

State of Arizona
House of Representatives
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 286

HOUSE BILL 2096

AN ACT

AMENDING SECTIONS 15-824 AND 15-2041, ARIZONA REVISED STATUTES; RELATING TO
SCHOOL DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)



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

2 Section 1. Section 15-824, Arizona Revised Statutes, is amended to
3 read:

4 15-824. Admission of pupils of other school districts; homeless
5 children; tuition charges; definitions

6 A. The governing board of a school district shall admit pupils from
7 another school district or area as follows:

8 1. Upon the presentation of a certificate of educational convenience
9 issued by the county school superintendent pursuant to section 15-825.

10 2. FOR THREE HUNDRED FIFTY OR FEWER PUPILS, to a high school without
11 the presentation of such certificate, if the pupil is a resident of a common
12 school district within this state which is not within a high school district
13 and which does not offer instruction in the pupil's grade. THE THREE HUNDRED
14 FIFTY OR FEWER PUPIL LIMITATION PRESCRIBED IN THIS PARAGRAPH DOES NOT APPLY
15 TO A SMALL ISOLATED SCHOOL DISTRICT AS DEFINED IN SECTION 15-901. Tuition
16 shall be charged as prescribed in subsection E of this section for each pupil
17 admitted pursuant to this paragraph, each pupil from a school district that
18 provides only financing for pupils who are instructed by another school
19 district and each pupil from a unified district that does not offer
20 instruction in the pupil's grade. The school membership of such pupils is
21 deemed, for the purpose of determining student count and for apportionment
22 of state aid, to be enrollment in the school district of the pupil's
23 residence.

24 B. The residence of the person having legal custody of the pupil is
25 considered the residence of the pupil, except as provided in subsection C of
26 this section and in section 15-825, subsection B.

27 C. The current residence of a homeless pupil who does not reside with
28 the person having legal custody of the pupil is considered to be the
29 residence of the homeless pupil if the person having legal custody of the
30 pupil is a resident of the United States. For the purposes of this
31 subsection, "homeless pupil" means a pupil who has a primary residence that
32 is:

33 1. A supervised publicly or privately operated shelter designed to
34 provide temporary living accommodations.

35 2. An institution that provides a temporary residence for individuals
36 intended to be institutionalized.

37 3. A public or private place not designed for, or ordinarily used as,
38 a regular sleeping accommodation for human beings.

39 D. The school enrollment of a pupil who is a resident of this state
40 or who is admitted to a school district under section 15-823, subsection B,
41 C or E is deemed, for the purpose of determining student count and for
42 apportionment of state aid, to be enrollment in the school district of actual
43 attendance, except as provided in section 15-825, subsection A, paragraph 1
44 and subsection A, paragraph 2 of this section and except for pupils for whom
45 the superintendent of public instruction is charged tuition pursuant to

1 section 15-825, subsections B and D and section 15-976 or for whom another
2 school district is charged tuition as provided in subsections E and G of this
3 section.

4 E. If tuition is required to be charged for pupils attending school
5 in a school district other than that of their residence, the tuition shall
6 be determined and paid in the following manner:

7 1. The number of high school pupils for which tuition may be charged
8 to a common school district which is not within a high school district is
9 equal to the average daily membership in the district of attendance from the
10 common school district for the prior fiscal year, except that for the first
11 year in which a common school district not within a high school district
12 stops teaching high school subjects, the district of attendance may charge
13 tuition for the number of pupils which is equal to the average daily
14 membership for high school pupils in the common school district for the prior
15 fiscal year. This number may be adjusted if the common school district
16 increases its revenue control limit and district support level or recomputes
17 its revenue control limit as provided in section 15-948.

