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REFERENCE TITLE: special education; scope; gifted pupils

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

HB 2435

Introduced by
Representative Anderson

AN ACT

AMENDING SECTIONS 15-203, 15-761, 15-764 AND 15-769, ARIZONA REVISED STATUTES; REPEALING SECTIONS 15-770 AND 15-772, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4.1; AMENDING SECTION 15-816.01, ARIZONA REVISED STATUTES; RELATING TO SPECIAL EDUCATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 15-203, Arizona Revised Statutes, is amended to
3 read:
4 15-203. Powers and duties
5 A. The state board of education shall:
6 1. Exercise general supervision over and regulate the conduct of the
7 public school system.
8 2. Keep a record of its proceedings.
9 3. Make rules for its own government.
10 4. Determine the policy and work undertaken by it.
11 5. Appoint its employees, on the recommendation of the superintendent
12 of public instruction.
13 6. Prescribe the duties of its employees if not prescribed by statute.
14 7. Delegate to the superintendent of public instruction the execution
15 of board policies.
16 8. Recommend to the legislature changes or additions to the statutes
17 pertaining to schools.
18 9. Prepare, publish and distribute reports concerning the educational
19 welfare of this state.
20 10. Prepare a budget for expenditures necessary for proper maintenance
21 of the board and accomplishment of its purposes and present the budget to the
22 legislature.
23 11. Aid in the enforcement of laws relating to schools.
24 12. Prescribe a minimum course of study in the common schools, minimum
25 competency requirements for the promotion of pupils from the third grade and
26 minimum course of study and competency requirements for the promotion of
27 pupils from the eighth grade. The state board of education shall prepare a
28 fiscal impact statement of any proposed changes to the minimum course of
29 study or competency requirements and, on completion, shall send a copy to the
30 director of the joint legislative budget committee and the executive director
31 of the school facilities board. The state board of education shall not adopt
32 any changes in the minimum course of study or competency requirements in
33 effect on July 1, 1998 that will have a fiscal impact on school capital
34 costs.
35 13. Prescribe minimum course of study and competency requirements for
36 the graduation of pupils from high school. The state board of education
37 shall prepare a fiscal impact statement of any proposed changes to the
38 minimum course of study or competency requirements and, on completion, shall
39 send a copy to the director of the joint legislative budget committee and the
40 executive director of the school facilities board. The state board of
41 education shall not adopt any changes in the minimum course of study or
42 competency requirements in effect on July 1, 1998 that will have a fiscal
43 impact on school capital costs.

1 14. Supervise and control the certification of persons engaged in
2 instructional work directly as any classroom, laboratory or other teacher or
3 indirectly as a supervisory teacher, speech therapist, principal or
4 superintendent in a school district, including school district preschool
5 programs, or any other educational institution below the community college,
6 college or university level, and prescribe rules for certification, including
7 rules for certification of teachers who have teaching experience and who are
8 trained in other states, which are not unnecessarily restrictive and are
9 substantially similar to the rules prescribed for the certification of
10 teachers trained in this state. Until July 1, 2006, the rules shall require
11 applicants for all certificates for common school instruction to complete a
12 minimum of forty-five classroom hours or three college level credit hours, or
13 the equivalent, of training in research based systematic phonics instruction
14 from a public or private provider. The rules shall not require a teacher to
15 obtain a master's degree or to take any additional graduate courses as a
16 condition of certification or recertification. The rules shall allow a
17 general equivalency diploma to be substituted for a high school diploma in
18 the certification of emergency substitute teachers.

19 15. Adopt a list of approved tests for determining special education
20 assistance to gifted ~~students~~ PUPILS as defined in ~~section 15-761~~ and as
21 provided in ~~section 15-764~~ CHAPTER 7, ARTICLE 4.1 OF THIS TITLE. The adopted
22 tests shall provide separate scores for quantitative reasoning, verbal
23 reasoning and nonverbal reasoning and shall be capable of providing reliable
24 and valid scores at the highest ranges of the score distribution.

25 16. Adopt rules governing the methods for the administration of all
26 proficiency examinations.

27 17. Adopt proficiency examinations for its use. The state board of
28 education shall determine the passing score for the proficiency examination.

29 18. Include within its budget the cost of contracting for the purchase,
30 distribution and scoring of the examinations as provided in paragraphs 16 and
31 17 of this subsection.

32 19. Supervise and control the qualifications of professional
33 nonteaching school personnel and prescribe standards relating to
34 qualifications.

35 20. Impose such disciplinary action, including the issuance of a letter
36 of censure, suspension, suspension with conditions or revocation of a
37 certificate, upon a finding of immoral or unprofessional conduct.

38 21. Establish an assessment, data gathering and reporting system for
39 pupil performance as prescribed in chapter 7, article 3 of this title.

40 22. Adopt a rule to promote braille literacy pursuant to section
41 15-214.

42 23. Adopt rules prescribing procedures for the investigation by the
43 department of education of every written complaint alleging that a
44 certificated person has engaged in immoral conduct.

45 24. For purposes of federal law, serve as the state board for
46 vocational and technological education and meet at least four times each year

1 solely to execute the powers and duties of the state board for vocational and
2 technological education.

3 25. Develop and maintain a handbook for use in the schools of this
4 state that provides guidance for the teaching of moral, civic and ethical
5 education. The handbook shall promote existing curriculum frameworks and
6 shall encourage school districts to recognize moral, civic and ethical values
7 within instructional and programmatic educational development programs for
8 the general purpose of instilling character and ethical principles in pupils
9 in kindergarten programs and grades one through twelve.

