

State of Arizona  
Senate  
Forty-seventh Legislature  
Second Regular Session  
2006

# SENATE BILL 1040

AN ACT

AMENDING SECTIONS 15-460, 15-816.01, 15-824 AND 15-825, ARIZONA REVISED STATUTES; RELATING TO SCHOOL DISTRICT BOUNDARIES AND TUITION AGREEMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-460, Arizona Revised Statutes, is amended to  
3 read:

4 15-460. Change of school district boundaries

5 A. On request of the governing board of a school district or on  
6 receipt of a petition bearing the signatures of ten per cent or more of the  
7 qualified electors residing in the school district to change the boundaries  
8 of the school district in such a manner as to include adjacent unorganized  
9 territory, setting forth the boundaries desired and the reasons for such  
10 change, the county school superintendent shall submit the question of  
11 including the unorganized territory within the existing school district to  
12 the qualified electors of the new proposed school district. The election  
13 shall be held as provided in section 15-459, except that a majority of the  
14 qualified electors voting on the question in the unorganized territory and a  
15 majority of the qualified electors voting on the question in the existing  
16 school district must approve the change. If approved, the change is  
17 effective from and after June 30 next following the election.

18 B. When ten per cent or more of the qualified electors residing in a  
19 school district desire that the boundaries of the school district be  
20 diminished, they may present a petition to the county school superintendent  
21 setting forth the change of boundaries desired and the reasons for such  
22 change. The county school superintendent shall prepare and transmit to the  
23 governing board of the school district proposed to be diminished a report  
24 providing specific information regarding the future availability of  
25 educational programs in the area of the district to be detached and in the  
26 area which will constitute the remaining district, availability of pupil  
27 transportation services and the financial impact on taxpayers. The governing  
28 board shall mail or distribute the report to all households located in the  
29 school district. The county school superintendent shall submit the question  
30 of diminishing the school district boundaries to the qualified electors of  
31 the school district. The election shall be held as provided in section  
32 15-459. A majority of the qualified electors voting on the question in the  
33 territory to remain in the existing school district and a majority of the  
34 qualified electors voting on the question in the territory to be excluded  
35 must approve the change. If approved, the change is effective from and after  
36 June 30 next following the election.

37 C. Notwithstanding subsections A and B of this section and this  
38 chapter, the governing boards of two adjacent common, union or unified school  
39 districts may authorize minor boundary adjustments to both school districts  
40 and the governing boards of a unified school district and adjacent common and  
41 union high school districts may authorize minor boundary adjustments to the  
42 three school districts if all of the following are true:

43 1. The school districts authorizing the boundary adjustment have not  
44 previously made more than ~~one~~ TWO minor boundary ~~adjustment~~ ADJUSTMENTS PER  
45 ADJACENT SCHOOL DISTRICT pursuant to this subsection.

1           2. A majority of the electors within the geographic boundaries of a  
2 portion of a school district, as specified in the petition, presents a  
3 petition to the governing boards of the district or districts in which the  
4 petitioners currently reside and the district to which the petitioners desire  
5 to be annexed. If there are no electors within the geographic boundaries of  
6 the territory to be annexed, a majority of the property owners in the  
7 territory may submit the petition. The petition shall set forth the  
8 boundaries of the portion of the district to be annexed.

9           3. A majority of the members of the governing boards of each district  
10 approves the minor boundary adjustment.

11           4. The boundary adjustment would result in the transfer of no more  
12 than one and one-half per cent of the student count of the district from  
13 which the pupils will transfer.

14           5. The boundary adjustment would not result in the transfer of any  
15 school buildings, equipment or furnishings from one school district to  
16 another school district.

17           6. No member of the governing board of the school district to be  
18 diminished is a resident of the territory that is being transferred to the  
19 adjacent school district.

20           7. The governing boards of the school districts have agreed on a means  
21 to satisfy any liabilities.

22           D. If a majority of the members of the governing boards of school  
23 districts to which petitions were presented pursuant to subsection C of this  
24 section approves the petitions, the petitions shall be transmitted with the  
25 endorsements of the governing boards to the county school  
26 superintendent. The county school superintendent, if no petition opposing  
27 annexation signed by a majority of the school electors representing either  
28 the resident district or the district to which annexation is proposed is  
29 received within fifteen days after the transmittal of the petition requesting  
30 annexation, shall make the records of boundaries conform to the petition for  
31 annexation and notify the boards of supervisors and the county assessor of  
32 the boundary change. The change is effective from and after June 30 next  
33 following the notification of the boards of supervisors.

