PURSUANT TO SECTION 15-213 OR 15-213.01.

B. THE AUDITOR GENERAL AND THE DEPARTMENT OF EDUCATION SHALL PRESCRIBE THE APPROPRIATE DESIGNATION OF THE ENERGY AND WATER SAVINGS ACCOUNTS IN THE UNIFORM SYSTEM OF FINANCIAL RECORDS AND SHALL PRESCRIBE REPORTING REQUIREMENTS ON THE APPROPRIATE BUDGET FORMS AND ANNUAL FINANCIAL REPORT FORMS.

C. MONIES DEPOSITED IN AN ENERGY AND WATER SAVINGS ACCOUNT SHALL BE USED AS A DESIGNATED POOL OF CAPITAL INVESTMENT MONIES TO PAY FOR THE INCREMENTAL COST OF ENERGY OR WATER SAVINGS MEASURES IN SCHOOL FACILITIES THAT ARE OWNED OR OPERATED BY THE SCHOOL DISTRICT. ANY CONTRACT ENTERED INTO PURSUANT TO THIS SECTION SHALL CONTAIN AN AGREEMENT BETWEEN THE QUALIFIED PROVIDER OR UTILITY, ENERGY OR WATER SERVICES COMPANY AND THE SCHOOL DISTRICT THAT EACH PARTY HAS PERFORMED A REASONABLE INVESTIGATION TO DETERMINE THAT THE MEASURES CONTEMPLATED BY THE CONTRACT WILL RESULT IN STATED ENERGY OR WATER SAVINGS. CONTRACT TERMS MAY EXTEND THE PERIOD OF THE CAPITAL INVESTMENT REPAYMENT SCHEDULE PRESCRIBED IN SUBSECTION G OF THIS SECTION UP TO THE EXPECTED LIFE OF THE ENERGY OR WATER SAVINGS MEASURES, OR TWENTY-FIVE YEARS, WHICHEVER IS SHORTER.

D. EXPENDITURES FROM AN ENERGY AND WATER SAVINGS ACCOUNT SHALL BE USED ONLY FOR THE FOLLOWING:

1. PROJECTS OR MEASURES PURSUANT TO A CONTRACT PURSUANT TO THIS SECTION THAT SAVE ENERGY OR WATER IN SCHOOL FACILITIES THAT ARE OWNED OR OPERATED BY THE SCHOOL DISTRICT. MONIES MAY BE USED PURSUANT TO THIS PARAGRAPH TO PROVIDE TECHNICAL ASSISTANCE REGARDING ENERGY OR WATER SAVINGS TO SCHOOL DISTRICTS BY A QUALIFIED PROVIDER OR A UTILITY, ENERGY OR WATER SERVICES COMPANY.

2. THE REPAYMENT TO THE QUALIFIED PROVIDER OR UTILITY, ENERGY OR WATER SERVICES COMPANY OF CAPITAL INVESTMENT MONIES DEPOSITED IN THE ACCOUNT PLUS

1 REASONABLE CARRYING CHARGES PURSUANT TO THE TERMS OF THE CONTRACT.
2 REASONABLE CARRYING CHARGES FOR INVESTOR OWNED UTILITIES WILL BE THE MOST
3 RECENT AUTHORIZED RATE OF RETURN APPROVED BY THE ARIZONA CORPORATION
4 COMMISSION.
5 E. SCHOOL DISTRICTS SHALL PROCURE ENERGY OR WATER SAVINGS MEASURES OR
6 SERVICES WITH MONIES DISTRIBUTED FROM THE ENERGY AND WATER SAVINGS ACCOUNTS.
7 F. BEFORE THE IMPLEMENTATION OF THE ENERGY OR WATER SAVINGS MEASURES
8 OR SERVICES, THE QUALIFIED PROVIDER OR UTILITY, ENERGY OR WATER SERVICES
9 COMPANY SHALL COMPUTE, AND THE SCHOOL DISTRICT SHALL REVIEW AND APPROVE, THE
10 ESTIMATED AMOUNT OF THE ENERGY OR WATER SAVINGS AND THE ASSOCIATED IMPACT ON
11 ENERGY OR WATER COSTS TO BE ACHIEVED BY THE SCHOOL DISTRICT ON AN ANNUAL AND
12 MONTHLY BASIS OVER THE EXPECTED LIFE OF THE MEASURES AND SHALL INCLUDE THESE
13 ESTIMATES IN THE CONTRACT. THE QUALIFIED PROVIDER OR UTILITY, ENERGY OR
14 WATER SERVICES COMPANY AND THE SCHOOL DISTRICT SHALL UPDATE THE ANNUAL AND
15 MONTHLY ENERGY OR WATER SAVINGS AND ASSOCIATED COST IMPACT ESTIMATES ANNUALLY
16 BASED ON ACTUAL EXPERIENCE.
17 G. BEFORE THE IMPLEMENTATION OF THE ENERGY OR WATER SAVINGS MEASURES
18 OR SERVICES, THE QUALIFIED PROVIDER OR UTILITY, ENERGY OR WATER SERVICES
19 COMPANY AND THE SCHOOL DISTRICT SHALL JOINTLY DEVELOP A SCHEDULE OF MONTHLY
20 PAYMENTS FOR REPAYMENT OF THE CAPITAL INVESTMENT MONIES TO THE QUALIFIED
21 PROVIDER OR UTILITY, ENERGY OR WATER SERVICES COMPANY. THE REPAYMENT
22 SCHEDULE SHALL RESULT IN LOWER ENERGY OR WATER COSTS, WHICH SHALL INCLUDE THE
23 COST OF THE INSTALLED ENERGY OR WATER SAVINGS MEASURES FOR THE SCHOOL
24 DISTRICT OVER THE LIFE OF THE INSTALLED MEASURES THAT THE SCHOOL DISTRICT
25 WOULD HAVE EXPERIENCED WITHOUT THE INSTALLATION OF THE MEASURES. THE
26 REPAYMENT SCHEDULE SHALL BE INCLUDED IN THE CONTRACT.
27 H. THE SCHOOL DISTRICT SHALL TRANSFER ON A MONTHLY BASIS THE AMOUNT OF
28 THE MONTHLY PAYMENT PRESCRIBED PURSUANT TO SUBSECTION G OF THIS SECTION TO
29 THE ENERGY AND WATER SAVINGS ACCOUNT FROM THE MAINTENANCE AND OPERATION
30 PORTION OF THE SCHOOL DISTRICT'S BUDGET TO REPAY ANY UNPAID BALANCE OF THE
31 CAPITAL INVESTMENT PREVIOUSLY DEPOSITED IN THE ENERGY AND WATER SAVINGS
32 ACCOUNT FROM THE QUALIFIED PROVIDER OR UTILITY, ENERGY OR WATER SERVICES
33 COMPANY PLUS A REASONABLE CARRYING CHARGE. FOR THE PERIOD OF TIME THAT THE
34 COMPANY'S CAPITAL INVESTMENT MONIES AND REASONABLE CARRYING CHARGE REMAIN
35 UNPAID, THE QUALIFIED PROVIDER OR UTILITY, ENERGY OR WATER SERVICES COMPANY
36 SHALL PROVIDE A SEPARATE BILLING OR BILLING COMPONENT TO REPAY THE CAPITAL
37 INVESTMENT ON A MONTHLY BASIS, PURSUANT TO THE REPAYMENT SCHEDULE PRESCRIBED
38 PURSUANT TO SUBSECTION G OF THIS SECTION, WHICH SHALL BE PAID BY THE SCHOOL
39 DISTRICT FROM THE ENERGY AND WATER SAVINGS ACCOUNT. THE SCHOOL DISTRICT'S
40 GENERAL BUDGET LIMIT SHALL BE REDUCED BY THE AMOUNT OF MONIES TRANSFERRED TO
41 THE ENERGY AND WATER SAVINGS ACCOUNT PURSUANT TO THIS SECTION.
42 I. AFTER THE BALANCE OF THE QUALIFIED PROVIDER OR UTILITY, ENERGY OR
43 WATER SERVICES COMPANY'S CAPITAL INVESTMENT MONIES DEPOSITED IN THE ENERGY
44 AND WATER SAVINGS ACCOUNT PLUS A REASONABLE CARRYING CHARGE ARE REPAID IN
45 FULL BY THE SCHOOL DISTRICT, THE SCHOOL DISTRICT MAY DISCONTINUE THE DEPOSIT