10 26. Require pupils to recite the following passage from the declaration
11 of independence for pupils in grades four through six at the commencement of
12 the first class of the day in the schools, except that a pupil shall not be
13 required to participate if the pupil or the pupil's parent or guardian
14 objects:

15 We hold these truths to be self-evident, that all men are
16 created equal, that they are endowed by their creator with
17 certain unalienable rights, that among these are life, liberty
18 and the pursuit of happiness. That to secure these rights,
19 governments are instituted among men, deriving their just powers
20 from the consent of the governed. . . .

21 27. Adopt rules that provide for teacher certification
22 reciprocity. The rules shall provide for a one year reciprocal teaching
23 certificate with minimum requirements including valid teacher certification
24 from a state with substantially similar criminal history or teacher
25 fingerprinting requirements and proof of the submission of an application for
26 a fingerprint clearance card pursuant to title 41, chapter 12, article 3.1.

27 28. Adopt rules that will be in effect until December 31, 2006 and that
28 provide for the presentation of an honorary high school diploma to a person
29 who has never obtained a high school diploma and who meets each of the
30 following requirements:

- 31 (a) Is at least sixty-five years of age.
- 32 (b) Currently resides in this state.
- 33 (c) Provides documented evidence from the Arizona department of
34 veterans' services that the person enlisted in the armed forces of the United
35 States before completing high school in a public or private school.
- 36 (d) Was honorably discharged from service with the armed forces of the
37 United States.

38 29. Cooperate with the Arizona-Mexico commission in the governor's
39 office and with researchers at universities in this state to collect data and
40 conduct projects in the United States and Mexico on issues that are within
41 the scope of the duties of the department of education and that relate to
42 quality of life, trade and economic development in this state in a manner
43 that will help the Arizona-Mexico commission to assess and enhance the
44 economic competitiveness of this state and of the Arizona-Mexico region.

1 30. Adopt rules to define and provide guidance to schools as to the
2 activities that would constitute immoral or unprofessional conduct of
3 certificated persons.

4 31. Adopt guidelines to encourage pupils in grades nine, ten, eleven
5 and twelve to volunteer for twenty hours of community service before
6 graduation from high school. A school district that complies with the
7 guidelines adopted pursuant to this paragraph is not liable for damages
8 resulting from a pupil's participation in community service unless the school
9 district is found to have demonstrated wanton or reckless disregard for the
10 safety of the pupil and other participants in community service. For the
11 purposes of this paragraph, "community service" may include service learning.
12 The guidelines shall include the following:

13 (a) A list of the general categories in which community service may be
14 performed.

15 (b) A description of the methods by which community service will be
16 monitored.

17 (c) A consideration of risk assessment for community service projects.

18 (d) Orientation and notification procedures of community service
19 opportunities for pupils entering grade nine including the development of a
20 notification form. The notification form shall be signed by the pupil and
21 the pupil's parent or guardian, except that a pupil shall not be required to
22 participate in community service if the parent or guardian notifies the
23 principal of the pupil's school in writing that the parent or guardian does
24 not wish the pupil to participate in community service.

25 (e) Procedures for a pupil in grade nine to prepare a written proposal
26 that outlines the type of community service that the pupil would like to
27 perform and the goals that the pupil hopes to achieve as a result of
28 community service. The pupil's written proposal shall be reviewed by a
29 faculty advisor, a guidance counselor or any other school employee who is
30 designated as the community service program coordinator for that school. The
31 pupil may alter the written proposal at any time before performing community
32 service.

33 (f) Procedures for a faculty advisor, a guidance counselor or any
34 other school employee who is designated as the community service program
35 coordinator to evaluate and certify the completion of community service
36 performed by pupils.

37 B. The state board of education may:

38 1. Contract.

39 2. Sue and be sued.

40 3. Distribute and score the tests prescribed in chapter 7, article 3
41 of this title.

42 4. Provide for an advisory committee to conduct hearings and
43 screenings to determine whether grounds exist to impose disciplinary action
44 against a certificated person, whether grounds exist to reinstate a revoked
45 or surrendered certificate and whether grounds exist to approve or deny an
46 initial application for certification or a request for renewal of a

1 certificate. The board may delegate its responsibility to conduct hearings
2 and screenings to its advisory committee. Hearings shall be conducted
3 pursuant to title 41, chapter 6, article 6.

4 5. Proceed with the disposal of any complaint requesting disciplinary
5 action or with any disciplinary action against a person holding a certificate
6 as prescribed in subsection A, paragraph 14 of this section after the
7 suspension or expiration of the certificate or surrender of the certificate
8 by the holder.

9 6. Assess costs and reasonable attorney fees against a person who
10 files a frivolous complaint or who files a complaint in bad faith. Costs
11 assessed pursuant to this paragraph shall not exceed the expenses incurred by
12 the state board in the investigation of the complaint.

13 Sec. 2. Section 15-761, Arizona Revised Statutes, is amended to read:

14 15-761. Definitions

15 In this article, unless the context otherwise requires:

16 1. "Autism" means a developmental disability that significantly
17 affects verbal and nonverbal communication and social interaction and that
18 adversely affects educational performance. Characteristics include
19 irregularities and impairments in communication, engagement in repetitive
20 activities and stereotyped movements, resistance to environmental change or
21 change in daily routines and unusual responses to sensory
22 experiences. Autism does not include children with characteristics of
23 emotional disability as defined in this section.

24 2. "Child with a disability":

25 (a) Means a child who is at least three years but less than twenty-two
26 years of age, who has been evaluated pursuant to section 15-766 and found to
27 have at least one of the following disabilities and who, because of the
28 disability, needs special education and related services:

29 ~~(a)~~ (i) Autism.

30 ~~(b)~~ (ii) Emotional disability.

31 ~~(c)~~ (iii) Hearing impairment.