34           E. Notwithstanding subsection A of this section, if the qualified  
35 electors residing in a school district have previously voted to accept  
36 unorganized territory into the district's boundaries in two consecutive  
37 elections called for this purpose, the school district governing board may  
38 annex any election precinct within the unorganized territory that is  
39 contiguous to the school district if both of the following conditions exist:

40           1. At least one hundred fifty pupils who reside in the election  
41 precinct are enrolled in one or more school districts in the county.

42           2. The qualified electors of the precinct have previously voted in  
43 favor of the annexation.

1           Sec. 2. Section 15-816.01, Arizona Revised Statutes, is amended to  
2 read:

3           15-816.01. Enrollment policies

4           A. School district governing boards shall establish policies and shall  
5 implement an open enrollment policy without charging tuition. Tuition may be  
6 charged to nonresident pupils only ~~when~~ IF the tuition is authorized under  
7 section 15-764, subsection C, section 15-797, subsection C, section 15-823,  
8 subsection A, section 15-824, subsection A or section 15-825 OR IF TWO SCHOOL  
9 DISTRICTS HAVE ENTERED INTO A VOLUNTARY AGREEMENT FOR THE PAYMENT OF TUITION  
10 FOR CERTAIN PUPILS. These policies shall include admission criteria,  
11 application procedures and transportation provisions. A copy of the district  
12 policies for open enrollment shall be filed with the department of education.

13           B. The governing board of the district educating the pupil may provide  
14 transportation limited to no more than twenty miles each way to and from the  
15 school of attendance or to and from a pickup point on a regular  
16 transportation route or for the total miles traveled each day to an adjacent  
17 district for eligible nonresident pupils who meet the economic eligibility  
18 requirements established under the national school lunch and child nutrition  
19 acts (42 United States Code sections 1751 through 1785) for free or reduced  
20 price lunches.

21           C. The governing board of the district educating the pupil shall  
22 provide transportation limited to no more than twenty miles each way to and  
23 from the school of attendance or to and from a pickup point on a regular  
24 transportation route or for the total miles traveled each day to an adjacent  
25 district for nonresident pupils with disabilities whose individualized  
26 education program specifies that transportation is necessary for fulfillment  
27 of the program.

28           Sec. 3. Section 15-824, Arizona Revised Statutes, is amended to read:

29           15-824. Admission of pupils of other school districts; homeless  
30           children; tuition charges; definitions

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

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

35           2. For three hundred fifty or fewer pupils, to a high school without  
36 the presentation of such certificate, if the pupil is a resident of a common  
37 school district within this state which is not within a high school district  
38 and which does not offer instruction in the pupil's grade. The three hundred  
39 fifty or fewer pupil limitation prescribed in this paragraph does not apply  
40 to a small isolated school district as defined in section 15-901. Tuition  
41 shall be charged as prescribed in subsection E of this section for each pupil  
42 admitted pursuant to this paragraph, each pupil from a school district that  
43 provides only financing for pupils who are instructed by another school  
44 district and each pupil from a unified district that does not offer  
45 instruction in the pupil's grade. The school membership of such pupils is

1 deemed, for the purpose of determining student count and for apportionment of  
2 state aid, to be enrollment in the school district of the pupil's residence.

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

6 C. The current residence of a homeless pupil who does not reside with  
7 the person having legal custody of the pupil is considered to be the  
8 residence of the homeless pupil if the person having legal custody of the  
9 pupil is a resident of the United States. For the purposes of this  
10 subsection, "homeless pupil" means a pupil who has a primary residence that  
11 is:

12 1. A supervised publicly or privately operated shelter designed to  
13 provide temporary living accommodations.

14 2. An institution that provides a temporary residence for individuals  
15 intended to be institutionalized.

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

18 D. The school enrollment of a pupil who is a resident of this state or  
19 who is admitted to a school district under section 15-823, subsection B, C or  
20 E is deemed, for the purpose of determining student count and for  
21 apportionment of state aid, to be enrollment in the school district of actual  
22 attendance, except as provided in section 15-825, subsection A, paragraph 1  
23 and subsection A, paragraph 2 of this section and except for pupils for whom  
24 the superintendent of public instruction is charged tuition pursuant to  
25 section 15-825, subsections B and D and section 15-976 or for whom another  
26 school district is charged tuition as provided in subsections E and G of this  
27 section.

