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11 **Attorneys for Plaintiffs**

12 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
13
14 IN AND FOR THE COUNTY OF MARICOPA

15 GLENDALE ELEMENTARY SCHOOL
DISTRICT; CHINO VALLEY UNIFIED
16 SCHOOL DISTRICT; ELFRIDA
ELEMENTARY SCHOOL DISTRICT;
17 CRANE ELEMENTARY SCHOOL
DISTRICT; JILL BARRAGAN, an
18 individual; KATHY KNECHT, an
individual, ARIZONA SCHOOL
19 BOARDS ASSOCIATION; ARIZONA
EDUCATION ASSOCIATION;
20 ARIZONA ASSOCIATION OF SCHOOL
BUSINESS OFFICIALS; ARIZONA
SCHOOL ADMINISTRATORS, INC.,

21 Plaintiffs,

22 vs.

23 STATE OF ARIZONA; SCHOOL
24 FACILITIES BOARD,
25 Defendants.

Case No.:

COMPLAINT

(Declaratory Judgment
and Injunctive Relief)

1 **OVERVIEW**

2 1. The Arizona Constitution requires the legislature to “enact such laws as
3 shall provide for the establishment and maintenance of a general and uniform public
4 school system.” Ariz. Const. art. 11, § 1. The Arizona Constitution also requires the
5 State to make “such appropriations, to be met by taxation, as shall insure the proper
6 maintenance of all state educational institutions, and shall make such special
7 appropriations as shall provide for their development and improvement.” Ariz. Const.
8 art. 11, § 10.

9 2. To comply with Article 11, Section 1, “the state must establish
10 minimum adequate facility standards and provide funding to ensure that no district
11 falls below them” *Hull v. Albrecht*, 192 Ariz. 34, 37 (1998) (*Albrecht II*). The
12 State has failed to provide the funding necessary to ensure that public school
13 buildings, facilities, and equipment throughout the State of Arizona meet the
14 minimum adequate facility standards established by the state and the School Facilities
15 Board. The State’s failure has also forced school districts to divert maintenance and
16 operation funding to support basic capital needs; this too harms students’ abilities to
17 learn and meet academic standards. Moreover, many of the minimum adequate
18 facility standards themselves are outdated and do not “provide the minimum quality
19 and quantity of school buildings and facilities and equipment necessary and
20 appropriate to enable pupils to achieve the academic standards” promulgated by the
21 state. A.R.S. § 15-2011(F).

22 3. The State’s failure to provide funding for school buildings, facilities,
23 and equipment that meet the minimum standards and ensure that students have the
24 equipment and facilities necessary to achieve the state’s academic standards also
25 results in some school district taxpayers providing the necessary funding through
26 local property taxation. In effect, the State has transferred its constitutional obligation
27 to fund public schools to local taxpayers.
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1 qualifying tax levy applied to the district's assessed valuation of property does not
2 generate sufficient revenues to fund the spending limits, the state provides the
3 difference through equalization assistance. In this manner, almost all property
4 taxpayers in the state make a similar taxing effort established by the qualifying tax
5 levy to fund the spending limits established by the legislature.

6 16. The school finance system does not provide school districts with any
7 funds specifically designated for capital purposes. Although the funds generated
8 through property taxation and State equalization assistance may be used for either
9 M&O or capital purposes, school districts must spend the vast majority of their funds
10 on maintenance and operation expenses. The school funding system was not designed
11 to fulfill the capital needs of school districts.

12 17. Arizona school districts, including the Plaintiff school districts and the
13 school districts in which the individual Plaintiffs reside have substantial capital needs
14 on an ongoing basis, including new schools, additions to existing schools,
15 renovations, and repairs, for which they have little to no funds after covering M&O
16 expenses. They also have ongoing needs for school buses, technology, and school
17 books for which they have little to no funds after covering their M&O expenses.

18 18. Under Arizona's Constitution, school districts may issue bonds for
19 capital purposes subject to certain limits. Article 9, Sections 8 and 8.1, establish the
20 debt limit at 15% of the secondary assessed valuation of taxable property within the
21 district for an elementary or high school district and 30% of the secondary assessed
22 valuation for a unified school district. The legislature reduced those limits to 10%
23 and 20%, respectively. A.R.S. § 15-1021(B) and (D).