32 ~~(d)~~ (iv) Other health impairments.

33 ~~(e)~~ (v) Specific learning disability.

34 ~~(f)~~ (vi) Mild, moderate or severe mental retardation.

35 ~~(g)~~ (vii) Multiple disabilities.

36 ~~(h)~~ (viii) Multiple disabilities with severe sensory impairment.

37 ~~(i)~~ (ix) Orthopedic impairment.

38 ~~(j)~~ (x) Preschool moderate delay.

39 ~~(k)~~ (xi) Preschool severe delay.

40 ~~(l)~~ (xii) Preschool speech/language delay.

41 ~~(m)~~ (xiii) Speech/language impairment.

42 ~~(n)~~ (xiv) Traumatic brain injury.

43 ~~(o)~~ (xv) Visual impairment.

44 (b) DOES NOT INCLUDE A CHILD WHO HAS DIFFICULTY IN WRITING, SPEAKING
45 OR UNDERSTANDING THE ENGLISH LANGUAGE DUE TO AN ENVIRONMENTAL BACKGROUND IN
46 WHICH A LANGUAGE OTHER THAN ENGLISH IS PRIMARILY OR EXCLUSIVELY USED.

1 3. "Educational disadvantage" means a condition which has limited a
2 child's opportunity for educational experience resulting in a child achieving
3 less than a normal level of learning development.

4 4. "Eligibility for special education" means the pupil must have one
5 of the disabilities contained in paragraph 2 of this section and must also
6 require special education services in order to benefit from an educational
7 program.

8 5. "Emotional disability":

9 (a) Means a condition whereby a child exhibits one or more of the
10 following characteristics over a long period of time and to a marked degree
11 that adversely affects the child's performance in the educational
12 environment:

13 (i) An inability to learn which cannot be explained by intellectual,
14 sensory or health factors.

15 (ii) An inability to build or maintain satisfactory interpersonal
16 relationships with peers and teachers.

17 (iii) Inappropriate types of behavior or feelings under normal
18 circumstances.

19 (iv) A general pervasive mood of unhappiness or depression.

20 (v) A tendency to develop physical symptoms or fears associated with
21 personal or school problems.

22 (b) Includes children who are schizophrenic but does not include
23 children who are socially maladjusted unless they are also determined to have
24 an emotional disability as determined by evaluation as provided in section
25 15-766.

26 6. "Exceptional child" means ~~a gifted child or~~ a child with a
27 disability.

28 7. "Foster parent" means a person who has been designated by a court
29 of competent jurisdiction to serve as the parent of a child with a disability
30 if that person has an ongoing, long-term parental relationship with the
31 child, is willing to make educational decisions for the child and has no
32 personal interest that would conflict with the interests of the child.

33 ~~8. "Gifted child" means a child who is of lawful school age, who due
34 to superior intellect or advanced learning ability, or both, is not afforded
35 an opportunity for otherwise attainable progress and development in regular
36 classroom instruction and who needs special instruction or special ancillary
37 services, or both, to achieve at levels commensurate with the child's
38 intellect and ability.~~

39 ~~9.~~ 8. "Hearing impairment" means a loss of hearing acuity, as
40 determined by evaluation pursuant to section 15-766, which interferes with
41 the child's performance in the educational environment and requires the
42 provision of special education and related services.

43 ~~10.~~ 9. "Home school district" means the school district in which the
44 person resides who has legal custody of the child, as provided in section
45 15-824, subsection B. If the child is a ward of the state and a specific
46 person does not have legal custody of the child, the home school district is

1 the district that the child last attended or, if the child has not previously
2 attended a public school in this state, the school district within which the
3 child currently resides.

4 ~~11.~~ 10. "Individualized education program" means a written statement,
5 as defined in 20 United States Code sections 1401 and 1412, for providing
6 special education services to a child with a disability that includes the
7 pupil's present levels of educational performance, the measurable annual
8 goals and short-term objectives or benchmarks for evaluating progress toward
9 those goals and the specific special education and related services to be
10 provided.

11 ~~12.~~ 11. "Individualized education program team" means a team whose
12 task is to develop an appropriate educational program for the child and that
13 includes:

- 14 (a) The parent.
- 15 (b) At least one of the child's regular education teachers.
- 16 (c) One of the child's special education teachers.
- 17 (d) A representative of the public agency that is qualified to provide
18 or supervise the provision of instruction that is designed specifically for
19 children with disabilities who is knowledgeable about general curriculum and
20 the availability of resources.
- 21 (e) A person who can interpret the instructional implications of
22 evaluation results.
- 23 (f) The child, if appropriate.
- 24 (g) At the discretion of the parent or the public agency, other
25 persons with knowledge or special expertise about the child.

26 ~~13.~~ 12. "Mental retardation" means a significant impairment of general
27 intellectual functioning that exists concurrently with deficits in adaptive
28 behavior and that adversely affects the child's performance in the
29 educational environment.

30 ~~14.~~ 13. "Mild mental retardation" means performance on standard
31 measures of intellectual and adaptive behavior between two and three standard
32 deviations below the mean for children of the same age.

33 ~~15.~~ 14. "Moderate mental retardation" means performance on standard
34 measures of intellectual and adaptive behavior between three and four
35 standard deviations below the mean for children of the same age.

36 ~~16.~~ 15. "Multidisciplinary evaluation team" means a team of persons
37 including individuals described as the individualized education program team
38 and other qualified professionals who shall determine whether a child is
39 eligible for special education.