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

31 1. The number of high school pupils for which tuition may be charged  
32 to a common school district which is not within a high school district is  
33 equal to the average daily membership in the district of attendance from the  
34 common school district for the prior fiscal year, except that for the first  
35 year in which a common school district not within a high school district  
36 stops teaching high school subjects, the district of attendance may charge  
37 tuition for the number of pupils which is equal to the average daily  
38 membership for high school pupils in the common school district for the prior  
39 fiscal year. This number may be adjusted if the common school district  
40 increases its revenue control limit and district support level or recomputes  
41 its revenue control limit as provided in section 15-948.

42 2. The tuition for pupils attending school in a school district other  
43 than that of their residence, except pupils provided for by section 15-825,  
44 subsections B and D and any pupils included in the definition of child with a  
45 disability in section 15-761, shall not exceed the cost per student count of

1 the school district attended, as determined for the current school year.  
2 Tuition for pupils included in the definition of child with a disability in  
3 section 15-761 shall not exceed the actual cost of the school attended for  
4 each pupil as determined for the current year. The school district of  
5 attendance shall not include in the cost per student count a charge for  
6 transportation if no transportation is provided, and the charge for  
7 transportation shall not exceed the actual costs of providing transportation  
8 for the pupils served, as prescribed in the uniform system of financial  
9 records. The school district of attendance shall provide the school district  
10 of residence with the final tuition charge for the current year and with an  
11 estimate of the budget year's tuition charge by May 1 of the current year.  
12 The school district of residence shall pay at least one-fourth of the total  
13 amount of the estimated tuition by September 30, December 31 and March 31,  
14 and it shall pay the remaining amount it owes after adjustments are made by  
15 June 30.

16 3. NOTWITHSTANDING PARAGRAPH 2 OF THIS SUBSECTION AND SUBSECTION G OF  
17 THIS SECTION, IF TWO SCHOOL DISTRICTS ENTER INTO A VOLUNTARY AGREEMENT FOR  
18 THE PAYMENT OF TUITION, THE AGREEMENT SHALL SPECIFY THE METHOD FOR COMPUTING  
19 THE TUITION AMOUNT AND THE TIMING OF THE PAYMENTS.

20 ~~3-~~ 4. Tuition of pupils as provided in section 15-825, subsection D  
21 shall not exceed the excess costs for group B children with disabilities in  
22 the cost study prescribed in section 15-236 minus the amount generated by the  
23 equalization base as determined in section 15-971, subsection A for these  
24 pupils. A school district may submit to the superintendent of public  
25 instruction a record of actual excess costs to educate a group B child with a  
26 disability if the costs are higher than the calculated excess costs or if a  
27 pupil has been placed in a private school for special education services. The  
28 superintendent shall determine if the additional costs will be paid, and if  
29 the costs are paid, whether the additional costs will be paid by the state or  
30 the resident district.

31 ~~4-~~ 5. The amount received representing contributions to capital  
32 outlay as provided in subsection G, paragraph 1, subdivision (b) of this  
33 section shall be applied to the capital outlay fund or the debt service fund  
34 of the school district.

35 ~~5-~~ 6. The amount received representing contributions to debt service  
36 as provided in subsection G, paragraph 1, subdivisions (c) and (d) of this  
37 section shall be applied to the debt service fund of the school district if  
38 there is one. Otherwise such amount shall be credited to the capital outlay  
39 fund of the school district.

40 F. A school district may submit to the superintendent of public  
41 instruction a record of actual costs paid by the school district to educate a  
42 pupil who qualifies for a certificate of educational convenience under  
43 section 15-825, subsection B. If the actual costs for that pupil exceed the  
44 costs per student count computed pursuant to subsection G of this section,

1 the superintendent of public instruction shall reimburse the school district  
2 for these additional costs subject to legislative appropriation.

3 G. For the purposes of this section:

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

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

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

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

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

23 (i) Seven hundred fifty dollars if the pupil's school district of  
24 residence pays tuition for seven hundred fifty or fewer pupils to other  
25 school districts or one hundred fifty dollars if the state pays tuition for  
26 seven hundred fifty or fewer pupils to a school district pursuant to section  
27 15-825, subsection D or section 15-976.

28 (ii) Eight hundred dollars if the pupil's school district of residence  
29 pays tuition for one thousand or fewer, but more than seven hundred fifty,  
30 pupils to other school districts or two hundred dollars if the state pays  
31 tuition for one thousand or fewer, but more than seven hundred fifty, pupils  
32 to a school district pursuant to section 15-825, subsection D or section  
33 15-976.