24 19. If a school district has sufficient capacity and its voters provide their
25 approval, a school district may issue bonds for capital purposes. With voter approval,
26 school districts may also levy a tax not to exceed seven years for capital outlay
27 purposes. Local taxpayers must pay for these bonds and tax levies.
28

1 20. Many school districts, including some of the Plaintiff districts, have
2 issued bonds and established overrides for capital purposes that include items
3 necessary for the school districts to maintain their buildings and facilities in
4 compliance with the state's minimum school facility guidelines. The individual
5 Plaintiffs are taxpayers in such districts.

6 21. Other school districts like Chino Valley Unified School District and
7 Elfrida Elementary School Districts are simply unable to issue bonds or establish
8 capital overrides because their tax base is too small, they lack capacity, or voters have
9 failed to approve the issuance of bonds or capital overrides. They have no access to
10 the capital funds necessary to comply with the state's minimum facility standards or
11 address other capital needs.

12 22. Plaintiffs Glendale Elementary School District and Crane Elementary
13 School District have been able to issue bonds but not in an amount sufficient to
14 provide the funding necessary to meet the minimum facility guidelines or address
15 other capital needs.

16 **B. The Remedy Adopted to Address the Constitutional Defects in
17 Capital Funding for Public Schools**

18 23. In *Roosevelt Elementary Sch. Dist. No. 66 v. Bishop*, 179 Ariz. 233
19 (1994), the Arizona Supreme Court invalidated the school finance system because it
20 violated Article 11, Section 1's requirement for a general and uniform school system.
21 The system's reliance on local property taxation within individual school districts to
22 fund capital needs resulted in substantial disparities between school districts that
23 violated the Constitution.

24 24. In response to *Roosevelt*, the Legislature amended the school finance
25 system. The Arizona Supreme Court rejected the first three legislative attempts to
26 satisfy the constitutional requirement for a general and uniform system of public
27 education. The first attempt created a State Board for Capital School Facilities but
28 did little to change the overall statutory scheme rejected in *Roosevelt*. In 1996, the

1 superior court determined that the legislation did not remedy the constitutional
2 deficiencies identified in *Roosevelt*, and the Arizona Supreme Court affirmed that
3 decision in a January 15, 1997 order.

4 25. The second attempt to remedy the capital funding system involved
5 legislation entitled “Assistance to Build Classrooms.” This too was rejected by the
6 courts. See *Hull v. Albrecht*, 190 Ariz. 520 (1997) (*Albrecht I*). The Supreme Court
7 rejected this legislation “because it continued to cause substantial capital facility
8 disparities between districts, improperly delegated to the school districts the state’s
9 responsibility to maintain adequate facilities, and failed to provide minimum
10 adequacy standards for capital facilities.” *Albrecht II*, 192 Ariz. at 36(citing *Albrecht*
11 *I*, 190 Ariz. at 523-24).

12 26. The third attempt to remedy the constitutional defects identified in
13 *Roosevelt* was invalidated in *Albrecht II*.

14 27. The Arizona Supreme Court established a “two-pronged test for
15 assessing whether a school financing system meets the state constitutional
16 requirements: (1) the state must establish minimum adequate facility standards and
17 provide funding to ensure that no district falls below them; and (2) the funding
18 mechanism chosen by the state must not itself cause substantial disparities between
19 districts.” *Albrecht II*, 192 Ariz. at 37 ¶ 8. The first prong of this test includes two
20 components: “the state must create minimum adequacy standards for capital facilities
21 and must ensure, through state funding, that all districts comply with them.” *Id.* at ¶
22 10.