40 ~~17.~~ 16. "Multiple disabilities" means learning and developmental
41 problems resulting from multiple disabilities as determined by evaluation
42 pursuant to section 15-766 that cannot be provided for adequately in a
43 program designed to meet the needs of children with less complex
44 disabilities. Multiple disabilities include any of the following conditions
45 that require the provision of special education and related services:

- 46 (a) Two or more of the following conditions:

- 1 (i) Hearing impairment.
- 2 (ii) Orthopedic impairment.
- 3 (iii) Moderate mental retardation.
- 4 (iv) Visual impairment.

5 (b) A child with a disability listed in subdivision (a) of this
6 paragraph existing concurrently with a condition of mild mental retardation,
7 emotional disability or specific learning disability.

8 ~~18-~~ 17. "Multiple disabilities with severe sensory impairment" means
9 multiple disabilities that include at least one of the following:

10 (a) Severe visual impairment or severe hearing impairment in
11 combination with another severe disability.

12 (b) Severe visual impairment and severe hearing impairment.

13 ~~19-~~ 18. "Orthopedic impairment" means one or more severe orthopedic
14 impairments and includes those that are caused by congenital anomaly, disease
15 and other causes, such as amputation or cerebral palsy, and that adversely
16 affect a child's performance in the educational environment.

17 ~~20-~~ 19. "Other health impairments" means limited strength, vitality or
18 alertness, including a heightened alertness to environmental stimuli, due to
19 chronic or acute health problems which adversely affect a pupil's educational
20 performance.

21 ~~21-~~ 20. "Out-of-home care" means the placement of a child with a
22 disability outside of the home environment and includes twenty-four hour
23 residential care, group care or foster care on either a full-time or
24 part-time basis.

25 ~~22-~~ 21. "Parent" means the natural or adoptive parent of a child, the
26 legal guardian of a child, a relative with whom a child resides and who is
27 acting as the parent of that child, a surrogate parent who has been appointed
28 for a child pursuant to section 15-763.01 or a foster parent as defined in
29 this section.

30 ~~23-~~ 22. "Preschool child" means a child who is at least three years of
31 age but who has not reached the required age for kindergarten, subject to
32 section 15-771, subsection G.

33 ~~24-~~ 23. "Preschool moderate delay" means performance by a preschool
34 child on a norm-referenced test that measures at least one and one-half, but
35 not more than three, standard deviations below the mean for children of the
36 same chronological age in two or more of the following areas:

- 37 (a) Cognitive development.
- 38 (b) Physical development.
- 39 (c) Communication development.
- 40 (d) Social or emotional development.
- 41 (e) Adaptive development.

42 The results of the norm-referenced measure must be corroborated by
43 information from a comprehensive developmental assessment and from parental
44 input, if available, as measured by a judgment based assessment or
45 survey. If there is a discrepancy between the measures, the evaluation team

1 shall determine eligibility based on a preponderance of the information
2 presented.

3 ~~25-~~ 24. "Preschool severe delay" means performance by a preschool
4 child on a norm-referenced test that measures more than three standard
5 deviations below the mean for children of the same chronological age in one
6 or more of the following areas:

- 7 (a) Cognitive development.
- 8 (b) Physical development.
- 9 (c) Communication development.
- 10 (d) Social or emotional development.
- 11 (e) Adaptive development.

12 The results of the norm-referenced measure must be corroborated by
13 information from a comprehensive developmental assessment and from parental
14 input, if available, as measured by a judgment based assessment or
15 survey. If there is a discrepancy between the measures, the evaluation team
16 shall determine eligibility based on a preponderance of the information
17 presented.

18 ~~26-~~ 25. "Preschool speech/language delay" means performance by a
19 preschool child on a norm-referenced language test that measures at least one
20 and one-half standard deviations below the mean for children of the same
21 chronological age or whose speech, out of context, is unintelligible to a
22 listener who is unfamiliar with the child. Eligibility under this paragraph
23 is appropriate only if a comprehensive developmental assessment or
24 norm-referenced assessment and parental input indicate that the child is not
25 eligible for services under another preschool category. The evaluation team
26 shall determine eligibility based on a preponderance of the information
27 presented.

28 ~~27-~~ 26. "Prior written notice" means notice, as defined in 20 United
29 States Code sections 1414 and 1415, that includes a description of the action
30 proposed or refused by the school, an explanation of why the school proposes
31 or refuses to take the action, a description of any options the school
32 considered and the reasons why those options were rejected, a description of
33 each evaluation procedure, test, record or report the school used as a basis
34 for the proposal or refusal, a description of any other factors that were
35 relevant to the school's proposal or refusal, a full explanation of all of
36 the procedural safeguards available to the parent and a listing of sources
37 for parents to contact to obtain assistance in understanding the notice.

38 ~~28-~~ 27. "Related services" means those supportive services, as defined
39 in 20 United States Code section 1401, that are required to assist a child
40 with a disability who is eligible to receive special education services in
41 order for the child to benefit from special education.

42 ~~29-~~ 28. "Residential special education placement" means the placement
43 of a child with a disability in a public or private residential program, as
44 provided in section 15-765, subsection G, in order to provide necessary
45 special education and related services as specified in the child's
46 individualized education program.

1 ~~30.~~ 29. "Severe mental retardation" means performance on standard
2 measures of intellectual and adaptive behavior measures at least four
3 standard deviations below the mean for children of the same age.

4 ~~31. "Special education" means the adjustment of the environmental~~
5 ~~factors, modification of the course of study and adaptation of teaching~~
6 ~~methods, materials and techniques to provide educationally for those children~~
7 ~~who are gifted or disabled to such an extent that they need specially~~
8 ~~designed instruction in order to receive educational benefit. Difficulty in~~
9 ~~writing, speaking or understanding the English language due to an~~
10 ~~environmental background wherein a language other than English is spoken~~
11 ~~primarily or exclusively shall not be considered a disability that requires~~
12 ~~special education.~~

13 30. "SPECIAL EDUCATION" MEANS SPECIALLY DESIGNED INSTRUCTION THAT MEETS
14 THE UNIQUE NEEDS OF A CHILD WITH A DISABILITY AND THAT IS PROVIDED WITHOUT
15 COST TO THE PARENTS OF THE CHILD.