IN THE ENERGY AND WATER SAVINGS ACCOUNT OF AMOUNTS THAT ARE PRESCRIBED IN SUBSECTION H OF THIS SECTION.

J. ANY MONIES ASSOCIATED WITH AN ENERGY OR WATER SAVINGS PROJECT REMAINING IN THE ENERGY AND WATER SAVINGS ACCOUNT AFTER THE CAPITAL INVESTMENT MONIES OF THE QUALIFIED PROVIDER OR UTILITY, ENERGY OR WATER SERVICES COMPANY PLUS A REASONABLE CARRYING CHARGE ARE REPAID IN FULL MAY BE TRANSFERRED TO THE MAINTENANCE AND OPERATION PORTION OF THE SCHOOL DISTRICT'S BUDGET, AND THE GENERAL BUDGET LIMIT MAY BE INCREASED BY THE AMOUNT TRANSFERRED.

K. SCHOOL DISTRICTS MAY DEPOSIT ENERGY-RELATED REBATE OR GRANT MONIES IN THE ENERGY AND WATER SAVINGS ACCOUNT TO ASSIST IN FUNDING ENERGY OR WATER SAVINGS PROJECTS. THESE REBATE OR GRANT MONIES SHALL BE USED TO REDUCE THE TOTAL COST OF ENERGY OR WATER SAVINGS PROJECTS AND TO REDUCE THE AMOUNT OF CAPITAL INVESTMENT MONIES RECEIVED FROM AND REPAID TO UTILITY, ENERGY OR WATER SERVICES COMPANIES. SCHOOL DISTRICTS ARE NOT REQUIRED TO REPAY THE REBATE OR GRANT MONIES IN THE MANNER DESCRIBED IN SUBSECTION H OF THIS SECTION, PURSUANT TO THE AGREEMENTS WITH THE PROVIDERS OF REBATE OR GRANT FUNDS.

L. SCHOOL DISTRICTS SHALL NOT USE OR DEPOSIT ANY EXCESS UTILITIES MONIES BUDGETED PURSUANT TO SECTION 15-910 OR 15-910.04 IN THE ENERGY AND WATER SAVINGS ACCOUNT.

M. SCHOOL DISTRICTS MAY DEPOSIT MONIES FROM OTHER FUNDING SOURCES, INCLUDING FROM CLEAN RENEWABLE ENERGY BONDS AND THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 FUNDING, IN THE ENERGY AND WATER SAVINGS ACCOUNT TO FUND ENERGY OR WATER SAVING PROJECTS IN SCHOOL FACILITIES. THESE MONIES SHALL BE REPAID IN A MANNER CONSISTENT WITH THIS SECTION AND PURSUANT TO THE CONTRACT BETWEEN THE SCHOOL DISTRICT AND THE PROVIDER OF THE FUNDING.

N. THIS SECTION DOES NOT IMPOSE AN OBLIGATION ON ANY ENERGY UTILITY, WATER UTILITY, PUBLIC SERVICE CORPORATION OR AGRICULTURAL IMPROVEMENT DISTRICT TO INVEST MONIES OR CONTRACT WITH ANY SCHOOL DISTRICT.

O. FOR ALL PROJECTS CARRIED OUT UNDER THIS SECTION, THE DISTRICT SHALL REPORT TO THE SCHOOL FACILITIES BOARD:

1. THE NAME OF THE PROJECT.
2. THE QUALIFIED PROVIDER.
3. THE TOTAL COST OF THE PROJECT.
4. THE EXPECTED ENERGY AND COST SAVINGS.