23 28. In *Albrecht II*, the Arizona Supreme Court held that a portion of the
24 legislation, which was called Students FIRST, satisfied the first prong of the test by
25 requiring statewide minimum adequacy standards and by “providing state funds and
26 empowering the [School Facilities Board] to oversee compliance with the standards.”
27 *Albrecht II*, 192 Ariz. at 37 ¶¶ 11, 12. The Court noted that the legislation provided
28 “state monies sufficient to fund each district’s compliance” with the minimum

1 standards. *Id.* The legislation, however, failed to satisfy the second prong of the test
2 about causing substantial disparities between districts. *Id.* at ¶ 13. The legislation
3 was deficient because it permitted school districts to opt out of Students FIRST, and
4 dramatically different funding requirements applied to districts that participated in
5 Students FIRST and those that opted out. *Id.* at 38-39 ¶¶ 17-20. Because the court
6 determined that the invalid portions of the legislation were not severable from the
7 valid provisions, the court invalidated the legislation in its entirety. *Id.* at 40 ¶ 25.

8 29. Soon after *Albrecht II*, the Legislature enacted Students FIRST
9 legislation without the “opt out” provision that the Court had rejected. 1998 Ariz.
10 Sess. Laws, 5th Spec. Sess., Ch. 1.

11 30. The Students FIRST legislation was based on the general premise that
12 the State will provide full funding to ensure that all educational facilities in school
13 districts meet state standards and to provide new facilities needed due to enrollment
14 growth. It also allowed school districts, within limits, to expend local monies to
15 exceed the state standards or to provide for capital needs that are not covered by the
16 state standards, such as district administrative facilities.

17 31. Students FIRST established the School Facilities Board and charged it
18 with developing minimum school facility adequacy guidelines based upon the state’s
19 academic standards. The standards were to establish the “quality and quantity of
20 school buildings and the facilities and equipment necessary and appropriate to enable
21 pupils to achieve the academic standards. . . .” A.R.S. § 15-2011(F). The School
22 Facilities Board was also charged with monitoring school districts to ensure their
23 compliance with the guidelines.

24 32. Students FIRST provided funding to school districts for the construction
25 of new schools when enrollment projections indicated that a new school would be
26 needed within two years.

27 33. Students FIRST provided school districts with “soft capital” funds for
28 the purchase of “short term capital items” such as textbooks, computers, school buses,

1 furniture, and equipment. Soft capital was allocated to school districts based on a set
2 amount per student.

3 34. Students FIRST established a building renewal formula and a building
4 renewal fund to provide schools the necessary funding for renovations and repairs to
5 capital facilities on an ongoing basis. Building renewal formula funds were restricted
6 and could not be expended for other non-capital purposes. Among other factors, the
7 formula took into account the age and student capacity of buildings and the cost of
8 prior upgrades or remodels when determining how much to allocate to school
9 districts.

10 35. The building renewal funds and soft capital monies were provided to
11 meet the constitutional requirement that the State provide monies sufficient to fund
12 each district's compliance with the minimum standards for school facilities.

13 36. Students FIRST also established a deficiencies correction fund to pay
14 for the costs of bringing existing facilities up to state standards. Approximately \$1.2
15 billion was spent on correcting deficiencies. Monies were awarded by June 30, 2001
16 and deficiencies were to be corrected by June 30, 2004.

17 37. In order to ensure sufficient state funding for the school districts,
18 Students FIRST legislation, as originally enacted, included a provision that required
19 the School Facilities Board to instruct the State Treasurer of the amount needed for
20 deficiencies corrections, building renewal and new schools for the following fiscal
21 year, and required the Treasurer to transfer that amount to the School Facilities Board
22 from transaction privilege tax revenues.

23 38. In 2000, the School Facilities Board adopted rules establishing
24 minimum facility adequacy guidelines pursuant to the statutory directive in Students
25 FIRST and to comply with the requirements set out by the Arizona Supreme Court.
26 A.A.C. R7-6-101 *et seq.* These standards considered the buildings and equipment
27 necessary for the state's academic standards at that time.
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1 **C. The Demise of the Students FIRST Program that Was Adopted to**
2 **Remedy the Unconstitutional Capital Funding System for Public**
3 **Schools**

3 39. Since the enactment of Students FIRST in 1998, the State has gradually
4 dismantled the program and replaced it with nothing that provides the school districts
5 with the funding for the buildings and equipment that they need.