16 ~~32.~~ 31. "Special education referral" means a written request for an
17 evaluation to determine whether a pupil is eligible for special education
18 services that, for referrals not initiated by a parent, includes
19 documentation of appropriate efforts to educate the pupil in the regular
20 education program.

21 32. "SPECIALLY DESIGNED INSTRUCTION" MEANS ADAPTING THE CONTENT,
22 METHODOLOGY OR DELIVERY OF INSTRUCTION TO ADDRESS THE UNIQUE NEEDS OF A CHILD
23 WITH A DISABILITY AND TO ENSURE THAT CHILD'S ACCESS TO THE GENERAL CURRICULUM
24 AS IDENTIFIED IN THE ACADEMIC STANDARDS ADOPTED BY THE STATE BOARD OF
25 EDUCATION.

26 33. "Specific learning disability":

27 (a) Means a specific learning disorder in one or more of the basic
28 psychological processes involved in understanding or in using language,
29 spoken or written, which may manifest itself in an imperfect ability to
30 listen, think, speak, read, write, spell or do mathematical calculations.

31 (b) Includes such conditions as perceptual disabilities, minimal brain
32 dysfunction, dyslexia and aphasia.

33 (c) Does not include learning problems which are primarily the result
34 of visual, hearing, motor or emotional disabilities, of mental retardation or
35 of environmental, cultural or economic disadvantage.

36 34. "Speech/language impairment" means a communication disorder such as
37 stuttering, impaired articulation, severe disorders of syntax, semantics or
38 vocabulary, or functional language skills, or a voice impairment, as
39 determined by evaluation pursuant to section 15-766, to the extent that it
40 calls attention to itself, interferes with communication or causes a child to
41 be maladjusted.

42 35. "State placing agency" has the same meaning prescribed in section
43 15-1181.

44 36. "Surrogate parent" means a person who has been appointed by the
45 court pursuant to section 15-763.01 in order to represent a child in
46 decisions regarding special education.

1 37. "Traumatic brain injury":
2 (a) Means an acquired injury to the brain that is caused by an
3 external physical force and that results in total or partial functional
4 disability or psychosocial impairment, or both, that adversely affects
5 educational performance.
6 (b) Applies to open or closed head injuries resulting in mild,
7 moderate or severe impairments in one or more areas, including cognition,
8 language, memory, attention, reasoning, abstract thinking, judgment, problem
9 solving, sensory, perceptual and motor abilities, psychosocial behavior,
10 physical functions, information processing and speech.
11 (c) Does not include brain injuries that are congenital or
12 degenerative or brain injuries induced by birth trauma.
13 38. "Visual impairment" means a loss in visual acuity or a loss of
14 visual field, as determined by evaluation pursuant to section 15-766, that
15 interferes with the child's performance in the educational environment and
16 that requires the provision of special education and related services.
17 Sec. 3. Section 15-764, Arizona Revised Statutes, is amended to read:
18 15-764. Powers of the school district governing board or county
19 school superintendent
20 A. The governing board of each school district or the county school
21 superintendent shall:
22 1. Provide special education and related services for all children
23 with disabilities and make such programs and services available to all
24 eligible children with disabilities who are at least three years but less
25 than twenty-two years of age.
26 2. Employ supportive special personnel, which may include a director
27 of special education, for the operation of special school programs and
28 services for exceptional children.
29 3. To the extent appropriate, educate children with disabilities in
30 the regular education classes. Special classes, separate schooling or other
31 removal of children with disabilities from the regular educational
32 environment shall occur only if, and to the extent that, the nature or
33 severity of the disability is such that education in regular classes, even
34 with the use of supplementary aids and services, cannot be accomplished
35 satisfactorily.
36 4. Provide necessary specialized transportation in connection with any
37 educational program, class or service as required by the pupil's
38 individualized education program.
39 5. Establish policy with regard to allowable pupil-teacher ratios and
40 pupil-staff ratios within the school district or county for provision of
41 special education services.
42 B. The special education programs and services established pursuant to
43 this section and section 15-765 shall be conducted only in a school facility
44 which houses regular education classes or in other facilities approved by the
45 division of special education.

1 ~~C. The governing board of each school district shall provide special~~
 2 ~~education to gifted pupils identified as provided in section 15 770. Special~~
 3 ~~education for gifted pupils shall only include expanding academic course~~
 4 ~~offerings and supplemental services as may be required to provide an~~
 5 ~~educational program which is commensurate with the academic abilities and~~
 6 ~~potential of the gifted pupil.~~

7 ~~D. The governing board may modify the course of study and adapt~~
 8 ~~teaching methods, materials and techniques to provide educationally for those~~
 9 ~~pupils who are gifted and possess superior intellect or advanced learning~~
 10 ~~ability, or both, but may have an educational disadvantage resulting from a~~
 11 ~~disability or a difficulty in writing, speaking or understanding the English~~
 12 ~~language due to an environmental background wherein a language other than~~
 13 ~~English is primarily or exclusively spoken. Programs and services provided~~
 14 ~~for gifted pupils as provided in this subsection may not be separate from~~
 15 ~~programs provided for other gifted pupils and may not be provided in~~
 16 ~~facilities separate from the facilities used for other gifted pupils.~~
 17 ~~Identification of gifted pupils as provided in this subsection shall be based~~
 18 ~~on tests or subtests that are demonstrated to be effective with special~~
 19 ~~populations including those with a disability or difficulty with the English~~
 20 ~~language.~~

