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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

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

27
28
Plaintiffs,

vs.

STATE OF ARIZONA; SEAN
MCCARTHY, in his official capacity as
chairman of the School Facilities Board;
VERN CROW, in his official capacity as
vice-chairman of the School Facilities
Board; EDWARD E. BOOT, in his official
capacity as a member of the School
Facilities Board; BRYAN E. PELTZER, in
his official capacity as a member of the
School Facilities Board; THOMAS D.
RUSHIN, in his official capacity as a

Case No.: CV2017-006975

FIRST AMENDED COMPLAINT

(Declaratory Judgment
and Injunctive Relief)

(Assigned to the
Honorable Kerstin LeMaire)

1 member of the School Facilities Board;
2 TRACI L. SAWYER-SINKBEIL, in her
3 official capacity as a member of the School
4 Facilities Board; WARD SIMPSON, in his
5 official capacity as a member of the School
6 Facilities Board; JEFFREY J. SMITH, in
7 his official capacity as a member of the
8 School Facilities Board; SANDY
9 WILLIAMS, in her official capacity as a
10 member of the School Facilities Board,

11 Defendants.

12 And,

13 STEVEN YARBROUGH, PRESIDENT
14 OF THE ARIZONA STATE SENATE;
15 J.D. MESNARD, SPEAKER OF THE
16 ARIZONA HOUSE OF
17 REPRESENTATIVES,

18 Special Intervenors.

19 OVERVIEW

20 1. The Arizona Constitution requires the legislature to “enact such laws as
21 shall provide for the establishment and maintenance of a general and uniform public
22 school system.” Ariz. Const. art. 11, § 1. The Arizona Constitution also requires the
23 State to make “such appropriations, to be met by taxation, as shall insure the proper
24 maintenance of all state educational institutions, and shall make such special
25 appropriations as shall provide for their development and improvement.” Ariz. Const.
26 art. 11, § 10.

27 2. To comply with Article 11, Section 1, “the state must establish minimum
28 adequate facility standards and provide funding to ensure that no district falls below
them” *Hull v. Albrecht*, 192 Ariz. 34, 37 (1998) (*Albrecht II*). The State has failed
to provide the funding necessary to ensure that public school buildings, facilities, and
equipment throughout the State of Arizona meet the minimum adequate facility
standards established by the State and the School Facilities Board. The State’s failure
has also forced school districts to divert maintenance and operation funding to support
basic capital needs; this too harms students’ abilities to learn and meet academic

1 standards. Moreover, many of the minimum adequate facility standards themselves are
2 outdated and do not “provide the minimum quality and quantity of school buildings and
3 facilities and equipment necessary and appropriate to enable pupils to achieve the
4 academic standards” promulgated by the state. A.R.S. § 15-2011(F).

5 3. The State’s failure to provide funding for school buildings, facilities, and
6 equipment that meet the minimum standards and ensure that students have the
7 equipment and facilities necessary to achieve the state’s academic standards also results
8 in some school district taxpayers providing the necessary funding through local property
9 taxation. In effect, the State has transferred its constitutional obligation to fund public
10 schools to local taxpayers.

11 4. This system creates disparate tax burdens throughout the state, in violation
12 of Article 9, Section 1 of the Arizona Constitution, which requires that all taxes be
13 uniform upon the same class of property, and denies taxpayers equal privileges and
14 immunities that are guaranteed under Article 2, Section 13 of the Arizona Constitution.

15 **PARTIES**

16 5. The Glendale Elementary School District, the Chino Valley Unified
17 School District, the Elfrida Elementary School District and the Crane Elementary School
18 District are political subdivisions of the State of Arizona.

19 6. Jill Barragan is a property taxpayer who resides in the Laveen Elementary
20 School District. Kathy Knecht is a property taxpayer who resides in the Peoria Unified
21 School District. Both have children who attend or have attended public schools.

22 7. The Arizona Education Association (“AEA”) is a professional
23 organization whose active members include teachers, educational support personnel, and
24 other public school employees in public schools throughout the state. It advocates for
25 quality public education for all children and seeks to improve the professional lives of
26 teachers and all school employees. AEA members’ working conditions and ability to
27 provide an adequate education can be impacted by inadequate facilities and equipment.
28 For example, as a result of inadequate capital funding, AEA members have had to work

1 in schools with hazardous working conditions. In addition, AEA members' salaries
2 have been affected when local governing boards have used Maintenance & Operation
3 ("M&O") funding or unrestricted funding to meet capital needs. On information and
4 belief, AEA members have also spent money out of their own pockets as a result of
5 unmet capital needs, including for furniture needed in special education classrooms.

