State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HOUSE BILL 2064

AN ACT

AMENDING SECTION 15-241, ARIZONA REVISED STATUTES; REPEALING SECTION 15-756, ARIZONA REVISED STATUTES; RENUMBERING SECTION 15-756.01, ARIZONA REVISED STATUTES, AS SECTION 15-757; AMENDING TITLE 15, CHAPTER 7, ARTICLE 3.1, ARIZONA REVISED STATUTES, BY ADDING NEW SECTIONS 15-756 AND 15-756.01 AND SECTIONS 15-756.02 THROUGH 15-756.13; AMENDING SECTIONS 15-910, 15-943 AND 41-1279.03, ARIZONA REVISED STATUTES; MAKING APPROPRIATIONS; RELATING TO ENGLISH LANGUAGE LEARNERS; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 15-241, Arizona Revised Statutes, is amended to read:

15-241. School accountability; schools failing to meet academic standards; failing schools tutoring fund

A. The department of education shall compile an annual achievement profile for each public school.

B. Each school shall submit to the department any data that is required and requested and that is necessary to compile the achievement profile. A school that fails to submit the information that is necessary is not eligible to receive monies from the classroom site fund established by section 15-977.

C. The department shall establish a baseline achievement profile for each school by October 15, 2001. The baseline achievement profile shall be used to determine a standard measurement of acceptable academic progress for each school and a school classification pursuant to subsection G of this section. Any disclosure of educational records compiled by the department of education pursuant to this section shall comply with the family educational and privacy rights act of 1974 (20 United States Code section 1232g).

D. The achievement profile for schools that offer instruction in kindergarten programs and grades one through eight, or any combination of those programs or grades, shall include the following school academic performance indicators:

1. The Arizona measure of academic progress. The department shall compute the extent of academic progress made by the pupils in each school during the course of each year.

2. The Arizona instrument to measure standards test. The department shall compute the percentage of pupils who meet or exceed the standard on the Arizona instrument to measure standards test, as prescribed by the state board of education.

3. The results of English Language Learners Tests administered pursuant to section 15-756, subsection B, section 15-756.05 and section 15-756.06.

E. The achievement profile for schools that offer instruction in grades nine through twelve, or any combination of those grades, shall include the following school academic performance indicators:

1. The Arizona instrument to measure standards test. The department shall compute the percentage of pupils pursuant to subsection F of this section who meet or exceed the standard on the Arizona instrument to measure standards test, as prescribed by the state board of education.

2. The annual dropout rate.

3. The annual graduation rate.

4. The results of English Language Learners Tests administered pursuant to section 15-756, subsection B, section 15-756.05 and section 15-756.06.
F. Subject to final adoption by the state board of education, the department shall determine the criteria for each school classification using a research based methodology. The methodology shall include the performance of pupils at all achievement levels, account for pupil mobility, account for the distribution of pupil achievement at each school and include longitudinal indicators of academic performance. For the purposes of this subsection, "research based methodology" means the systematic and objective application of statistical and quantitative research principles to determine a standard measurement of acceptable academic progress for each school.

G. The achievement profile shall be used to determine a school classification that designates each school as one of the following:
   1. An excelling school.
   2. A highly performing school.
   3. A performing school.
   4. An underperforming school.
   5. A school failing to meet academic standards.

H. The classification for each school and the criteria used to determine classification pursuant to subsection F of this section shall be included on the school report card prescribed in section 15-746.

I. Subject to final adoption by the state board of education, the department of education shall develop a parallel achievement profile for accommodation schools, alternative schools as defined by the state board of education and schools with a student count of fewer than one hundred pupils.

J. If a school is designated as an underperforming school, within ninety days after receiving notice of the designation, the governing board shall develop an improvement plan for the school, submit a copy of the plan to the superintendent of public instruction and supervise the implementation of the plan. The plan shall include necessary components as identified by the state board of education. Within thirty days after submitting the improvement plan to the superintendent of public instruction, the governing board shall hold a special public meeting in each school that has been designated as an underperforming school and shall present the respective improvement plans that have been developed for each school. The school district governing board, within thirty days of receiving notice of the designation, shall provide written notification of the classification to each residence within the attendance area of the school. The notice shall explain the improvement plan process and provide information regarding the public meeting required by this subsection.