6 40. The Deficiencies Correction Fund was replaced with an Emergency
7 Deficiencies Correction grant program in 2001. This limited program consists of
8 monies transferred from the New Schools Facilities Fund. Much narrower than the
9 original deficiencies correction program, the emergency grant program funds only “a
10 serious need for materials, services or construction or expenses in excess of the
11 district’s adopted budget for the current fiscal year that seriously threatens the
12 functioning of the school district, the preservation or protection of property or public
13 health, welfare or safety.” A.R.S. § 15-2022(E).

14 41. The building renewal formula fund which was the primary source of
15 funds to maintain buildings that meet state standards was fully funded in only one
16 year after Students FIRST was enacted in 1998, and it received its last appropriation
17 in Fiscal Year 2008. The State repealed it in 2013.

18 42. In 2002, the State enacted legislation prohibiting the School Facilities
19 Board from changing or modifying the minimum facility adequacy guidelines until
20 2004. Laws 2002, Ch. 330, § 57. On information and belief, there have been no
21 changes to the standards since 2006, and many standards have not changed since their
22 adoption in 2000. As a result, the standards do not meet the contemporary needs of
23 schools and students, in many areas including technology, transportation and security.
24 On information and belief, they also fail to prescribe the space and equipment
25 necessary for the education of students with special needs.

26 43. In 2013, the State repealed the soft capital funding included in Students
27 FIRST. Soft capital and the Capital Outlay Revenue Limit (a component of State
28 funding that could be used for M&O or capital) were combined and replaced with

1 “district additional assistance.” 2013 Ariz. Sess. Laws, 1st Sp. Sess., Ch. 3. Unlike
2 soft capital funds that could generally be used only for capital projects, district
3 additional assistance can be used for either M&O or capital purposes.

4 44. District additional assistance has been underfunded since its creation in
5 2013. It was underfunded by more than \$230 million in each fiscal year from 2013
6 through 2015, and by more than \$350 million in both fiscal year 2016 and fiscal year
7 2017. On information and belief, only about \$70 million was available to school
8 districts through district additional assistance for fiscal year 2017.

9 45. As a result of these legislative changes enacted in the past five years, the
10 State no longer provides any dedicated capital funding directly to school districts to
11 ensure that their buildings and equipment meet state standards.

12 46. Abandoning soft capital funding, capital outlay, and formula-driven
13 building renewal funds, the State established a building renewal grant program
14 administered by the School Facilities Board. Building renewal grant funds are
15 available to school districts for academic buildings but not for support facilities like
16 administrative offices, transportation facilities, or central kitchens. As a result, school
17 districts must find other sources of funding for those essential facilities. The grant
18 funds may be used for major renovations and repairs, upgrades, and infrastructure.
19 Priority for grants is given to districts that have provided routine preventive
20 maintenance and that can provide matching funds. In recent years, total funding for
21 building renewal grants ranged from \$17 million to approximately \$32 million. On
22 information and belief, by comparison, the original building renewal formula would
23 have provided approximately \$260 million to school districts for repairs and
24 replacements in a fiscal year (using fiscal year 2014 as the basis for this an example).

25 47. The amount of annual funding appropriated to the building renewal fund
26 is trivial when compared to the overall capital needs of school districts in Arizona on
27 a statewide basis. For example, Plaintiff Glendale Elementary School District has
28

1 estimated that it needs approximately \$50.4 million in capital improvements. It is
2 only one of 230 school districts that require state funding to maintain its schools.

3 48. The State has also restricted funding for new schools. In 2013, the State
4 amended Students FIRST to fund the construction of new schools only when
5 additional space is necessary in the current year. 2013 1st Sp. Sess, Ariz. Sess Laws
6 Ch. 3, § 41. That means a school must actually exceed its capacity before a new
7 school or an addition to an existing school can be authorized or construction can
8 begin. The state will not provide funding for new schools or additions based on
9 projected growth. This requires that school districts fall below the state's standards
10 before becoming eligible for additional funds. This system does not provide funding
11 to ensure that school districts meet state standards.