6 8. The Arizona School Boards Association ("ASBA") is an organization
7 whose members are nearly all of the school districts of this state represented through
8 their governing boards. The Legislature has authorized school districts, through their
9 governing boards, to be members of ASBA. *See* A.R.S. § 15-342(8). ASBA's bylaws
10 provide that "[a]ny governing board of a school district of the State of Arizona is eligible
11 to be an active member of the Association, and membership shall be classified under the
12 name of the district thus represented." Individual members of school boards are not
13 eligible for membership. ASBA supports the improvement of public education in
14 Arizona by providing training, leadership, and services to school districts and individual
15 governing board members. Its members' efforts to provide a quality public education,
16 pursuant to their statutory obligations, *see* A.R.S. § 15-341, are impeded by the State's
17 failure to provide adequate funding for schools' capital needs.

18 9. The governing board of each district stands in the shoes of that district.
19 *See* A.R.S. § 15-421 ("The governing body of a school district shall be a governing
20 board."). A governing board shall "sue and be sued" in the name of its district and
21 "[h]old and convey property for the use and benefit of the district." A.R.S. § 15-326. A
22 governing board is obligated to *inter alia*, "manage and control the school property
23 within its district," "[a]cquire school furniture, apparatus, equipment, library books and
24 supplies for the use of the schools," "[f]urnish, repair and insure, at full insurable value,
25 the school property of the district," and "[c]onstruct school buildings on approval by a
26 vote of the district electors." A.R.S. § 15-341. A governing board is also liable, "in the
27 name of the school district, for a judgment against the district for salary due a teacher on
28 contract and for all debts contracted under this title." A.R.S. § 15-381(A).

1 10. The Arizona Association of School Business Officials (“AASBO”) is an
2 organization whose members include school district employees who are responsible for
3 budget and finance issues within Arizona school districts. Its members’ efforts to
4 develop budgets that meet the needs of the students in their districts are impeded by the
5 failure to provide adequate funding for capital needs. AASBO members must figure out
6 how to use limited resources to ensure a safe and productive learning environment for
7 students and staff; this task is made much more difficult by the lack of adequate capital
8 funding. Governing board members rely on the expertise of business officials, and one
9 of AASBO’s responsibilities is to ensure that these members have the requisite expertise
10 and information to fulfill their responsibilities. AASBO therefore provides trainings to
11 its members on budget issues, and it has had to divert resources to provide additional
12 training due to the lack of adequate capital funding.

13 11. The Arizona School Administrators, Inc. (“AASA”) is an organization
14 whose members include school district leaders from throughout Arizona who are
15 responsible for working with local governing boards to ensure that students receive a
16 quality education that meets state standards. Its members’ efforts to provide quality
17 public education are impeded by the State’s failure to provide adequate funding for
18 schools’ capital needs. As a result of inadequate capital funding, AASA members must
19 spend considerable time dealing with capital needs, such as repairing roofs and ensuring
20 that school facilities are safe, which distract them their ability to focus on other
21 educational needs. In addition, AASA members, and AASA itself, have had to divert
22 resources to trainings related to budgeting in the absence of adequate funding, including
23 capital funding.

24 12. Sean McCarthy is the Chairman of the Arizona School Facilities Board;
25 Vern Crow is the Vice-Chairman; Edward E. Boot, Bryan E. Peltzer, Thomas D. Rushin,
26 Traci L. Sawyer-Sinkbell, Ward Simpson, Dr. Jeffrey J. Smith, and Sandy Williams are
27 board members. The School Facilities Board is a state agency established by A.R.S. §
28

1 15-2001. It provides limited funding through grants for school facilities, as described in
2 A.R.S. § 15-2002 to -2158.

3 13. The State of Arizona is a body politic.

4 **FACTS**

5 **A. Overview of School Finance System**

6 14. Arizona's complex school finance system is designed to provide school
7 districts with the funds necessary to pay their M&O expenses. M&O expenses are those
8 necessary to pay the current ongoing costs to operate the school district including
9 salaries, benefits, and utility bills. The school finance system establishes budget limits
10 that are generally based on the number of students in a school district and the base level
11 of funding for each student.