21 ~~E.~~ C. The governing body of each school district, county or agency
 22 involved in intergovernmental agreements ~~may~~, in cooperation with another
 23 school district or districts, MAY establish special education programs for
 24 exceptional children. When two or more governing bodies determine to carry
 25 out by joint agreement the duties in regard to the special education programs
 26 for exceptional children, the governing bodies ~~shall~~, in accordance with
 27 state law and the rules of the division of special education, SHALL establish
 28 a written agreement for the provision of services. In such agreements, one
 29 governing body of each school district, an agency involved in
 30 intergovernmental agreements or the county shall administer the program in
 31 accordance with the contract agreement between the school districts. Tuition
 32 students may be included in the agreement. The agreement may also include
 33 lease-purchase of facilities for the special education programs for
 34 exceptional children.

35 ~~F.~~ D. The county school superintendent ~~may~~, upon approval of the
 36 division of special education, MAY establish special education programs in
 37 the county accommodation schools under the jurisdiction of the superintendent
 38 or may cooperate with other school districts by agreement to provide such
 39 services for such special programs in accordance with the rules of the
 40 division of special education. At the beginning of each school year the
 41 county school superintendent shall present an estimate of the current year's
 42 accommodation school exceptional programs tuition cost to each school
 43 district that has signed an agreement to use the services of the
 44 accommodation school. The tuition shall be the estimated per capita cost
 45 based on the number of pupils that each school district has estimated will
 46 enroll in the program, and the school district shall pay the tuition

1 quarterly in advance on July 1, October 1, January 1 and April 1. Increases
2 in enrollment during the school year over the school district's estimate of
3 July 1 shall cause the tuition charges to be adjusted accordingly. In the
4 event of overpayment by the school district of residence, the necessary
5 adjustment shall be made at the close of the school year.

6 Sec. 4. Section 15-769, Arizona Revised Statutes, is amended to read:
7 15-769. Appropriation and apportionment; approval of program

8 A. Except as provided in this section ~~and section 15-770, all pupils~~
9 **ANY PUPIL** who ~~are children~~ **IS A CHILD** with a disability ~~as defined in section~~
10 ~~15-761~~ shall be included in the entitlement to state aid computed as provided
11 in chapter 9, article 5 of this title and apportionment made as provided in
12 section 15-973.

13 B. A district may budget using the group B weight for a homebound
14 child with a disability if the educational program meets the minimum
15 standards established by the state board of education. For purposes of
16 computing the base support level, a school district shall not classify a
17 pupil in more than one category of disability.

18 C. The appropriations and apportionment as provided in chapter 9,
19 article 5 of this title shall not be granted to the governing board of a
20 school district or county school superintendent unless the school district or
21 county complies with ~~the provisions of~~ this article and the conditions and
22 standards prescribed by the superintendent of public instruction pursuant to
23 rules of the state board of education for pupil identification and placement
24 pursuant to sections 15-766 and 15-767.

25 D. If a pupil with a group B disability does not receive special
26 education instructional services but receives at least one ancillary service,
27 the pupil shall be considered a special education pupil for the group B
28 funding. If the category of disability has both a resource and
29 self-contained weight, the pupil shall be classified as in a resource
30 program. ~~In~~ **FOR THE PURPOSES OF** this subsection, "ancillary service" means
31 one of the following:

- 32 1. Physical therapy.
- 33 2. Occupational therapy.
- 34 3. Orientation and mobility training.
- 35 4. Sign language interpretation services.
- 36 5. A full-time aide needed for an individual pupil to benefit from the
37 pupil's educational program as specified in the pupil's individualized
38 education program.

39 Sec. 5. Repeal

40 Sections 15-770 and 15-772, Arizona Revised Statutes, are repealed.

41 Sec. 6. Title 15, chapter 7, Arizona Revised Statutes, is amended by
42 adding article 4.1, to read:

43 ARTICLE 4.1. SPECIAL EDUCATION FOR GIFTED CHILDREN

44 15-779. Definition of gifted pupil

45 **IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES, "GIFTED PUPIL"**
46 **MEANS A CHILD WHO IS OF LAWFUL SCHOOL AGE, WHO DUE TO SUPERIOR INTELLECT OR**

1 ADVANCED LEARNING ABILITY, OR BOTH, IS NOT AFFORDED AN OPPORTUNITY FOR
2 OTHERWISE ATTAINABLE PROGRESS AND DEVELOPMENT IN REGULAR CLASSROOM
3 INSTRUCTION AND WHO NEEDS SPECIAL INSTRUCTION OR SPECIAL ANCILLARY SERVICES,
4 OR BOTH, TO ACHIEVE AT LEVELS COMMENSURATE WITH THE CHILD'S INTELLECT AND
5 ABILITY.

6 15-779.01. Powers and duties of the school district governing
7 board

8 A. THE GOVERNING BOARD OF EACH SCHOOL DISTRICT SHALL PROVIDE SPECIAL
9 EDUCATION TO GIFTED PUPILS IDENTIFIED AS PROVIDED IN THIS ARTICLE. SPECIAL
10 EDUCATION FOR GIFTED PUPILS SHALL INCLUDE EXPANDED ACADEMIC COURSE OFFERINGS
11 AND SUPPLEMENTAL SERVICES AS MAY BE REQUIRED TO PROVIDE AN EDUCATIONAL
12 PROGRAM THAT IS COMMENSURATE WITH THE ACADEMIC ABILITIES AND POTENTIAL OF THE
13 GIFTED PUPIL.