18 2. The tuition for pupils attending school in a school district other
19 than that of their residence, except pupils provided for by section 15-825,
20 subsections B and D and any pupils included in the definition of child with
21 a disability in section 15-761, shall not exceed the cost per student count
22 of the school district attended, as determined for the current school year.
23 Tuition for pupils included in the definition of child with a disability in
24 section 15-761 shall not exceed the actual cost of the school attended for
25 each pupil as determined for the current year. The school district of
26 attendance shall not include in the cost per student count a charge for
27 transportation if no transportation is provided, and the charge for
28 transportation shall not exceed the actual costs of providing transportation
29 for the pupils served, as prescribed in the uniform system of financial
30 records. The school district of attendance shall provide the school district
31 of residence with the final tuition charge for the current year and with an
32 estimate of the budget year's tuition charge by May 1 of the current year.
33 The school district of residence shall pay at least one-fourth of the total
34 amount of the estimated tuition by September 30, December 31 and March 31,
35 and it shall pay the remaining amount it owes after adjustments are made by
36 June 30.

37 3. Tuition of pupils as provided in section 15-825, subsection D shall
38 not exceed the excess costs for group B children with disabilities in the
39 cost study prescribed in section 15-236 minus the amount generated by the
40 equalization base as determined in section 15-971, subsection A for these
41 pupils. A school district may submit to the superintendent of public
42 instruction a record of actual excess costs to educate a group B child with
43 a disability if the costs are higher than the calculated excess costs or if
44 a pupil has been placed in a private school for special education services.
45 The superintendent shall determine if the additional costs will be paid, and

1 if the costs are paid, whether the additional costs will be paid by the state
2 or the resident district.

3 4. The amount received representing contributions to capital outlay
4 as provided in subsection G, paragraph 2- 1, SUBDIVISION (b) of this section
5 shall be applied to the capital outlay fund or the debt service fund of the
6 school district.

7 5. The amount received representing contributions to debt service as
8 provided in subsection G, ~~paragraphs 3 and 4~~ PARAGRAPH 1, SUBDIVISIONS (c)
9 AND (d) of this section shall be applied to the debt service fund of the
10 school district if there is one. Otherwise such amount shall be credited to
11 the capital outlay fund of the school district.

12 F. A school district may submit to the superintendent of public
13 instruction a record of actual costs paid by the school district to educate
14 a pupil who qualifies for a certificate of educational convenience under
15 section 15-825, subsection B. If the actual costs for that pupil exceed the
16 costs per student count computed pursuant to subsection G of this section,
17 the superintendent of public instruction shall reimburse the school district
18 for these additional costs subject to legislative appropriation.

19 G. For the purposes of this section:

20 1. "Costs per student count" means the sum of the following for the
21 common or high school portion of the school district attended, whichever is
22 applicable to the pupil involved, as prescribed in the uniform system of
23 financial records:

24 (a) The actual school district expenditures for the regular education
25 program subsection of the maintenance and operation section of the budget
26 divided by the school district's student count for the common or high school
27 portion of the school district, whichever is applicable.

28 (b) The actual school district expenditures for the capital outlay
29 section of the budget as provided in sections 15-903 and 15-905 excluding
30 expenditures for transportation equipment and buildings if no transportation
31 is provided and expenditures for the acquisition of building sites, divided
32 by the school district's student count for the common or high school portion
33 of the school district, whichever is applicable.

34 (c) The actual school district expenditures for debt service divided
35 by the school district's student count for the common or high school portion
36 of the school district, whichever is applicable.

37 (d) The result obtained in subdivision (c) of this paragraph shall not
38 exceed:

39 (i) Seven hundred fifty dollars if the pupil's school district of
40 residence pays tuition for seven hundred fifty or fewer pupils to other
41 school districts or one hundred fifty dollars if the state pays tuition for
42 seven hundred fifty or fewer pupils to a school district pursuant to section
43 15-825, subsection D or section 15-976.

44 (ii) Eight hundred dollars if the pupil's school district of residence
45 pays tuition for one thousand or fewer, but more than seven hundred fifty,

1 pupils to other school districts or two hundred dollars if the state pays
2 tuition for one thousand or fewer, but more than seven hundred fifty, pupils
3 to a school district pursuant to section 15-825, subsection D or section
4 15-976.