12 49. Requiring that a school district exceed capacity before state funding will
13 be provided has prompted some school districts to seek approval of bonds so that they
14 can avoid falling below state standards. Without the local bonds, overcrowding is
15 unavoidable because the state's funding is too late.

16 50. In addition, the State does not provide funding for districts to replace
17 schools that have reached the end of their useful life. A.R.S. 15-2041(G) provides
18 that a school may apply to the School Facilities Board if one of its schools has
19 reached the end of its useful life. But on information and belief, the State has never
20 funded a replacement school under this provision.

21 51. While some school districts can rely on their taxpayers to supplement
22 state funding to meet capital needs, others cannot. School districts that have been able
23 to approve bonds issue on average anywhere from \$300 million to close to \$600
24 million in bonds each year for capital spending. As was true in the system invalidated
25 in *Roosevelt*, local taxpayers are increasingly shouldering the responsibility for capital
26 funding for public schools.

27 52. The declining appropriations are not the result of a declining need for
28 capital funding by local school districts. The state funding provided to school districts

1 and available through the building renewal grants has no connection to the capital
2 needs of school districts.

3 53. For example, Plaintiff Glendale Elementary School District has lost
4 approximately \$18.9 million in funding between 2009 and 2015 as a result of the
5 elimination in capital outlay and soft capital funding, and the reduction in district
6 additional assistance funding. This lack of state funding is not based on any
7 determination that Glendale Elementary School District does not need these funds to
8 meet its capital needs. Plaintiff Chino Valley Unified School District and other
9 districts struggle to replace aging school buses and purchase new textbooks based on
10 the limited state funding available for these major purchases. Plaintiff Crane
11 Elementary School District is among those districts that have relied on its local
12 taxpayers through bonds to fund capital needs, including additions to schools and
13 purchase new buses. The individual Plaintiffs both reside in districts that have relied
14 on bonds to fund capital projects in light of the lack of available state funding.

15 54. Faced with minimal capital funding available from the State, school
16 districts are forced to either allow their buildings to fall into disrepair, thereby
17 harming the learning environment, or repair their buildings using funds from their
18 M&O accounts, thereby taking money away from the classroom. Arizona already has
19 one of the lowest per-pupil spending rates, the lowest teacher salaries and some of the
20 largest class sizes in the country. Every dollar taken from M&O funds exacerbates
21 these problems.

22 55. Since enacting Students FIRST, the State has abandoned its
23 constitutional responsibility under Article 11 to provide adequate capital funding for
24 public schools.

25 56. By doing so, the State reneged on the commitment it made to the court
26 when it presented Students FIRST as evidence of its compliance with Arizona
27 Supreme Court decisions.

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COUNT III

Violation of Article 9, Section 1 of the Arizona Constitution

70. Plaintiffs reallege and incorporate the preceding paragraphs.

71. Providing capital funds for public schools is a state responsibility pursuant to Article 11, Sections 1 and 10.

72. The State’s failure to provide capital funds for school districts to meet state standards shifts the burden of funding public schools to local school districts and their taxpayers.

73. Shifting the State’s responsibility for funding public schools to school districts and their taxpayers results in taxes that are not uniform on the same class of property within the State.

74. A school finance system that requires local property taxpayers within school districts to provide the funding for capital needs that the State is required to provide violates Article 9, Section 1 of the Arizona Constitution because such taxes are not uniform within the State.

COUNT IV

Violation of Article 2, Section 3 of the Arizona Constitution

75. Plaintiffs reallege and incorporate the preceding paragraphs.

76. To the extent that the State has shifted responsibility for meeting minimum facilities guidelines to local property taxpayers, the tax effort necessary to do so varies from school district to school district and therefore denies equal privileges and immunities to the individual Plaintiffs in violation of Article 2, Section 13 of the Arizona Constitution.

COUNT V

Violation of Declaratory Judgment

77. Plaintiffs reallege and incorporate the preceding paragraphs.

78. The abandonment of Students FIRST by the state is contrary to, and fails to comply with, the declaratory judgment entered in *Roosevelt*.