K. A school that has not submitted an improvement plan pursuant to subsection J of this section is not eligible to receive monies from the classroom site fund established by section 15-977 for every day that a plan has not been received by the superintendent of public instruction within the time specified in subsection J of this section plus an additional ninety days. The state board of education shall require the superintendent of the
H.B. 2064

school district to testify before the board and explain the reasons that an
improvement plan for that school has not been submitted.

L. If a charter school is designated as an underperforming school, within thirty days the school shall notify the parents of the students attending the school of the classification. The notice shall explain the improvement plan process and provide information regarding the public meeting required by this subsection. Within ninety days of receiving the classification, the charter holder shall present an improvement plan to the charter sponsor at a public meeting and submit a copy of the plan to the superintendent of public instruction. The improvement plan shall include necessary components as identified by the state board of education. For every day that an improvement plan is not received by the superintendent of public instruction, the school is not eligible to receive monies from the classroom site fund established by section 15-977 for ninety days plus every day that a plan is not received. The charter holder shall appear before the sponsoring board and explain why the improvement plan has not been submitted.

M. The department of education shall establish an appeals process, to be approved by the state board of education, for a school to appeal data used to determine the achievement profile of the school. The criteria established shall be based on mitigating factors and may include a visit to the school site by the department of education.

N. If a school remains classified as an underperforming school for a third consecutive year, the department of education shall visit the school site to confirm the classification data and to review the implementation of the school’s improvement plan. The school shall be classified as failing to meet academic standards unless an alternate classification is made after an appeal pursuant to subsection M of this section.

O. The school district governing board, within thirty days of receiving notice of the school failing to meet academic standards classification, shall provide written notification of the classification to each residence in the attendance area of the school. The notice shall explain the improvement plan process and provide information regarding the public meeting required by subsection R of this section.

P. The superintendent of public instruction, based on need, shall assign a solutions team to an underperforming school or a school failing to meet academic standards comprised of master teachers, fiscal analysts and curriculum assessment experts who are certified by the state board of education as Arizona academic standards technicians. The department of education may hire or contract with administrators, principals and teachers who have demonstrated experience with the characteristics and situations in an underperforming school or a school failing to meet academic standards and may use these personnel as part of the solutions team. The team shall work with staff at the school to assist in curricula alignment and shall instruct teachers on how to increase pupil academic progress, considering the school’s achievement profile. The team shall select two master teachers to be
employed by the school. The solutions team shall consider the existing improvement plan to assess the need for changes to curriculum, professional development and resource allocation.

Q. The parent or the guardian of the pupil may apply to the department of education, in a manner determined by the department of education, for a certificate of supplemental instruction from the failing schools tutoring fund established by this section. Pupils attending a school designated as an underperforming school or a school failing to meet academic standards or a pupil who has failed to pass one or more portions of the Arizona instrument to measure standards test in order to graduate from high school may select an alternative tutoring program in academic standards from a provider that is certified by the state board of education. To qualify, the provider must guarantee in writing a stated level of academic improvement for the pupil that includes a timeline for improvement that is agreed to by the parent or guardian of the pupil and the provider shall agree to refund to the state the standards assistance grant monies if the guaranteed level of academic improvement is not met. The state board of education shall determine the application guidelines and the maximum value for each certificate of supplemental instruction. The state board of education shall annually complete a market survey in order to determine the maximum value for each certificate of supplemental instruction. Nothing in this subsection shall be construed to require the state to provide additional monies beyond the monies provided pursuant to section 42-5029, subsection E, paragraph 7.

R. Within sixty days of receiving notification of designation as a school failing to meet academic standards, the school district governing board shall evaluate needed changes to the existing improvement plan for the school, consider recommendations from the solutions team, submit a copy of the plan to the superintendent of public instruction and supervise the implementation of the plan. Within thirty days after submitting the improvement plan to the superintendent of public instruction, the governing board shall hold a public meeting in each school that has been designated as a school failing to meet academic standards and shall present the respective improvement plans that have been developed for each school.

S. A school that has not submitted an improvement plan pursuant to subsection R of this section is not eligible to receive monies from the classroom site fund established by section 15-977 for every day that a plan has not been received by the superintendent of public instruction within the time specified in subsection R of this section plus an additional ninety days. The state board of education shall require the superintendent of the school district to testify before the board and explain the reasons that an improvement plan for that school has not been submitted.