P. FOR ALL PROJECTS CARRIED OUT UNDER THIS SECTION, THE DISTRICT SHALL REPORT TO THE SCHOOL FACILITIES BOARD, BY OCTOBER 15 EACH YEAR, THE ACTUAL ENERGY AND COST SAVINGS.

Sec. 6. Section 34-201, Arizona Revised Statutes, is amended to read:

34-201. <u>Notice of intention to receive bids and enter contract; procedure; doing work without advertising for bids; county compliance</u>

A. Except as provided in subsections B through G and L of this section, every agent ~~shall~~, ~~upon~~ ON acceptance and approval of the working

drawings and specifications, SHALL publish a notice to contractors of intention to receive bids and contract for the proposed work. This notice shall be published by advertising in a newspaper of general circulation in the county in which the agent is located for two consecutive publications if it is a weekly newspaper or for two publications that are at least six but no more than ten days apart if it is a daily newspaper. The notice shall state:

1. The nature of the work required, the type, purpose and location of the proposed building~~,~~ and where the plans, specifications and full information as to the proposed work may be obtained.

2. That contractors desiring to submit proposals may obtain copies of full or partial sets of plans and specifications for estimate on request or by appointment. The return of such plans and specifications shall be guaranteed by a deposit of a designated amount which shall be refunded on return of the plans and specifications in good order.

3. That every proposal shall be accompanied by a certified check, cashier's check or surety bond for ten per cent of the amount of the bid included in the proposal as a guarantee that the contractor will enter into a contract to perform the proposal in accordance with the plans and specifications. Notwithstanding ~~the provisions of~~ any other statute, the surety bond shall be executed solely by a surety company or companies holding a certificate of authority to transact surety business in this state issued by the director of the department of insurance pursuant to title 20, chapter 2, article 1. The surety bond shall not be executed by an individual surety or sureties, even if the requirements of section 7-101 are satisfied. The certified check, cashier's check or surety bond shall be returned to the contractors whose proposals are not accepted, and to the successful contractor ~~upon~~ ON the execution of a satisfactory bond and contract as provided in this article. The conditions and provisions of the surety bid bond regarding the surety's obligations shall follow the following form:

> Now, therefore, if the obligee accepts the proposal of the principal and the principal enters into a contract with the obligee in accordance with the terms of the proposal and gives the bonds and certificates of insurance as specified in the standard specifications with good and sufficient surety for the faithful performance of the contract and for the prompt payment of labor and materials furnished in the prosecution of the contract, or in the event of the failure of the principal to enter into the contract and give the bonds and certificates of insurance, if the principal pays to the obligee the difference not to exceed the penalty of the bond between the amount specified in the proposal and such larger amount for which the obligee may in good faith contract with another party to perform the work covered by the proposal then this obligation is void. Otherwise it remains in full force and effect provided, however, that this bond is executed pursuant to the provisions of section

34-201, Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions of the section to the extent as if it were copied at length herein.

4. That the right is reserved to reject any or all proposals or to withhold the award for any reason the agent determines.

B. If the agent believes that any construction, building addition or alteration contemplated at a public institution can be advantageously done by the inmates of the public institution and regularly employed help, the agent may cause the work to be done without advertising for bids.

C. Any building, structure, addition or alteration may be constructed either with or without the use of the agent's regularly employed personnel without advertising for bids, provided that the total cost of the work, excluding materials and equipment previously acquired by bid, does not exceed:

1. In fiscal year 1994-1995, fourteen thousand dollars.

2. In fiscal year 1995-1996 and each fiscal year thereafter, the amount provided in paragraph 1 of this subsection adjusted by the annual percentage change in the GDP price deflator as defined in section 41-563.

D. Notwithstanding ~~the provisions of~~ subsection C of this section, any street, road, bridge, water or sewer work, other than a water or sewer treatment plant or building, may be constructed either with or without the use of the agent's regularly employed personnel without advertising for bids, provided that the total cost of the work does not exceed:

1. In fiscal year 1994-1995, one hundred fifty thousand dollars.

2. In fiscal year 1995-1996 and each fiscal year thereafter, the amount provided in paragraph 1 of this subsection adjusted by the annual percentage change in the GDP price deflator as defined in section 41-563.

E. For the purposes of subsection D of this section, the total cost of water or sewer work does not include services provided by volunteers or donations made for the water or sewer project.

F. Notwithstanding ~~the provisions of~~ this section, an agent may:

1. Construct, reconstruct, install or repair a natural gas or electric utility and distribution system, owned or operated by such agent, with regularly employed personnel of the agent without advertising for bids, unless otherwise prohibited by charter or ordinance.

2. Construct recreational projects, including trails, playgrounds, ballparks and other similar facilities and excluding buildings, structures, building additions and alterations to buildings, structures and building additions, with volunteer workers or workers provided by a nonprofit organization without advertising for bids for labor and materials, provided that the total cost of the work does not exceed:

(a) In fiscal year 2001-2002, one hundred fifty thousand dollars.

(b) In fiscal year 2002-2003 and each fiscal year thereafter, the amount provided in subdivision (a) ~~of this paragraph~~ adjusted by the annual percentage change in the GDP price deflator as defined in section 41-563.

G. A contribution by an agent for the financing of public infrastructure made pursuant to a development agreement is exempt from ~~the provisions of~~ this section if such contribution for any single development does not exceed:

1. In fiscal year 1994-1995, one hundred thousand dollars.

2. In fiscal year 1995-1996 and each fiscal year thereafter, the amount provided in paragraph 1 of this subsection adjusted by the annual percentage change in the GDP price deflator as defined in section 41-563.

H. In addition to other state or local requirements relating to the publication of bids, each agent shall provide at least one set of all plans and specifications to any construction news reporting service that files an annual request with the agent. For the purposes of this subsection, "construction news reporting service" means a service that researches, gathers and disseminates news and reports either in print or electronically, on at least a weekly basis for building projects, construction bids, the purchasing of materials, supplies or services and other construction bidding or planned activity to the allied construction industry. The allied construction industry includes both general and specialty contractors, builders, material and service suppliers, architects and engineers, owners, developers and government agencies.