12 15. The budget limits establish the amount on an annual basis that a school
13 district may spend. Revenues sufficient to fund the spending limits are generated
14 through a combination of state and county assistance and local property taxation.

15 16. School districts are authorized to levy taxes on real property taxpayers
16 within each school district. The legislature establishes a qualifying tax levy. If the
17 qualifying tax levy applied to the district's assessed valuation of property does not
18 generate sufficient revenues to fund the spending limits, the State provides the difference
19 through equalization assistance. In this manner, almost all property taxpayers in the
20 state make a similar taxing effort established by the qualifying tax levy to fund the
21 spending limits established by the legislature.

22 17. The school finance system does not provide school districts with any funds
23 specifically designated for capital purposes. Although the funds generated through
24 property taxation and State equalization assistance may be used for either M&O or
25 capital purposes, school districts must spend the vast majority of their funds on
26 maintenance and operation expenses. The school funding system was not designed to
27 fulfill the capital needs of school districts.

28

1 18. Arizona school districts, including the Plaintiff school districts and the
2 school districts in which the individual Plaintiffs reside have substantial capital needs on
3 an ongoing basis, including new schools, additions to existing schools, renovations, and
4 repairs, for which they have little to no funds after covering M&O expenses. They also
5 have ongoing needs for school buses, technology, and school books for which they have
6 little to no funds after covering their M&O expenses.

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

13 20. If a school district has sufficient capacity and its voters provide their
14 approval, a school district may issue bonds for capital purposes. With voter approval,
15 school districts may also levy a tax not to exceed seven years for capital outlay purposes.
16 Local taxpayers must pay for these bonds and tax levies.

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

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

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1 23. Plaintiffs Glendale Elementary School District and Crane Elementary
2 School District have been able to issue bonds but not in an amount sufficient to provide
3 the funding necessary to meet the minimum facility guidelines or address other capital
4 needs.

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

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

13 25. In response to *Roosevelt*, the Legislature amended the school finance
14 system. The Arizona Supreme Court rejected the first three legislative attempts to
15 satisfy the constitutional requirement for a general and uniform system of public
16 education. The first attempt created a State Board for Capital School Facilities but did
17 little to change the overall statutory scheme rejected in *Roosevelt*. In 1996, the superior
18 court determined that the legislation did not remedy the constitutional deficiencies
19 identified in *Roosevelt*, and the Arizona Supreme Court affirmed that decision in a
20 January 15, 1997 order.

21 26. The second attempt to remedy the capital funding system involved
22 legislation entitled "Assistance to Build Classrooms." This too was rejected by the
23 courts. See *Hull v. Albrecht*, 190 Ariz. 520 (1997) (*Albrecht I*). The Supreme Court
24 rejected this legislation "because it continued to cause substantial capital facility
25 disparities between districts, improperly delegated to the school districts the state's
26 responsibility to maintain adequate facilities, and failed to provide minimum adequacy
27 standards for capital facilities." *Albrecht II*, 192 Ariz. at 36 (citing *Albrecht I*, 190 Ariz.
28 at 523-24).

1 27. The third attempt to remedy the constitutional defects identified in
2 *Roosevelt* was invalidated in *Albrecht II*.

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

11 29. In *Albrecht II*, the Arizona Supreme Court held that a portion of the
12 legislation, which was called Students FIRST, satisfied the first prong of the test by
13 requiring statewide minimum adequacy standards and by “providing state funds and
14 empowering the [School Facilities Board] to oversee compliance with the standards.”
15 *Albrecht II*, 192 Ariz. at 37 ¶¶ 11, 12. The Court noted that the legislation provided
16 “state monies sufficient to fund each district’s compliance” with the minimum standards.
17 *Id.* The legislation, however, failed to satisfy the second prong of the test about causing
18 substantial disparities between districts. *Id.* at ¶ 13. The legislation was deficient
19 because it permitted school districts to opt out of Students FIRST, and dramatically
20 different funding requirements applied to districts that participated in Students FIRST
21 and those that opted out. *Id.* at 38-39 ¶¶ 17-20. Because the court determined that the
22 invalid portions of the legislation were not severable from the valid provisions, the court
23 invalidated the legislation in its entirety. *Id.* at 40 ¶ 25.