14 B. THE GOVERNING BOARD MAY MODIFY THE COURSE OF STUDY AND ADAPT
15 TEACHING METHODS, MATERIALS AND TECHNIQUES TO PROVIDE EDUCATIONALLY FOR THOSE
16 PUPILS WHO ARE GIFTED AND POSSESS SUPERIOR INTELLECT OR ADVANCED LEARNING
17 ABILITY, OR BOTH, BUT MAY HAVE AN EDUCATIONAL DISADVANTAGE RESULTING FROM A
18 DISABILITY OR A DIFFICULTY IN WRITING, SPEAKING OR UNDERSTANDING THE ENGLISH
19 LANGUAGE DUE TO AN ENVIRONMENTAL BACKGROUND IN WHICH A LANGUAGE OTHER THAN
20 ENGLISH IS PRIMARILY OR EXCLUSIVELY SPOKEN. PROGRAMS AND SERVICES PROVIDED
21 FOR GIFTED PUPILS AS PROVIDED IN THIS SUBSECTION MAY NOT BE SEPARATE FROM
22 PROGRAMS PROVIDED FOR OTHER GIFTED PUPILS AND MAY NOT BE PROVIDED IN
23 FACILITIES SEPARATE FROM THE FACILITIES USED FOR OTHER GIFTED PUPILS.
24 IDENTIFICATION OF GIFTED PUPILS AS PROVIDED IN THIS SUBSECTION SHALL BE BASED
25 ON TESTS OR SUBTESTS THAT ARE DEMONSTRATED TO BE EFFECTIVE WITH SPECIAL
26 POPULATIONS INCLUDING THOSE WITH A DISABILITY OR DIFFICULTY WITH THE ENGLISH
27 LANGUAGE.

28 15-779.02. Gifted pupils; scope and sequence; annual financial
29 report

30 A. THE GOVERNING BOARD OF EACH SCHOOL DISTRICT SHALL DEVELOP A SCOPE
31 AND SEQUENCE FOR THE IDENTIFICATION PROCESS OF AND CURRICULUM MODIFICATIONS
32 FOR GIFTED PUPILS TO ENSURE THAT GIFTED PUPILS RECEIVE SPECIAL EDUCATION
33 COMMENSURATE WITH THEIR ACADEMIC ABILITIES AND POTENTIALS. THE SCOPE AND THE
34 SEQUENCE SHALL:

35 1. PROVIDE FOR ROUTINE SCREENING FOR GIFTED PUPILS USING ONE OR MORE
36 TESTS ADOPTED BY THE STATE BOARD AS PRESCRIBED IN SECTION 15-203, SUBSECTION
37 A, PARAGRAPH 15 AND SECTION 15-779.01. SCHOOL DISTRICTS MAY IDENTIFY ANY
38 NUMBER OF PUPILS AS GIFTED BUT SHALL IDENTIFY AS GIFTED AT LEAST THOSE PUPILS
39 WHO SCORE AT OR ABOVE THE NINETY-SEVENTH PERCENTILE, BASED ON NATIONAL NORMS,
40 ON A TEST ADOPTED BY THE STATE BOARD OF EDUCATION.

41 2. INCLUDE AN EXPLANATION OF HOW SPECIAL EDUCATION FOR THE GIFTED
42 DIFFERS FROM REGULAR EDUCATION IN SUCH AREAS AS:

- 43 (a) CONTENT, INCLUDING A BROAD BASED INTERDISCIPLINARY CURRICULUM.
- 44 (b) PROCESS, INCLUDING HIGHER LEVEL THINKING SKILLS.
- 45 (c) PRODUCT, INCLUDING VARIETY AND COMPLEXITY.
- 46 (d) LEARNING ENVIRONMENT, INCLUDING FLEXIBILITY.

1 B. THE GOVERNING BOARD SHALL SUBMIT THE SCOPE AND THE SEQUENCE TO THE
2 DEPARTMENT OF EDUCATION FOR APPROVAL ON OR BEFORE JULY 1 IF ANY CHANGES WERE
3 MADE DURING THE PREVIOUS FISCAL YEAR. ALL SCHOOL DISTRICTS SHALL PROVIDE TO
4 GIFTED PUPILS SPECIAL EDUCATION COMMENSURATE WITH THEIR ACADEMIC ABILITIES
5 AND POTENTIALS.

6 C. IF THE GOVERNING BOARD FAILS TO SUBMIT THE SCOPE AND SEQUENCE FOR
7 GIFTED PUPILS AS PRESCRIBED IN SUBSECTION B OF THIS SECTION OR IF THE SCOPE
8 AND SEQUENCE SUBMITTED BY THE GOVERNING BOARD FAILS TO RECEIVE FULL APPROVAL
9 BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION, THE SCHOOL DISTRICT IS NOT
10 ELIGIBLE TO RECEIVE STATE AID FOR THE GROUP A WEIGHT FOR THREE PER CENT OF
11 THE STUDENT COUNT AND SHALL COMPUTE THE WEIGHTED STUDENT COUNT FOR PUPILS IN
12 GROUP A AS PROVIDED IN SECTION 15-943 BY ADJUSTMENT OF THE STUDENT COUNT
13 ACCORDINGLY. ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE DEPARTMENT OF
14 EDUCATION SHALL NOTIFY THOSE SCHOOL DISTRICTS THAT APPEAR TO BE IN
15 NONCOMPLIANCE AND NOTE THE SPECIFIC AREAS OF DEFICIENCIES THAT MUST BE
16 CORRECTED ON OR BEFORE APRIL 1 OF THE FOLLOWING YEAR TO BE ELIGIBLE TO USE
17 THE ACTUAL STUDENT COUNT RATHER THAN AN ADJUSTED STUDENT COUNT. ON OR BEFORE
18 APRIL 15, THE DEPARTMENT SHALL NOTIFY THOSE DISTRICTS THAT MUST USE AN
19 ADJUSTED STUDENT COUNT FOR THE NEXT FISCAL YEAR'S STATE AID AS PROVIDED IN
20 CHAPTER 9 OF THIS TITLE.