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

37 2. "Legal custody" means:

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

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

1           Sec. 4. Section 15-825, Arizona Revised Statutes, is amended to read:  
2           15-825. Certificate of educational convenience: issuance:  
3                 effect on enrollment records

4           A. A pupil who is precluded by distance or lack of adequate  
5 transportation facilities from attending a school in the school district or  
6 county of the pupil's residence or who resides in unorganized territory may  
7 apply to the county school superintendent for a certificate of educational  
8 convenience. If it appears to the county school superintendent that it is  
9 not feasible for the pupil to attend a school in the school district or  
10 county of residence, the county school superintendent shall issue a  
11 certificate authorizing the pupil to attend a school in an adjoining school  
12 district or county, whether within or without this state. If a certificate of  
13 educational convenience is issued as provided in this subsection, the school  
14 enrollment of a pupil is as follows:

15           1. The school enrollment of a pupil who is precluded from attending a  
16 school in this state and who must attend school in another state, when  
17 certified to the county school superintendent by the official in charge of  
18 the school attended, is deemed for the purpose of determining student count  
19 to be enrollment in the school of the county or school district of the  
20 student's residence.

21           2. The school enrollment of a pupil from unorganized territory or from  
22 another school district is deemed for the purpose of determining student  
23 count to be enrollment in the school district of actual attendance.

24           B. The county school superintendent of any county in which a pupil is  
25 placed as described in this subsection shall issue a certificate of  
26 educational convenience for the pupil to attend school in the school district  
27 or adjoining school district to that in which the pupil is placed by an  
28 agency of this state or a state or federal court of competent jurisdiction in  
29 one of the following:

30           1. A state rehabilitation or corrective institution.

31           2. A foster home or child care agency or institution which is licensed  
32 and supervised by the department of economic security or the department of  
33 health services.

34           3. A residential facility operated or supported by the department of  
35 economic security or the department of health services.

36           4. Under the supervision of the department of juvenile corrections in  
37 a residence pursuant to the interstate compact on juveniles. Notwithstanding  
38 section 41-1959, the placing agency, department or institution shall provide  
39 the school district of attendance with the necessary information to enable  
40 the district to obtain a certificate of educational convenience pursuant to  
41 this subsection.

42           C. A pupil attending school under a certificate of educational  
43 convenience issued pursuant to subsection B of this section is deemed for the  
44 purpose of determining student count to be enrolled in the school district of  
45 attendance. The county school superintendent of any county shall not issue a

1 certificate of educational convenience as provided in subsection B of this  
2 section if the pupil is placed in the same district of ~~his~~ THE PUPIL'S  
3 parents' or legal guardians' residence or if the pupil is placed without a  
4 court order and ~~his~~ THE PUPIL'S parents or legal guardians are not residents  
5 of this state.

6 D. If a certificate of educational convenience is issued as provided  
7 in subsection B of this section, or for a pupil whose parent or guardian is  
8 employed and domiciled by a state institution as prescribed by section  
9 15-976, tuition may be charged as follows:

10 1. For group B children with disabilities:

11 (a) Who are from unorganized territory, whose parent or guardian is  
12 employed by a state institution as prescribed by section 15-976 or who have  
13 been issued a certificate of educational convenience pursuant to subsection B  
14 of this section, the superintendent of public instruction shall reimburse the  
15 district of attendance for the excess costs as provided in section 15-824,  
16 subsection E, paragraph ~~3~~ 4.

17 (b) Who are from another school district, the school district of  
18 residence shall reimburse the district of attendance for the excess costs as  
19 provided in section 15-824, subsection E, paragraph ~~3~~ 4.

20 2. For pupils who are precluded from attending a school in this state  
21 and who must attend a school in another state:

22 (a) If the pupil resides in a school district in this state, the  
23 district of residence shall pay the amount charged by the district of  
24 attendance.

25 (b) If the pupil resides in unorganized territory, the superintendent  
26 of public instruction shall pay the amount charged by the district of  
27 attendance.

28 E. The county school superintendent who issues a certificate of  
29 educational convenience shall notify the superintendent of public instruction  
30 of the issuance of the certificate. The superintendent of public instruction  
31 shall draw a warrant in favor of the school district of actual attendance for  
32 the amount charged, whether for common or high school attendance, as provided  
33 in section 15-824.

34 F. The total amount of state monies that may be spent in any fiscal  
35 year by the superintendent of public instruction for certificates of  
36 educational convenience shall not exceed the amount appropriated or  
37 authorized by section 35-173 for that purpose. This section shall not be  
38 construed to impose a duty on an officer, agent or employee of this state to  
39 discharge a responsibility or to create any right in a person or group if the  
40 discharge or right would require an expenditure of state monies in excess of  
41 the expenditure authorized by legislative appropriation for that specific  
42 purpose.