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

27 31. The Students FIRST legislation was based on the general premise that the
28 State will provide full funding to ensure that all educational facilities in school districts

1 meet state standards and to provide new facilities needed due to enrollment growth. It
2 also allowed school districts, within limits, to expend local monies to exceed the state
3 standards or to provide for capital needs that are not covered by the state standards, such
4 as district administrative facilities.

5 32. Students FIRST established the School Facilities Board and charged it
6 with developing minimum school facility adequacy guidelines based upon the state's
7 academic standards. The standards were to establish the "quality and quantity of school
8 buildings and the facilities and equipment necessary and appropriate to enable pupils to
9 achieve the academic standards. . . ." A.R.S. § 15-2011(F). The School Facilities Board
10 was also charged with monitoring school districts to ensure their compliance with the
11 guidelines.

12 33. Students FIRST provided funding to school districts for the construction of
13 new schools when enrollment projections indicated that a new school would be needed
14 within two years.

15 34. Students FIRST provided school districts with "soft capital" funds for the
16 purchase of "short term capital items" such as textbooks, computers, school buses,
17 furniture, and equipment. Soft capital was allocated to school districts based on a set
18 amount per student.

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

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

28

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

5 38. In order to ensure sufficient state funding for the school districts, Students
6 FIRST legislation, as originally enacted, included a provision that required the School
7 Facilities Board to instruct the State Treasurer of the amount needed for deficiencies
8 corrections, building renewal, and new schools for the following fiscal year, and
9 required the Treasurer to transfer that amount to the School Facilities Board from
10 transaction privilege tax revenues.

11 39. In 2000, the School Facilities Board adopted rules establishing minimum
12 facility adequacy guidelines pursuant to the statutory directive in Students FIRST and to
13 comply with the requirements set out by the Arizona Supreme Court. A.A.C. R7-6-101
14 *et seq.* These standards considered the buildings and equipment necessary for the state’s
15 academic standards at that time.

16 **C. The Demise of the Students FIRST Program that Was Adopted to**
17 **Remedy the Unconstitutional Capital Funding System for Public**
18 **Schools**

19 40. Since the enactment of Students FIRST in 1998, the State has gradually
20 dismantled the program and replaced it with nothing that provides the school districts
21 with the funding for the buildings and equipment that they need.

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

1 42. The building renewal formula fund which was the primary source of funds
2 to maintain buildings that meet state standards was fully funded in only one year after
3 Students FIRST was enacted in 1998, and it received its last appropriation in Fiscal Year
4 2008. The State repealed it in 2013.

5 43. In 2002, the State enacted legislation prohibiting the School Facilities
6 Board from changing or modifying the minimum facility adequacy guidelines until
7 2004. Laws 2002, Ch. 330, § 57. On information and belief, there have been no
8 changes to the standards since 2006, and many standards have not changed since their
9 adoption in 2000. As a result, the standards do not meet the contemporary needs of
10 schools and students, in many areas including technology, transportation and security.
11 On information and belief, they also fail to prescribe the space and equipment necessary
12 for the education of students with special needs.

13 44. In 2013, the State repealed the soft capital funding included in Students
14 FIRST. Soft capital and the Capital Outlay Revenue Limit (a component of State
15 funding that could be used for M&O or capital) were combined and replaced with
16 “district additional assistance.” 2013 Ariz. Sess. Laws, 1st Sp. Sess., Ch. 3. Unlike soft
17 capital funds that could generally be used only for capital projects, district additional
18 assistance can be used for either M&O or capital purposes.

19 45. District additional assistance has been underfunded since its creation in
20 2013. It was underfunded by more than \$230 million in each fiscal year from 2013
21 through 2015, and by more than \$350 million in both fiscal year 2016 and fiscal year
22 2017. On information and belief, only about \$70 million was available to school
23 districts through district additional assistance for fiscal year 2017.

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

27 47. Abandoning soft capital funding, capital outlay, and formula-driven
28 building renewal funds, the State established a building renewal grant program

1 administered by the School Facilities Board. Building renewal grant funds are available
2 to school districts for academic buildings but not for support facilities like administrative
3 offices, transportation facilities, or central kitchens. As a result, school districts must
4 find other sources of funding for those essential facilities. The grant funds may be used
5 for major renovations and repairs, upgrades, and infrastructure. Priority for grants is
6 given to districts that have provided routine preventive maintenance and that can provide
7 matching funds. In recent years, total funding for building renewal grants ranged from
8 \$17 million to approximately \$32 million. On information and belief, by comparison,
9 the original building renewal formula would have provided approximately \$260 million
10 to school districts for repairs and replacements in a fiscal year (using fiscal year 2014 as
11 the basis for this an example).