I. Any construction by a county under this section shall comply with the uniform accounting system prescribed for counties by the auditor general under section 41-1279.21. Any construction by a city or town under this section shall comply with generally accepted accounting principles.

J. Any construction, building addition or alteration project ~~which~~ THAT is financed by monies of this state or its political subdivisions shall not use endangered wood species unless an exemption is granted by the director of the department of administration. The director shall only grant an exemption if the use of endangered wood species is deemed necessary for historical restoration or to repair existing facilities and the use of any substitute material is not practical. Any lease-purchase agreement entered into by this state or its political subdivisions for construction shall specify that no endangered wood species may be used in the construction unless an exemption is granted by the director. ~~As used in~~ FOR THE PURPOSES OF this subsection, "endangered wood species" includes those listed in appendix I of the convention on international trade in endangered species of wild flora and fauna.

K. All bonds given by a contractor and surety pursuant to ~~the provisions of~~ this article, regardless of their actual form, will be deemed by law to be the form required and set forth in this article and no other.

L. Any building, structure, addition or alteration may be constructed without complying with this article if the construction, including construction of buildings or structures on public or private property, is required as a condition of development of private property and is authorized by section 9-463.01 or 11-806.01. For the purposes of this subsection,

building does not include police, fire, school, library~~,~~ or other public buildings.

M. Notwithstanding section 34-221, any agent may enter into a guaranteed energy cost savings contract with a qualified provider~~, as those terms are defined in section 15-213.01,~~ for the purchase of energy cost savings measures without complying with this article and may procure a guaranteed energy cost savings contract through the competitive sealed proposal process prescribed in title 41, chapter 23~~, article 3~~ or any similar competitive proposal process adopted by the agent. ~~as long as the agent follows any additional requirements set forth in section 15-213.01.~~

Sec. 7. Section 34-201, Arizona Revised Statutes, as amended by section 6 of this act, is amended to read:

34-201. Notice of intention to receive bids and enter contract; procedure; doing work without advertising for bids; county compliance

A. Except as provided in subsections B through G and L of this section, every agent on acceptance and approval of the working drawings and specifications, shall publish a notice to contractors of intention to receive bids and contract for the proposed work. This notice shall be published by advertising in a newspaper of general circulation in the county in which the agent is located for two consecutive publications if it is a weekly newspaper or for two publications that are at least six but no more than ten days apart if it is a daily newspaper. The notice shall state:

1. The nature of the work required, the type, purpose and location of the proposed building and where the plans, specifications and full information as to the proposed work may be obtained.

2. That contractors desiring to submit proposals may obtain copies of full or partial sets of plans and specifications for estimate on request or by appointment. The return of such plans and specifications shall be guaranteed by a deposit of a designated amount which shall be refunded on return of the plans and specifications in good order.

3. That every proposal shall be accompanied by a certified check, cashier's check or surety bond for ten per cent of the amount of the bid included in the proposal as a guarantee that the contractor will enter into a contract to perform the proposal in accordance with the plans and specifications. Notwithstanding any other statute, the surety bond shall be executed solely by a surety company or companies holding a certificate of authority to transact surety business in this state issued by the director of the department of insurance pursuant to title 20, chapter 2, article 1. The surety bond shall not be executed by an individual surety or sureties, even if the requirements of section 7-101 are satisfied. The certified check, cashier's check or surety bond shall be returned to the contractors whose proposals are not accepted, and to the successful contractor on the execution of a satisfactory bond and contract as provided in this article. The

conditions and provisions of the surety bid bond regarding the surety's obligations shall follow the following form:

> Now, therefore, if the obligee accepts the proposal of the principal and the principal enters into a contract with the obligee in accordance with the terms of the proposal and gives the bonds and certificates of insurance as specified in the standard specifications with good and sufficient surety for the faithful performance of the contract and for the prompt payment of labor and materials furnished in the prosecution of the contract, or in the event of the failure of the principal to enter into the contract and give the bonds and certificates of insurance, if the principal pays to the obligee the difference not to exceed the penalty of the bond between the amount specified in the proposal and such larger amount for which the obligee may in good faith contract with another party to perform the work covered by the proposal then this obligation is void. Otherwise it remains in full force and effect provided, however, that this bond is executed pursuant to the provisions of section 34-201, Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions of the section to the extent as if it were copied at length herein.

4. That the right is reserved to reject any or all proposals or to withhold the award for any reason the agent determines.

B. If the agent believes that any construction, building addition or alteration contemplated at a public institution can be advantageously done by the inmates of the public institution and regularly employed help, the agent may cause the work to be done without advertising for bids.

C. Any building, structure, addition or alteration may be constructed either with or without the use of the agent's regularly employed personnel without advertising for bids, provided that the total cost of the work, excluding materials and equipment previously acquired by bid, does not exceed:

1. In fiscal year 1994-1995, fourteen thousand dollars.

2. In fiscal year 1995-1996 and each fiscal year thereafter, the amount provided in paragraph 1 of this subsection adjusted by the annual percentage change in the GDP price deflator as defined in section 41-563.

D. Notwithstanding subsection C of this section, any street, road, bridge, water or sewer work, other than a water or sewer treatment plant or building, may be constructed either with or without the use of the agent's regularly employed personnel without advertising for bids, provided that the total cost of the work does not exceed:

1. In fiscal year 1994-1995, one hundred fifty thousand dollars.

2. In fiscal year 1995-1996 and each fiscal year thereafter, the amount provided in paragraph 1 of this subsection adjusted by the annual percentage change in the GDP price deflator as defined in section 41-563.

E. For the purposes of subsection D of this section, the total cost of water or sewer work does not include services provided by volunteers or donations made for the water or sewer project.

F. Notwithstanding this section, an agent may:

1. Construct, reconstruct, install or repair a natural gas or electric utility and distribution system, owned or operated by such agent, with regularly employed personnel of the agent without advertising for bids, unless otherwise prohibited by charter or ordinance.