5 (iii) The actual cost per student count if either the pupil's school
6 district of residence or the state pays tuition for more than one thousand
7 pupils to other school districts.

8 2. "Legal custody" means:

9 (a) Custody exercised by the natural or adoptive parents with whom a
10 pupil resides.

11 (b) Custody granted by order of a court of competent jurisdiction to
12 a person or persons with whom a pupil resides unless the primary purpose for
13 which custody was requested was to circumvent the payment of tuition as
14 provided in this section.

15 Sec. 2. Section 15-2041, Arizona Revised Statutes, is amended to read:
16 15-2041. New school facilities fund; capital plan

17 A. A new school facilities fund is established consisting of monies
18 appropriated by the legislature and monies credited to the fund pursuant to
19 section 37-221 or 42-5030.01. The school facilities board shall administer
20 the fund and distribute monies, as a continuing appropriation, to school
21 districts for the purpose of constructing new school facilities. On June 30
22 of each fiscal year, any unobligated contract monies in the new school
23 facilities fund shall be transferred to the capital reserve fund established
24 by section 15-2003.

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

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

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

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

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

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

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

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

43 5. IF A SCHOOL DISTRICT PAYS TUITION FOR ALL OR A PORTION OF THE
44 SCHOOL DISTRICT'S HIGH SCHOOL PUPILS TO ANOTHER SCHOOL DISTRICT, THE CAPITAL
45 PLAN SHALL INDICATE THE NUMBER OF PUPILS FOR WHICH THE DISTRICT PAYS TUITION

1 TO ANOTHER DISTRICT. IF A SCHOOL DISTRICT ACCEPTS PUPILS FROM ANOTHER SCHOOL
2 DISTRICT PURSUANT TO SECTION 15-824, SUBSECTION A, THE SCHOOL DISTRICT SHALL
3 INDICATE THE PROJECTIONS FOR THIS POPULATION SEPARATELY. THIS PARAGRAPH DOES
4 NOT APPLY TO A SMALL ISOLATED SCHOOL DISTRICT AS DEFINED IN SECTION 15-901.

5 C. If the capital plan indicates a need for a new school or an
6 addition to an existing school within the next four years or a need for land
7 within the next ten years, the school district shall submit its plan to the
8 school facilities board and shall request monies from the new school
9 facilities fund for the new construction or land. Monies provided for land
10 shall be in addition to any monies provided pursuant to subsection D of this
11 section.

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

14 1. The school facilities board shall review and evaluate the
15 enrollment projections and either approve the projections as submitted or
16 revise the projections. In determining new construction requirements, the
17 school facilities board shall determine the net new growth of pupils that
18 will require additional square footage that exceeds the building adequacy
19 standards prescribed in section 15-2011. IF THE PROJECTED GROWTH AND THE
20 EXISTING NUMBER OF PUPILS EXCEEDS THREE HUNDRED FIFTY PUPILS WHO ARE SERVED
21 IN A SCHOOL DISTRICT OTHER THAN THE PUPIL'S RESIDENT SCHOOL DISTRICT, THE
22 SCHOOL FACILITIES BOARD, THE RECEIVING SCHOOL DISTRICT AND THE RESIDENT
23 SCHOOL DISTRICT SHALL DEVELOP A CAPITAL FACILITIES PLAN ON HOW TO BEST SERVE
24 THOSE PUPILS. A SMALL ISOLATED SCHOOL DISTRICT AS DEFINED IN SECTION 15-901
25 IS NOT REQUIRED TO DEVELOP A CAPITAL FACILITIES PLAN PURSUANT TO THIS
26 PARAGRAPH.