12 48. The amount of annual funding appropriated to the building renewal fund is
13 trivial when compared to the overall capital needs of school districts in Arizona on a
14 statewide basis. For example, Plaintiff Glendale Elementary School District has
15 estimated that it needs approximately \$50.4 million in capital improvements. It is only
16 one of 230 school districts that require state funding to maintain its schools.

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

26 50. Requiring that a school district exceed capacity before state funding will
27 be provided has prompted some school districts to seek approval of bonds so that they
28

1 can avoid falling below state standards. Without the local bonds, overcrowding is
2 unavoidable because the state's funding is too late.

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

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

14 53. The declining appropriations are not the result of a declining need for
15 capital funding by local school districts. The state funding provided to school districts
16 and available through the building renewal grants has no connection to the capital needs
17 of school districts.

18 54. For example, Plaintiff Glendale Elementary School District has lost
19 approximately \$18.9 million in funding between 2009 and 2015 as a result of the
20 elimination in capital outlay and soft capital funding, and the reduction in district
21 additional assistance funding. This lack of state funding is not based on any
22 determination that Glendale Elementary School District does not need these funds to
23 meet its capital needs. Plaintiff Chino Valley Unified School District and other districts
24 struggle to replace aging school buses and purchase new textbooks based on the limited
25 state funding available for these major purchases. Plaintiff Crane Elementary School
26 District is among those districts that have relied on its local taxpayers through bonds to
27 fund capital needs, including additions to schools and the purchase of new buses. The
28

1 individual Plaintiffs both reside in districts that have relied on bonds to fund capital
2 projects in light of the lack of available state funding.

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

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

12 57. By doing so, the State reneged on the commitment it made to the court
13 when it presented Students FIRST as evidence of its compliance with Arizona Supreme
14 Court decisions.

15 58. The State's abandonment of any comprehensive system to provide capital
16 funding to school districts leaves the Plaintiff school districts with insufficient state
17 funds to maintain their school buildings, facilities, and equipment to the level mandated
18 by the minimum facility adequacy guidelines and appropriate for a good education.

19 59. The School Facilities Board reports that every year it identifies school
20 districts that lack science equipment and have inadequate lighting and drainage problems
21 that violate state standards.

22 60. In material respects, the system for capital funding for public schools in
23 Arizona is now worse than it was at the time the Arizona Supreme Court issued its
24 decision in *Roosevelt*. The Students FIRST remedy has been dismantled and replaced
25 with nothing that ensures school districts meet the State's standards. There are also
26 additional restrictions on the school districts' ability to bond to meet their needs that
27 were not in place before the *Roosevelt* decision.

28

1 61. The State has also failed to update the adequacy standards to ensure they
 2 meet current educational needs. For example, the technology standard requires only one
 3 computer for every eight students. The standard ignores the increased use of technology
 4 in education and testing. Information on the School Facility Board website describing
 5 the 21st Century School supports one computer device for every three students up to the
 6 third grade and one computer device for every student in grades 4 through 12. Under the
 7 transportation standard, school buses manufactured before 1978 may be replaced, but
 8 this date has no rational basis for serving as a statewide standard in 2017. The security
 9 standards have also not been updated to ensure the safety of students and employees.

10 62. The foregoing allegations are common to the following claims.

11 **COUNT I**

12 **Violation of Article 11, Section 1 of the Arizona Constitution**

13 63. Plaintiffs reallege and incorporate the preceding paragraphs.

14 64. The school finance system established by the State is not general and
 15 uniform as required by Article 11, Section 1 of the Arizona Constitution because the
 16 State has failed to provide the funding necessary to ensure that all school districts can
 17 comply with the State's minimum adequacy standards for school buildings, facilities,
 18 and equipment. Instead, the State has transferred significant responsibility for funding
 19 school buildings, facilities, and equipment to school districts.

20 65. Moreover, the minimum school facility adequacy guidelines established by
 21 the School Facilities Board are outdated and inadequate, and many do not provide for
 22 “the minimum quality and quantity of school buildings and facilities and equipment
 23 necessary and appropriate to enable pupils to achieve [Arizona’s] academic standards,”
 24 as is mandated by A.R.S. § 15-2011(F).