2. Construct recreational projects, including trails, playgrounds, ballparks and other similar facilities and excluding buildings, structures, building additions and alterations to buildings, structures and building additions, with volunteer workers or workers provided by a nonprofit organization without advertising for bids for labor and materials, provided that the total cost of the work does not exceed:

(a) In fiscal year 2001-2002, one hundred fifty thousand dollars.

(b) In fiscal year 2002-2003 and each fiscal year thereafter, the amount provided in subdivision (a) adjusted by the annual percentage change in the GDP price deflator as defined in section 41-563.

G. A contribution by an agent for the financing of public infrastructure made pursuant to a development agreement is exempt from this section if such contribution for any single development does not exceed:

1. In fiscal year 1994-1995, one hundred thousand dollars.

2. In fiscal year 1995-1996 and each fiscal year thereafter, the amount provided in paragraph 1 of this subsection adjusted by the annual percentage change in the GDP price deflator as defined in section 41-563.

H. In addition to other state or local requirements relating to the publication of bids, each agent shall provide at least one set of all plans and specifications to any construction news reporting service that files an annual request with the agent. For the purposes of this subsection, "construction news reporting service" means a service that researches, gathers and disseminates news and reports either in print or electronically, on at least a weekly basis for building projects, construction bids, the purchasing of materials, supplies or services and other construction bidding or planned activity to the allied construction industry. The allied construction industry includes both general and specialty contractors, builders, material and service suppliers, architects and engineers, owners, developers and government agencies.

I. Any construction by a county under this section shall comply with the uniform accounting system prescribed for counties by the auditor general under section 41-1279.21. Any construction by a city or town under this section shall comply with generally accepted accounting principles.

J. Any construction, building addition or alteration project that is financed by monies of this state or its political subdivisions shall not use endangered wood species unless an exemption is granted by the director of the department of administration. The director shall only grant an exemption if

the use of endangered wood species is deemed necessary for historical restoration or to repair existing facilities and the use of any substitute material is not practical. Any lease-purchase agreement entered into by this state or its political subdivisions for construction shall specify that no endangered wood species may be used in the construction unless an exemption is granted by the director. For the purposes of this subsection, "endangered wood species" includes those listed in appendix I of the convention on international trade in endangered species of wild flora and fauna.

K. All bonds given by a contractor and surety pursuant to this article, regardless of their actual form, will be deemed by law to be the form required and set forth in this article and no other.

L. Any building, structure, addition or alteration may be constructed without complying with this article if the construction, including construction of buildings or structures on public or private property, is required as a condition of development of private property and is authorized by section 9-463.01 or 11-806.01. For the purposes of this subsection, building does not include police, fire, school, library or other public buildings.

M. Notwithstanding section 34-221, any agent may enter into a guaranteed energy cost savings contract with a qualified provider, AS THOSE TERMS ARE DEFINED IN SECTION 15-213.01, for the purchase of energy cost savings measures without complying with this article and may procure a guaranteed energy cost savings contract through the competitive sealed proposal process prescribed in title 41, chapter 23, ARTICLE 3 or any similar competitive proposal process adopted by the agent AS LONG AS THE AGENT FOLLOWS ANY ADDITIONAL REQUIREMENTS SET FORTH IN SECTION 15-213.01.

Sec. 8. Section 42-11054, Arizona Revised Statutes, is amended to read:

42-11054. <u>Standard appraisal methods and techniques</u>

A. Subject to subsection B of this section, the department shall:

1. Prescribe guidelines for applying standard appraisal methods and techniques that shall be used by the department and county assessors in determining the valuation of property.

2. Prepare and maintain manuals and other necessary guidelines, consistent with this section, reflecting the standard methods and techniques to perpetuate a current inventory of taxable property and the valuation of that property.

B. Before they are adopted, the department shall submit each substantive proposed guideline, table and manual that is developed, amended or otherwise modified from and after December 31, 2006 to the joint legislative oversight committee on property tax assessment and appeals. The department shall not finally adopt, amend or otherwise modify a substantive guideline, table or manual for at least thirty days after submitting the measure to the committee. The committee may hold one or more informational hearings on the proposed measure within thirty days after submission. In

adopting, amending or modifying the measure the department shall consider the committee's comments. If the committee fails to hold a hearing within thirty days after submission, the department may adopt, amend or modify the measure without further consideration.

C. In applying prescribed standard appraisal methods and techniques:

1. Current usage shall be included in the formula for reaching a determination of full cash value.

2. Solar energy devices, as defined in section 44-1761, GRID-TIED PHOTOVOLTAIC SYSTEMS and any other device or system designed for the production of solar energy PRIMARILY for on-site consumption are considered to HAVE NO VALUE AND TO add no value to the property ON WHICH SUCH DEVICE OR SYSTEM IS INSTALLED.

3. ENERGY EFFICIENT BUILDING COMPONENTS, RENEWABLE ENERGY EQUIPMENT AND COMBINED HEAT AND POWER SYSTEMS ARE CONSIDERED TO ADD NO VALUE TO THE PROPERTY, IF THE PROPERTY OWNER PROVIDES THE COUNTY ASSESSOR WITH DOCUMENTATION OF ALL ELEMENTS THAT QUALIFY PURSUANT TO THIS PARAGRAPH, INCLUDING DOCUMENTS SHOWING ACTUAL ACQUISITION AND INSTALLATION COSTS. THE DOCUMENTATION MUST BE SUBMITTED TO THE COUNTY ASSESSOR NO LATER THAN SIX MONTHS BEFORE THE NOTICE OF FULL CASH VALUE IS ISSUED FOR THE INITIAL EVALUATION YEAR PURSUANT TO SECTION 42-15101 OR, IF THE COMPONENT IS ADDED AFTER SEPTEMBER 30 OF THE PRECEDING YEAR, NO LATER THAN MARCH 31 OF THE INITIAL VALUATION YEAR. FOR THE PURPOSES OF THIS PARAGRAPH:

(a) "COMBINED HEAT AND POWER SYSTEM" MEANS A SYSTEM THAT GENERATES ELECTRICITY OR MECHANICAL POWER AND USEFUL THERMAL ENERGY IN A SINGLE, INTEGRATED SYSTEM SUCH THAT THE USEFUL POWER OUTPUT OF THE FACILITY PLUS ONE-HALF THE USEFUL THERMAL OUTPUT DURING ANY 12-MONTH PERIOD IS NO LESS THAN 42.5 PER CENT OF THE TOTAL ENERGY INPUT OF FUEL TO THE FACILITY.