T. If a charter school is designated as a school failing to meet academic standards, the department of education shall immediately notify the charter school's sponsor. The charter school's sponsor shall either take action to restore the charter school to acceptable performance or revoke the
charter school's charter. Within thirty days the school shall notify the parents of the students attending the school of the classification and of any pending public meetings to review the issue.

U. A school that has been designated as a school failing to meet academic standards shall be evaluated by the department of education to determine if the school failed to properly implement its school improvement plan, the alignment of the curriculum with academic standards, teacher training, budget prioritization or other proven strategies to improve academic performance. After visiting the school site pursuant to subsection N of this section, the department of education shall submit to the state board of education a recommendation to proceed pursuant to subsections P, Q and R of this section or that the school be subject to a public hearing to determine if the school failed to properly implement its improvement plan and the reasons for the department's recommendation.

V. If the department does recommend a public hearing, the state board of education shall meet and may provide by a majority vote at the public hearing for the continued operation of the school as allowed by this subsection. The state board of education shall determine whether governmental, nonprofit and private organizations may submit applications to the state board to fully or partially manage the school. The state board's determination shall include:

1. If and to what extent the local governing board may participate in the operation of the school including personnel matters.
2. If and to what extent the state board of education shall participate in the operation of the school.
3. Resource allocation pursuant to subsection X of this section.
4. Provisions for the development and submittal of a school improvement plan to be presented in a public meeting at the school.
5. A suggested time frame for the alternative operation of the school.

W. The state board shall periodically review the status of a school that is operated by an organization other than the school district governing board to determine whether the operation of the school should be returned to the school district governing board. Before the state board makes a determination, the state board or its designee shall meet with the school district governing board or its designee to determine the time frame, operational considerations and the appropriate continuation of existing improvements that are necessary to assure a smooth transition of authority from the other organization back to the school district governing board.

X. If an alternative operation plan is provided pursuant to subsection V of this section, the state board of education shall pay for the operation of the school and shall adjust the school district's student count pursuant to section 15-902, soft capital allocation pursuant to section 15-962, capital outlay revenue limit pursuant to section 15-961, base support level pursuant to section 15-943, monies distributed from the classroom site fund established by section 15-977 and transportation support level pursuant to
section 15-945 to accurately reflect any reduction in district services that are no longer provided to that school by the district. The state board of education may modify the school district's revenue control limit, the district support level and the general budget limit calculated pursuant to section 15-947 by an amount that corresponds to this reduction in services. The state board of education shall retain the portion of state aid that would otherwise be due the school district for the school and shall distribute that portion of state aid directly to the organization that contracts with the state board of education to operate the school.

Y. If the state board of education determines that a charter school failed to properly implement its improvement plan, the sponsor of the charter school shall revoke the charter school's charter.

Z. If there are more than two schools in a district and more than one-half, or in any case more than five, of the schools in the district are designated as schools failing to meet academic standards for more than two consecutive years, in the next election of members of the governing board the election ballot shall contain the following statement immediately above the listing of governing board candidates:

Within the last five years, (number of schools) schools in the _______ school district have been designated as "schools failing to meet academic standards" by the superintendent of public instruction.

AA. At least twice each year the department of education shall publish in a newspaper of general circulation in each county of this state a list of schools that are designated as schools failing to meet academic standards.

BB. The failing schools tutoring fund is established consisting of monies collected pursuant to section 42-5029, subsection E as designated for this purpose. The department of education shall administer the fund.

Sec. 2. Repeal
Section 15-756, Arizona Revised Statutes, is repealed.

Sec. 3. Renumber
Section 15-756.01, Arizona Revised Statutes, is renumbered as section 15-757.

Sec. 4. Title 15, chapter 7, article 3.1, Arizona Revised Statutes, is amended by adding new sections 15-756 and 15-756.01 and sections 15-756.02 through 15-756.13, to read:

15-756. Identification of English language learners
A. The primary or home language for all new pupils who enroll in a school district or charter school shall be identified in a manner prescribed by the superintendent of public instruction.