25 66. Thus, the State has violated the requirement that it “must establish
 26 minimum adequate facility standards and provide funding to ensure that no district falls
 27 below them.” *Albrecht II*, 192 Ariz. at 37.

1 **COUNT II**

2 **Violation of Article 11, Section 10 of the Arizona Constitution**

3 67. Plaintiffs reallege and incorporate the preceding paragraphs.

4 68. Article 11, Section 10 of the Arizona Constitution provides that the
5 “legislature shall make such appropriations, to be met by taxation, as shall insure the
6 proper maintenance of all state educational institutions, and shall make such special
7 appropriations as shall provide for their development and improvement.”

8 69. Article 11, Section 10 reinforces the State’s responsibility for funding
9 public schools. The State’s failure to provide capital funding sufficient to support new
10 schools and additions to existing schools, failure to comply with the state’s minimum
11 standards, failure to update minimum standards, and failure to provide a learning
12 environment appropriate to a good education violates this constitutional provision.

13 70. The State has failed to ensure “the proper maintenance of all state
14 educational institutions” by failing to provide for the capital needs of school districts.

15 **COUNT III**

16 **Violation of Article 9, Section 1 of the Arizona Constitution**

17 71. Plaintiffs reallege and incorporate the preceding paragraphs.

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

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

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

26 75. A school finance system that requires local property taxpayers within
27 school districts to provide the funding for capital needs that the State is required to
28

1 provide violates Article 9, Section 1 of the Arizona Constitution because such taxes are
2 not uniform within the State.

3 **COUNT IV**

4 **Violation of Article 2, Section 13 of the Arizona Constitution**

5 76. Plaintiffs reallege and incorporate the preceding paragraphs.

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

11 **COUNT V**

12 **Violation of Declaratory Judgment**

13 78. Plaintiffs reallege and incorporate the preceding paragraphs.

14 79. The abandonment of Students FIRST by the State is contrary to, and fails
15 to comply with, the declaratory judgment entered in *Roosevelt*.

16 80. Pursuant to A.R.S. § 12-1838, further relief is necessary to effectuate that
17 judgment.

18 **RELIEF**

19 Plaintiffs request that the Court:

20 1. Declare that the school finance system is unconstitutional because it
21 violates Article 11, Section 1 of the Arizona Constitution, which requires that the State
22 establish and maintain a general and uniform public school system;

23 2. Declare the school finance system unconstitutional because it violates
24 Article 11, § 10 of the Arizona Constitution, which requires the State to make
25 appropriations to insure the proper maintenance of all educational institutions and to
26 provide for their development and improvement;

27 3. Declare that requiring property taxpayers within individual districts to
28 provide funding to meet the State's minimum adequacy standards violates Article 9,

1 Section 1 of the Arizona Constitution because the property taxes paid by individuals to
2 provide funding to meet the standards are not uniform throughout the State but vary
3 from district to district;

4 4. Declare that requiring property taxpayers to provide funding to meet the
5 building adequacy standards violates Article 2, Section 13 of the Arizona Constitution
6 because the taxing effort required by property taxpayers to provide funding to meet the
7 standards depends on the assessed valuation of property within the school district;

8 5. Direct the State of Arizona and the School Facilities Board to revise the
9 minimum facility adequacy guidelines as necessary to ensure that the guidelines provide
10 the minimum quality and quantity of school buildings and facilities and equipment
11 necessary and appropriate to enable pupils to achieve the State's academic standards,
12 pursuant to A.R.S. § 15-2011(F);

13 6. Enter other injunctive relief that is necessary and appropriate to ensure
14 compliance with the foregoing constitutional provisions;

15 7. Award Plaintiffs their costs and attorneys' fees pursuant to the private
16 attorney general doctrine; and

17 8. Order such other relief as may be necessary and proper.

18 DATED this 28th day of June, 2017.

19
20 ARIZONA CENTER FOR LAW IN
THE PUBLIC INTEREST

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28 **Attorneys for Plaintiffs**

1 THE FOREGOING DOCUMENT was
2 electronically filed and a copy e-delivered this
28th day of June, 2017, to:

3 The Honorable Kerstin LeMaire
4 Maricopa County Superior Court
101 W. Jefferson, ECB711
5 Phoenix, AZ 85003

6 COPY of the foregoing emailed this 28th day
7 of June, 2017 and mailed on the 29th day of
June, 2017, to:

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19 /s/ J. Lopez

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