(b) "ENERGY EFFICIENT BUILDING COMPONENTS" MEANS HIGH PERFORMANCE SUSTAINABLE BUILDING COMPONENTS INSTALLED SO THAT THE BUILDINGS OR BUILDING COMPONENTS MEET OR EXCEED THE ENERGY EFFICIENCIES PRESCRIBED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY ENERGY STAR PROGRAM OR BY A LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN GREEN BUILDING RATING STANDARD DEVELOPED BY THE UNITED STATES GREEN BUILDING COUNCIL, OR AN EQUIVALENT GREEN BUILDING STANDARD, OR THAT ARE AT LEAST FIFTEEN PER CENT MORE ENERGY EFFICIENT THAN THE INTERNATIONAL ENERGY CONSERVATION CODE IN EFFECT AT THE TIME OF BUILDING PERMIT ISSUANCE.

(c) "RENEWABLE ENERGY EQUIPMENT" MEANS EQUIPMENT THAT IS USED TO PRODUCE ENERGY PRIMARILY FOR ON-SITE CONSUMPTION FROM RENEWABLE RESOURCES, INCLUDING WIND, FOREST THINNINGS, AGRICULTURAL WASTE, BIOGAS, BIOMASS, GEOTHERMAL, LOW-IMPACT HYDROPOWER AND SOLAR ENERGY NOT INCLUDED UNDER PARAGRAPH 2 OF THIS SUBSECTION.

D. If the methods and techniques prescribe using market data as an indication of market value, the price paid for future anticipated property value increments shall be excluded.

E. For purposes of determining full cash value the department and county assessors shall use and apply the ratio standard guidelines issued by the department for tax year 1993 in the same manner as they were applied in tax year 1993. This subsection does not apply to property that is valued according to prescribed statutory methods or to property for which values are determined in the year after an appeal pursuant to section 42-16002.

Sec. 9. Section 44-1375, Arizona Revised Statutes, is amended to read:

44-1375. Definitions

In this article, unless the context otherwise requires:

1. "Automatic commercial icemaker" means a factory made assembly that is shipped in one or more packages, that consists of a condensing unit and icemaking section operating as an integrated unit, that makes and harvests ice cubes and that may store or dispense ice. Automatic commercial icemaker includes machines with capacities between fifty and two thousand five hundred pounds per twenty-four hours.

2. "Ballast" means a device used with an electric discharge lamp to obtain necessary circuit conditions such as voltage, current and waveform for starting and operating the lamp.

3. "Commercial clothes washer" means a soft mount horizontal or vertical axis clothes washer that both:

(a) Has a clothes container compartment no greater than three and one-half cubic feet in the case of a horizontal axis product or no greater than four cubic feet in the case of a vertical axis product.

(b) Is designed for use by more than one household, such as in multifamily housing, apartments or coin laundries.

4. "Commercial prerinse spray valve" means a handheld device designed to spray water on dishes, flatware and other food service items for the purpose of removing food residue prior to cleaning.

5. "Commercial refrigerator, freezer and refrigerator freezer" means self-contained refrigeration equipment that:

(a) Is not a consumer product as regulated pursuant to 42 United States Code chapter 77.

(b) Operates at a chilled, frozen, combination chilled-frozen or variable temperature for the purpose of storing or merchandising food, beverages or ice.

(c) May have transparent or solid or both transparent and solid hinged doors, sliding doors or a combination of hinged and sliding doors.

(d) Incorporates most components involved in the vapor-compression cycle and the refrigerated compartment in a single cabinet.

(e) Does not include:

(i) Units with eighty-five cubic feet or more of internal volume.

(ii) Walk-in refrigerators or freezers.

(iii) Units with no doors.

(iv) Freezers specifically designed for ice cream.

6. "High-intensity discharge lamp" means a lamp in which light is produced by the passage of an electric current through a vapor or gas and in which the light producing arc is stabilized by bulb wall temperature and the arc tube has a bulb wall loading in excess of three watts per square centimeter.

7. "Illuminated exit sign" means an internally illuminated sign that is designed to be permanently fixed in place to identify a building exit and that consists of an electrically powered integral light source that both illuminates the legend "exit" and any directional indicators and provides contrast between the legend, any directional indicators and the background.

8. "Large packaged air conditioning equipment" means electrically operated, air cooled air conditioning and air conditioning heat pump equipment that has cooling capacity greater than or equal to two hundred forty thousand Btu per hour but less than seven hundred sixty thousand BTU per hour and that is built as a package and shipped as a whole to end user sites.

9. "Low voltage dry type distribution transformer" means a transformer to which all of the following apply:

(a) Has an input voltage of six hundred volts or less.

(b) Is air cooled.

(c) Does not use oil as a coolant.

(d) Is rated for operation at a frequency of sixty hertz.

10. "Metal halide lamp" means a high intensity discharge lamp in which the major portion of the light is produced by radiation of metal halides and their products of dissociation, possibly in combination with metallic vapors.

11. "Metal halide lamp fixture" means a light fixture designed to be operated with a metal halide lamp and a ballast for a metal halide lamp.

12. "PORTABLE ELECTRIC SPA" MEANS A FACTORY-BUILT ELECTRIC SPA OR HOT TUB THAT IS SUPPLIED WITH EQUIPMENT FOR HEATING AND CIRCULATING WATER.

~~12.~~ 13. "Probe start metal halide ballast" means a ballast used to operate metal halide lamps that does not contain an ignitor and which instead starts lamps by using a third starting electrode probe in the arc tube.