B. The English language proficiency of all pupils with a primary or home language other than English shall be assessed through the administration of English language proficiency assessments in a manner prescribed by the superintendent of public instruction. The test scores adopted by the superintendent as indicating English language proficiency shall be based on
THE TEST PUBLISHERS' DESIGNATED SCORES. THE DEPARTMENT SHALL ANNUALLY REQUEST AN APPROPRIATION TO PAY FOR THE PURCHASE OF ALL LANGUAGE PROFICIENCY ASSESSMENTS, SCORING AND ANCILLARY MATERIALS AS PRESCRIBED BY THE DEPARTMENT FOR SCHOOL DISTRICTS AND CHARTER SCHOOLS.

C. IF IT IS DETERMINED THAT A PUPIL IS NOT ENGLISH LANGUAGE PROFICIENT, THE PUPIL SHALL BE CLASSIFIED AS AN ENGLISH LANGUAGE LEARNER AND SHALL BE ENROLLED IN AN ENGLISH LANGUAGE EDUCATION PROGRAM PURSUANT TO SECTION 15-752 OR 15-753.

15-756.01. Arizona English language learners task force; research based models of structured English immersion for English language learners; budget requests; definitions

A. THE ARIZONA ENGLISH LANGUAGE LEARNERS TASK FORCE IS ESTABLISHED IN THE DEPARTMENT OF EDUCATION. THE TASK FORCE SHALL CONSIST OF:

1. THREE MEMBERS APPOINTED BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION.
2. TWO MEMBERS WHO ARE APPOINTED BY THE GOVERNOR.
3. TWO MEMBERS WHO ARE APPOINTED BY THE PRESIDENT OF THE SENATE.
4. TWO MEMBERS WHO ARE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

B. MEMBERS OF THE TASK FORCE SHALL SERVE FOUR YEAR TERMS. MEMBERS OF THE TASK FORCE SHALL ELECT A CHAIRPERSON FROM AMONG THE MEMBERS OF THE TASK FORCE. THE DEPARTMENT OF EDUCATION SHALL PROVIDE ADEQUATE STAFF SUPPORT FOR THE TASK FORCE.


D. THE RESEARCH BASED MODELS OF STRUCTURED ENGLISH IMMERSION ADOPTED BY THE TASK FORCE SHALL BE THE MOST COST-EFFICIENT MODELS THAT MEET ALL STATE AND FEDERAL LAWS.

E. THE RESEARCH BASED MODELS OF STRUCTURED ENGLISH IMMERSION SHALL BE LIMITED TO A REGULAR SCHOOL YEAR AND SCHOOL DAY. INSTRUCTION OUTSIDE THE REGULAR SCHOOL YEAR OR SCHOOL DAY SHALL BE PROVIDED WITH COMPENSATORY INSTRUCTION AND MAY BE ELIGIBLE FOR FUNDING FROM THE STATEWIDE COMPENSATORY INSTRUCTION FUND ESTABLISHED BY SECTION 15-756.11.
F. The research based models of structured English immersion shall be submitted by the task force to the President of the Senate, the Speaker of the House of Representatives, the Governor and the State Board of Education. At least thirty days before adoption, the task force shall submit the research based models of structured English immersion to the Joint Legislative Budget Committee for review.

G. The task force shall review research based models of structured English immersion annually and delete, add or modify the existing models. When adopting or modifying English language learner programs, the task force shall review and consider the information and data obtained as a result of the Department of Education’s monitoring of English language learner programs pursuant to section 15-756.08.

H. The task force shall establish procedures for school districts and charter schools to determine the incremental costs for implementation of the research based models of structured English immersion developed by the task force.

I. The task force shall establish a form for school districts and charter schools to determine the structured English immersion budget request amount. Notwithstanding any other law, the maximum amount of the budget request shall be the incremental costs of the model selected offset by the following monies:

1. All federal Title III monies and any other federal monies designated solely for the educational needs of English language learners.
2. The portion of Title I and Title II A monies determined by the English language learner population as a percentage of the qualified population.
3. The portion of impact aid monies determined by the English language learner population as a percentage of the qualified population. A school district or charter school shall only apply unexpended impact aid monies to English language learner programs after it has applied its impact aid monies for other allowable uses as permitted by state law.
4. The portion of desegregation monies levied pursuant to section 15-910 determined by the English language learner population as a percentage of the qualified population.
5. The ELL support level weight prescribed in section 15-943.