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

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

39 (a) Determine the number of pupils requiring additional square footage
40 to meet building adequacy standards. This amount for elementary schools
41 shall not be less than the number of new pupils for whom space will be needed
42 in the next year and shall not exceed the number of new pupils for whom space
43 will be needed in the next five years. This amount for middle and high
44 schools shall not be less than the number of new pupils for whom space will

1 be needed in the next four years and shall not exceed the number of new
2 pupils for whom space will be needed in the next eight years.

3 (b) Multiply the number of pupils determined in subdivision (a) of
4 this paragraph by the square footage per pupil. The square footage per pupil
5 is ninety square feet per pupil for preschool children with disabilities,
6 kindergarten programs and grades one through six, one hundred square feet for
7 grades seven and eight, one hundred thirty-four square feet for a school
8 district that provides instruction in grades nine through twelve for fewer
9 than one thousand eight hundred pupils and one hundred twenty-five square
10 feet for a school district that provides instruction in grades nine through
11 twelve for at least one thousand eight hundred pupils. The total number of
12 pupils in grades nine through twelve in the district shall determine the
13 square footage factor to use for net new pupils. The school facilities board
14 may modify the square footage requirements prescribed in this subdivision for
15 particular schools based on any of the following factors:

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

18 (ii) Geographic factors.

19 (iii) Grade configurations other than those prescribed in this
20 subdivision.

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

23 (c) Multiply the product obtained in subdivision (b) of this paragraph
24 by the cost per square foot. The cost per square foot is ninety dollars for
25 preschool children with disabilities, kindergarten programs and grades one
26 through six, ninety-five dollars for grades seven and eight and one hundred
27 ten dollars for grades nine through twelve. The cost per square foot shall
28 be adjusted annually for construction market considerations based on an index
29 identified or developed by the joint legislative budget committee as
30 necessary but not less than once each year. The school facilities board
31 shall multiply the cost per square foot by 1.05 for any school district
32 located in a rural area. The school facilities board may modify the base
33 cost per square foot prescribed in this subdivision for particular schools
34 based on geographic conditions or site conditions. For purposes of this
35 subdivision, "rural area" means an area outside a thirty-five mile radius of
36 a boundary of a municipality with a population of more than fifty thousand
37 persons according to the most recent United States decennial census.

38 (d) Once the school district governing board obtains approval from the
39 school facilities board for new facility construction funds, additional
40 portable or modular square footage created for the express purpose of
41 providing temporary space for pupils until the completion of the new facility
42 shall not be included by the school facilities board for the purpose of new
43 construction funding calculations. On completion of the new facility
44 construction project, if the portable or modular facilities continue in use,
45 then the portable or modular facilities shall be included as prescribed by

1 this chapter, unless the school facilities board approves their continued use
2 for the purpose of providing temporary space for pupils until the completion
3 of the next new facility that has been approved for funding from the new
4 school facilities fund.

5 E. Monies for architectural and engineering fees shall be distributed
6 on the completion of the analysis by the school facilities board of the
7 school district's request. After receiving monies pursuant to this
8 subsection, the school district shall submit a design development plan for
9 the school or addition to the school facilities board before any monies for
10 construction are distributed. If the school district's request meets the
11 building adequacy standards, the school facilities board may review and
12 comment on the district's plan with respect to the efficiency and
13 effectiveness of the plan in meeting state square footage and facility
14 standards before distributing the remainder of the monies. The school
15 facilities board may decline to fund the project if the square footage is no
16 longer required due to revised enrollment projections.

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

35 G. In addition to distributions to school districts based on pupil
36 growth projections, a school district may submit an application to the school
37 facilities board for monies from the new school facilities fund if one or
38 more school buildings have outlived their useful life. If the school
39 facilities board determines that the school district needs to build a new
40 school building for these reasons, the school facilities board shall remove
41 the square footage computations that represent the building from the
42 computation of the school district's total square footage for purposes of
43 this section. If the square footage recomputation reflects that the school
44 district no longer meets building adequacy standards, the school district
45 qualifies for a distribution of monies from the new school construction

1 formula in an amount determined pursuant to subsection D of this
2 section. Buildings removed from a school district's total square footage
3 pursuant to this subsection shall not be included in the computation of
4 monies from the building renewal fund established by section 15-2031. The
5 school facilities board may modify the base cost per square foot prescribed
6 in this subsection under extraordinary circumstances for geographic factors
7 or site conditions.