~~13.~~ 14. "Pulldown refrigerator" means a commercial refrigerator specifically designed to rapidly reduce all integrated product temperatures from ninety degrees fahrenheit to thirty-eight degrees fahrenheit over a twelve hour period when fully loaded with beverage containers.

15. "RESIDENTIAL POOL PUMP" MEANS A PUMP THAT IS USED TO CIRCULATE AND FILTER RESIDENTIAL SWIMMING POOL WATER IN ORDER TO MAINTAIN CLARITY AND SANITATION AND THAT CONSISTS, IN PART, OF A MOTOR AND AN IMPELLER AND HOUSING.

16. "RESIDENTIAL POOL PUMP MOTOR" MEANS A DEFINITE PURPOSE MOTOR DESIGNED FOR USE IN A RESIDENTIAL POOL PUMP.

~~14.~~ 17. "Single voltage external AC to DC power supply" means a device that:

(a) Is designed to convert line voltage AC input into lower voltage DC output.

(b) Is able to convert to only one DC output voltage at a time.

(c) Is sold with, or intended to be used with, a separate end use product that constitutes the primary power load.

(d) Is contained within a separate physical enclosure from the end use product.

(e) Is connected to the end use product via a removable or hard wired male/female electrical connection, cable, cord or other wiring.

(f) Does not have batteries or battery packs, including those that are removable and that physically attach directly to the power supply unit.

(g) Does not have a battery chemistry or type selector switch and indicator light or does not have a battery chemistry or type selector switch and a state of charge meter.

(h) Has a nameplate output power less than or equal to two hundred fifty watts.

~~15.~~ 18. "Torchiere" means a portable electric lighting fixture with a reflective bowl that directs light upward onto a ceiling so as to produce indirect illumination on the surfaces below. A torchiere may include downward directed lamps in addition to the upward, indirect illumination.

~~16.~~ 19. "Traffic signal module" means a standard eight inch or twelve inch traffic signal indication, consisting of a light source, a lens and all other parts necessary for operation.

~~17.~~ 20. "Transformer" means a device that consists of two or more coils of insulated wire and that is designed to transfer alternating current by electromagnetic induction from one coil to another to change the original voltage or current value. Transformer does not include:

(a) Transformers with multiple voltage taps, with the highest voltage tap equaling at least twenty per cent more than the lowest voltage tap.

(b) Transformers, such as those commonly known as drive transformers, rectifier transformers, auto transformers, uninterruptible power system transformers, impedance transformers, regulating transformers, sealed and nonventilating transformers, machine tool transformers, welding transformers, grounding transformers or testing transformers, that are designed to be used in a special purpose application and that are unlikely to be used in general purpose applications.

~~18.~~ 21. "Unit heater" means a self-contained, vented fan type commercial space heater that uses natural gas or propane and that is designed to be installed without ducts within a heated space, except that unit heater does not include any products covered by federal standards established pursuant to 42 United States Code chapter 77 or any product that is a direct vent, forced flue heater with a sealed combustion burner.

Sec. 10. Section 44-1375.01, Arizona Revised Statutes, is amended to read:

44-1375.01. Applicability

A. This article applies to the following types of new products sold, offered for sale or installed in this state:

1. Automatic commercial icemakers.
2. Commercial clothes washers.
3. Commercial prerinse spray valves.
4. Commercial refrigerators, freezers and refrigerator freezers.
5. Illuminated exit signs.
6. Large packaged air conditioning equipment.
7. Low voltage dry type distribution transformers.
8. Metal halide lamp fixtures.
9. Single voltage external AC to DC power supplies.
10. Torchieres.
11. Traffic signal modules.
12. Unit heaters.
13. PORTABLE ELECTRIC SPAS.
14. RESIDENTIAL POOL PUMPS AND RESIDENTIAL POOL PUMP MOTORS.

B. This article does not apply to:

1. New products manufactured in this state and sold outside this state.
2. New products manufactured outside this state and sold at wholesale inside this state for final retail sale and installation outside this state.
3. Products installed in mobile manufactured homes at the time of construction.
4. Products designed expressly for installation and use in recreational vehicles.
5. Products installed in a laundry facility located within an apartment complex or mobile home park at the time of construction or replacement. For the purposes of this paragraph, "apartment complex" means any real property that has one or more structures and that contains four or more dwelling units for rent or lease that are subject to the Arizona residential landlord and tenant act prescribed by title 33, chapter 10.

Sec. 11. Section 44-1375.02, Arizona Revised Statutes, is amended to read:

44-1375.02. Standards

A. Except as provided in subsection ~~B~~ C, the following standards apply beginning January 1, 2008:

1. Automatic commercial icemakers shall meet the requirements of section 1605.3 of the California Code of Regulations, title 20: division 2, chapter 4, article 4, in effect on ~~the effective date of this article~~ AUGUST 12, 2005.

2. Commercial clothes washers shall meet the requirements of section 1605.3 of the California Code of Regulations, title 20: division 2, chapter

4, article 4, in effect on ~~the effective date of this article~~ AUGUST 12, 2005.

3. Commercial prerinse spray valves shall have a flow rate equal to or less than 1.6 gallons per minute.

4. Commercial refrigerators, freezers and refrigerator freezers shall meet the requirements of section 1605.3 of the California Code of Regulations, title 20: division 2, chapter 4, article 4, in effect on ~~the effective date of this article~~ AUGUST 12, 2005, except that pulldown refrigerators with transparent doors shall meet a requirement five per cent less stringent than shown in the California regulations.

5. Illuminated exit signs shall have an input power demand of five watts or less per illuminated face and shall either have a power factor of at least 0.70 or meet the power factor product specification of the energy star program requirements, whichever is higher.