J. The difference calculated pursuant to subsection I of this section shall be the maximum amount of the structured English immersion budget request pursuant to section 15-756.03 for monies from the Arizona structured English immersion fund established by section 15-756.04. Beginning July 15, 2008, school districts and charter schools shall not include the incremental costs of any pupil who is classified as an English language learner after July 1, 2007 and who has been classified as an English language learner for more than two years in the calculation of the school district’s or charter school’s structured English immersion budget request.
K. IN CONSULTATION WITH THE AUDITOR GENERAL, THE DEPARTMENT OF 
EDUCATION SHALL DEVELOP AND ADOPT FORMS TO BE USED BY SCHOOL DISTRICTS AND 
CHARTER SCHOOLS TO SUBMIT BUDGET REQUESTS FOR THE ARIZONA STRUCTURED ENGLISH 
IMMERSION FUND, INCLUDING THE FORM PRESCRIBED IN SUBSECTION I OF THIS 
SECTION.

L. FOR THE PURPOSES OF THIS SECTION:
1. "COMPENSATORY INSTRUCTION" HAS THE SAME MEANING PRESCRIBED IN 
SECTION 15-756.11.
2. "INCREMENTAL COSTS" MEANS COSTS THAT ARE ASSOCIATED WITH A 
STRUCTURED ENGLISH IMMERSION PROGRAM PURSUANT TO SECTION 15-752 OR A PROGRAM 
PURSUANT TO SECTION 15-753 AND THAT ARE IN ADDITION TO THE NORMAL COSTS OF 
CONDUCTING PROGRAMS FOR ENGLISH PROFICIENT STUDENTS. INCREMENTAL COSTS DO 
NOT INCLUDE COSTS THAT REPLACE THE SAME TYPES OF SERVICES PROVIDED TO ENGLISH 
PROFICIENT STUDENTS OR COMPENSATORY INSTRUCTION.

15-756.02. School districts and charter schools; English 
language learner models; adoption and 
implementation

A. EACH SCHOOL DISTRICT GOVERNING BOARD AND EACH GOVERNING BODY OF A 
CHARTER SCHOOL SHALL SELECT ONE OR MORE OF THE TASK FORCE APPROVED MODELS FOR 
STRUCTURED ENGLISH IMMERSION FOR IMPLEMENTATION ON A SCHOOL BY SCHOOL BASIS.

B. IF A SCHOOL DISTRICT OR CHARTER SCHOOL WANTS TO ADOPT AN ENGLISH 
LANGUAGE LEARNER PROGRAM THAT IS NOT BASED ON A MODEL ADOPTED BY THE TASK 
FORCE, THE SCHOOL DISTRICT OR CHARTER SCHOOL SHALL FIRST SUBMIT THE PROPOSED 
PROGRAM ALONG WITH SUPPORTING DOCUMENTATION REGARDING THE EXPECTED OUTCOMES 
OF THE PROGRAM ON THE DISTRICT'S OR CHARTER SCHOOL’S ENGLISH LANGUAGE LEARNER 
STUDENTS TO THE TASK FORCE FOR APPROVAL.

C. ON RECEIPT OF A PROPOSED PROGRAM FROM A SCHOOL DISTRICT OR CHARTER 
SCHOOL, THE TASK FORCE MAY DO ONE OF THE FOLLOWING:
1. APPROVE THE PROPOSED PROGRAM.
2. PROVIDE LIMITED APPROVAL SUBJECT TO SPECIFIC STIPULATIONS 
PRESCRIBED BY THE STATE BOARD.
3. REJECT THE PROPOSED PROGRAM AND IDENTIFY A MODEL APPROVED BY THE 
TASK FORCE FOR THE SCHOOL DISTRICT OR CHARTER SCHOOL TO ADOPT.

D. SCHOOL DISTRICTS AND CHARTER SCHOOLS SHALL INCLUDE A COPY OF THE 
ADOPTED ENGLISH LANGUAGE LEARNER PROGRAM IN THE ANNUAL REPORT REQUIRED IN 
SECTION 15-756.10.