8 H. School districts that receive monies from the new school facilities
9 fund shall establish a district new school facilities fund and shall use the
10 monies in the district new school facilities fund only for the purposes
11 prescribed in this section. By October 15 of each year, each school district
12 shall report to the school facilities board the projects funded at each
13 school in the previous fiscal year with monies from the district new school
14 facilities fund and shall provide an accounting of the monies remaining in
15 the new school facilities fund at the end of the previous fiscal year.

16 I. If a school district has surplus monies received from the new
17 schools SCHOOL facilities fund, the school district may use the surplus
18 monies for any other capital purpose.

19 J. The board's consideration of any application filed after July 1,
20 2001 for monies to fund the construction of new school facilities proposed
21 to be located in territory in the vicinity of a military airport as defined
22 in section 28-8461 shall include, if after notice is transmitted to the
23 military airport pursuant to section 15-2002 and before the public hearing
24 the military airport provides comments and analysis concerning compatibility
25 of the proposed school facilities with the high noise or accident potential
26 generated by military airport operations that may have an adverse effect on
27 public health and safety, consideration and analysis of the comments and
28 analysis provided by the military airport before making a final
29 determination.

30 Sec. 3. Retroactivity

31 This act is effective retroactively to from and after March 1, 2002.

APPROVED BY THE GOVERNOR MAY 22, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 23, 2002.



Passed the House April 3, 2002,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

[Signature]
Speaker of the House

Norman L. Moore
Chief Clerk of the House

Passed the Senate May 7, 2002

by the following vote: 21 Ayes,

6 Nays, 3 Not Voting

[Signature]
President of the Senate

Charmine Bellinger
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

 day of , 20 ,

at o'clock M.

Secretary to the Governor

Approved this day of

 , 20 ,

at o'clock M.

Governor of Arizona

H.B. 2096

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this day of , 20 ,

at o'clock M.

Secretary of State

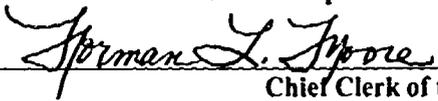
HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 16, 2002,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting


Speaker of the House

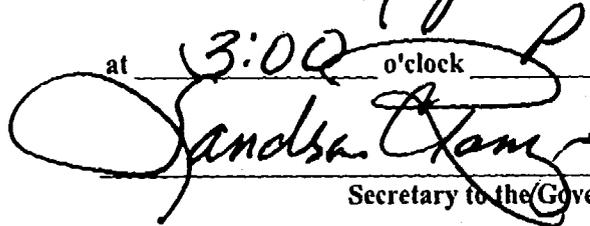

Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

16 day of May, 2002

at 3:00 o'clock P M.


Secretary to the Governor

Approved this 22nd day of

May, 2002,

at 4:40 o'clock P M.

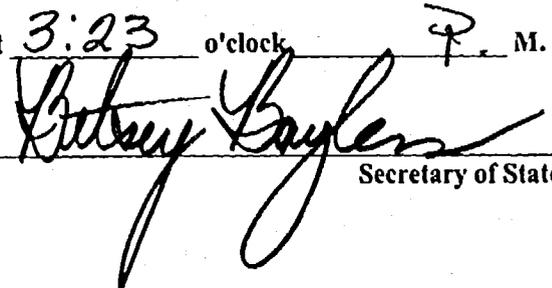

Governor of Arizona

H.B. 2096

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 23 day of May, 2002

at 3:23 o'clock P M.


Secretary of State