6. Large packaged air conditioning equipment shall meet a minimum energy efficiency ratio of 10.0 for air conditioning without an integrated heating component or with electric resistance heating integrated into the unit, 9.8 for air conditioning with heating other than electric resistance integrated into the unit, 9.5 for air conditioning heat pumps without an integrated heating component or with electric resistance heating integrated into the unit and 9.3 for air conditioning heat pump equipment with heating other than electric resistance integrated into the unit. Large packaged air conditioning heat pumps shall meet a minimum coefficient of performance in the heating mode of 3.2 measured at a high temperature rating of forty-seven degrees Fahrenheit.

7. THROUGH DECEMBER 31, 2010, low voltage dry type distribution transformers shall meet the class 1 efficiency levels for low voltage distribution transformers specified in table 4-2 of the guide for determining energy efficiency for distribution transformers, published by the national electrical manufacturers association (NEMA standard TP-1-2002), in effect on ~~the effective date of this article~~ AUGUST 12, 2005.

8. Metal halide lamp fixtures designed to be operated with lamps rated greater than or equal to one hundred fifty watts but less than or equal to five hundred watts shall not contain a probe start metal ~~halid~~ HALIDE lamp ballast.

9. Single voltage external AC to DC power supplies shall meet the tier one energy efficiency requirements of section 1605.3 of the California Code of Regulations, title 20: division 2, chapter 4, article 4, in effect on ~~the effective date of this article~~ AUGUST 12, 2005. This standard applies to single voltage AC to DC power supplies that are sold individually and to those that are sold as a component of or in conjunction with another product.

10. Torchieres shall not use more than one hundred ninety watts. A torchiere shall be deemed to use more than one hundred ninety watts if any commercially available lamp or combination of lamps can be inserted in its

socket and cause the torchiere to draw more than one hundred ninety watts when operated at full brightness.

11. Traffic signal modules shall meet the product specification of the energy star program requirements for traffic signals developed by the United States environmental protection agency that took effect in February 2001, shall have a power factor of at least 0.90 and shall be installed with compatible, electrically connected signal control interface devices and conflict monitoring systems.

12. Unit heaters shall be equipped with an intermittent ignition device and shall have either power venting or an automatic flue damper.

B. BEGINNING JANUARY 1, 2012, THE FOLLOWING STANDARDS APPLY:

1. PORTABLE ELECTRIC SPAS SHALL NOT HAVE A NORMALIZED STANDBY POWER GREATER THAN FIVE TIMES THE SPA'S FILL VOLUME IN GALLONS RAISED TO THE TWO-THIRDS POWER.

2. RESIDENTIAL POOL PUMPS AND RESIDENTIAL POOL PUMP MOTORS SHALL COMPLY WITH BOTH OF THE FOLLOWING:

(a) MOTORS SHALL NOT BE SPLIT-PHASE OR CAPACITOR START-INDUCTION RUN TYPE MOTORS, EXCEPT FOR THE FOLLOWING:

(i) THE LOW-SPEED SECTION OF TWO-SPEED MOTORS MAY BE CAPACITOR START-INDUCTION RUN TYPE.

(ii) FORTY-EIGHT-FRAME MOTORS DESIGNED FOR USE WITH ABOVE-GROUND POOLS ARE EXEMPT FROM THIS REQUIREMENT.

(b) MOTORS WITH A TOTAL HORSEPOWER CAPACITY OF ONE OR MORE SHALL HAVE THE CAPABILITY OF OPERATING AT TWO OR MORE SPEEDS WITH A LOW SPEED HAVING A ROTATION RATE THAT IS NO MORE THAN ONE-HALF OF THE MOTOR'S MAXIMUM ROTATION RATE AND SHALL BE OPERATED WITH A PUMP CONTROL WITH THE CAPABILITY OF OPERATING THE PUMP AT TWO OR MORE SPEEDS. RESIDENTIAL POOL PUMP MOTOR CONTROLS THAT ARE SOLD FOR USE WITH A TWO OR MORE SPEED MOTOR SHALL HAVE A DEFAULT CIRCULATION SPEED SETTING NO MORE THAN ONE-HALF OF THE MOTOR'S MAXIMUM ROTATION RATE. ANY HIGH SPEED OVERRIDE CAPABILITY SHALL BE FOR A TEMPORARY PERIOD NOT TO EXCEED ONE TWENTY-FOUR HOUR CYCLE WITHOUT RESETTING TO THE DEFAULT SETTING.

~~B.~~ C. The standards prescribed by subsection A apply beginning January 1, 2010, if the product is a commercial refrigerator, freezer or refrigerator freezer or large packaged air conditioning equipment.

~~C.~~ D. Beginning on May 31, 2008, and every three years thereafter, the department of commerce energy office shall conduct a comparative review and assessment of the standards prescribed by subsection A and energy efficiency standards adopted in other states. The department of commerce energy office shall:

1. Submit a report of its findings and recommendations to the speaker of the house of representatives and president of the senate.

2. Provide a copy of the report to the director of the Arizona state library, archives and public records.

Sec. 12. School facilities board; annual report

A. The school facilities board shall submit an annual report to the governor, the president of the senate, the speaker of the house of representatives, and the joint legislative budget committee not later than December 31 each year that shows projects entered into by school districts pursuant to sections 15-213.01 and 15-910.02, Arizona Revised Statutes. The report shall include:

1. The name of the project.
2. The qualified provider.
3. The total cost of the project.
4. The amount financed through the guaranteed energy and water savings created by the installed improvements.
5. The baseline energy consumption data.
6. The projected energy and cost savings.
7. The actual energy and cost savings.

B. The school facilities board shall provide copies of the report to the department of commerce energy office and the Arizona state library, archives and public records.

Sec. 13. Effective date

Section 15-213.01, Arizona Revised Statutes, as amended by section 2 of this act, section 15-342, Arizona Revised Statutes, as amended by section 4 of this act and section 34-201, Arizona Revised Statutes, as amended by section 7 of this act are effective from and after June 30, 2013.

Sec. 14. Delayed repeal

Section 12 of this act, relating to school facilities board annual report, is repealed effective from and after June 30, 2013.

APPROVED BY THE GOVERNOR JULY 10, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 13, 2009.