21 D. THE ANNUAL FINANCIAL REPORT OF A SCHOOL DISTRICT AS PRESCRIBED IN
22 SECTION 15-904 SHALL INCLUDE THE AMOUNT OF MONIES SPENT ON PROGRAMS FOR
23 GIFTED PUPILS AND THE NUMBER OF PUPILS ENROLLED IN PROGRAMS OR RECEIVING
24 SERVICES BY GRADE LEVEL.

1 15-779.03. Additional assistance for gifted programs

2 A. SCHOOL DISTRICTS THAT COMPLY WITH SECTION 15-779.01 AND THAT SUBMIT
3 EVIDENCE THAT ALL DISTRICT TEACHERS WHO HAVE PRIMARY RESPONSIBILITY FOR
4 TEACHING GIFTED PUPILS HAVE OBTAINED OR ARE WORKING TOWARD OBTAINING THE
5 APPROPRIATE CERTIFICATION ENDORSEMENT AS REQUIRED BY THE STATE BOARD OF
6 EDUCATION MAY APPLY TO THE DEPARTMENT OF EDUCATION FOR ADDITIONAL FUNDING FOR
7 GIFTED PROGRAMS EQUAL TO FIFTY-FIVE DOLLARS PER PUPIL FOR THREE PER CENT OF
8 THE DISTRICT'S STUDENT COUNT, OR ONE THOUSAND DOLLARS, WHICHEVER IS MORE. AS
9 AN ALTERNATE TO THE INDIVIDUAL DISTRICT APPLICATION PROCESS, A GOVERNING
10 BOARD MAY REQUEST THAT A COUNTY SCHOOL SUPERINTENDENT APPLY ON ITS BEHALF AS
11 PART OF AN EDUCATIONAL CONSORTIA. THE CONSORTIA MAY INCLUDE SCHOOL DISTRICTS
12 IN MORE THAN ONE COUNTY. IF ADDITIONAL MONIES ARE AVAILABLE AFTER FUNDING
13 ALL ELIGIBLE SCHOOL DISTRICTS OR EDUCATIONAL CONSORTIA, THE ADDITIONAL MONIES
14 SHALL BE USED TO INCREASE THE PER PUPIL AMOUNT FOR EACH DISTRICT OR
15 EDUCATIONAL CONSORTIA FUNDED. IF SUFFICIENT MONIES ARE NOT AVAILABLE TO MEET
16 ALL REQUESTS, THE STATE BOARD OF EDUCATION SHALL DETERMINE THE ALLOCATION OF
17 MONIES BASED ON THE COMPREHENSIVENESS ACROSS GRADE LEVELS, APPROPRIATENESS TO
18 THE POPULATION BEING SERVED, UTILITY AND DEMONSTRATED EFFECTIVENESS OF THE
19 SCOPE AND SEQUENCE AND THE LIKELIHOOD OF THE SCHOOL DISTRICT'S OR EDUCATIONAL
20 CONSORTIA'S PROPOSED PROGRAM SUCCESSFULLY MEETING THE NEEDS OF THE GIFTED
21 PUPILS. A SCHOOL DISTRICT SHALL INCLUDE THE MONIES IT RECEIVES FOR GIFTED
22 PROGRAMS AND SERVICES UNDER THIS SECTION IN THE SPECIAL PROJECTS SECTION OF
23 THE BUDGET.

24 B. SCHOOL DISTRICTS THAT RECEIVE ADDITIONAL ASSISTANCE AS PROVIDED IN
25 THIS SECTION SHALL CONDUCT EVALUATION STUDIES OF THEIR PROGRAMS FOR THE
26 GIFTED AND SUBMIT INFORMATION TO THE DEPARTMENT OF EDUCATION REGARDING THE
27 RESULTS OF THEIR STUDIES. THE DEPARTMENT SHALL DEVELOP EVALUATION
28 GUIDELINES, REPORTING FORMS, PROCEDURES AND TIME LINES.

29 Sec. 7. Section 15-816.01, Arizona Revised Statutes, is amended to
30 read:

31 15-816.01. Enrollment policies

32 A. School district governing boards shall establish policies and shall
33 implement an open enrollment policy without charging tuition. Tuition may be
34 charged to nonresident pupils only when the tuition is authorized under
35 section 15-764, subsection ~~E~~ C, section 15-797, subsection C, section
36 15-823, subsection A, section 15-824, subsection A or section 15-825. These
37 policies shall include admission criteria, application procedures and
38 transportation provisions. A copy of the district policies for open
39 enrollment shall be filed with the department of education.

40 B. The governing board of the district educating the pupil may provide
41 transportation limited to no more than twenty miles each way to and from the
42 school of attendance or to and from a pickup point on a regular
43 transportation route or for the total miles traveled each day to an adjacent
44 district for eligible nonresident pupils who meet the economic eligibility
45 requirements established under the national school lunch and child nutrition

1 acts (42 United States Code sections 1751 through 1785) for free or reduced
2 price lunches.

3 C. The governing board of the district educating the pupil shall
4 provide transportation limited to no more than twenty miles each way to and
5 from the school of attendance or to and from a pickup point on a regular
6 transportation route or for the total miles traveled each day to an adjacent
7 district for nonresident pupils with disabilities whose individualized
8 education program specifies that transportation is necessary for fulfillment
9 of the program.