15-756.03. Structured English immersion; budget request 

A. IF A SCHOOL DISTRICT OR CHARTER SCHOOL QUALIFIES TO SUBMIT A BUDGET 
REQUEST BASED ON THE FORM PRESCRIBED IN SECTION 15-756.01, SUBSECTION I, THE 
SCHOOL DISTRICT OR CHARTER SCHOOL SHALL SUBMIT A STRUCTURED ENGLISH IMMERSION 
BUDGET REQUEST ON A SCHOOL BY SCHOOL BASIS. THE BUDGET REQUEST SHALL BE FOR 
A SPECIFIC AMOUNT OF SUPPLEMENTAL MONIES FROM THE ARIZONA STRUCTURED ENGLISH 
IMMERSION FUND ESTABLISHED BY SECTION 15-756.04.

B. EACH SCHOOL DISTRICT OR CHARTER SCHOOL STRUCTURED ENGLISH IMMERSION 
BUDGET REQUEST SHALL INCLUDE THE SIGNATURE OF THE SUPERINTENDENT OF THE
SCHOOL DISTRICT AND THE CHIEF FINANCIAL OFFICER OF THE SCHOOL DISTRICT OR THE
PRINCIPAL OF THE CHARTER SCHOOL AND THE CHIEF FINANCIAL OFFICER OF THE
CHARTER SCHOOL THAT CERTIFIES THAT THE INFORMATION IN THE BUDGET REQUEST IS
TRUE TO THE BEST OF THAT PERSON’S KNOWLEDGE AND HAS BEEN CALCULATED IN
ACCORDANCE WITH THE FORM PRESCRIBED IN SECTION 15-756.01, SUBSECTION I AND
THAT MONIES FROM THE ARIZONA STRUCTURED ENGLISH IMMERSION FUND ESTABLISHED
BY SECTION 15-756.04 WILL NOT BE USED TO SUPPLANT ANY FEDERAL, STATE OR LOCAL
MONIES, INCLUDING DESEGREGATION MONIES LEVIED PURSUANT TO SECTION 15-910,
USED FOR ENGLISH LANGUAGE LEARNERS THAT WERE BUDGETED FOR ENGLISH LANGUAGE

C. BEGINNING JULY 1, 2007, EACH SCHOOL DISTRICT AND CHARTER SCHOOL
THAT SUBMITS A STRUCTURED ENGLISH IMMERSION BUDGET REQUEST SHALL SUBMIT THE
BUDGET REQUEST TO THE DEPARTMENT OF EDUCATION ANNUALLY ON OR BEFORE
SEPTEMBER 15. THE DEPARTMENT OF EDUCATION SHALL VERIFY THE BUDGET REQUEST OF
EACH SCHOOL DISTRICT AND CHARTER SCHOOL FOR ACCURACY AND COMPLIANCE WITH THE
FORM PRESCRIBED IN SECTION 15-756.01, SUBSECTION I. THE DEPARTMENT SHALL
COLLECT ALL SCHOOL DISTRICT AND CHARTER SCHOOL BUDGET REQUESTS AND SUBMIT
THEM TO THE LEGISLATURE FOR FUNDING FROM THE ARIZONA STRUCTURED ENGLISH
IMMERSION FUND ESTABLISHED BY SECTION 15-756.04 AT THE SAME TIME AS THE
DEPARTMENT’S BUDGET REQUEST.

15-756.04. Arizona structured English immersion fund

A. THE ARIZONA STRUCTURED ENGLISH IMMERSION FUND IS ESTABLISHED. THE
DEPARTMENT OF EDUCATION SHALL ADMINISTER THE FUND.

B. THE DEPARTMENT SHALL SUBMIT AN ANNUAL REQUEST FOR AN APPROPRIATION
FOR THE PURPOSES OF THIS SECTION.

C. IN ADDITION TO THE ELL SUPPORT LEVEL WEIGHT PRESCRIBED IN SECTION
15-943, THE DEPARTMENT SHALL DISTRIBUTE MONIES FROM THE FUND TO SCHOOL
DISTRICTS AND CHARTER SCHOOLS IN AN AMOUNT SPECIFIED IN THE BUDGET REQUEST
PRESCRIBED IN SECTION 15-756.03, SUBSECTION C. MONIES FROM THE FUND
ESTABLISHED BY THIS SECTION AND MONIES FOR THE ELL SUPPORT LEVEL WEIGHT
PRESCRIBED IN SECTION 15-943 SHALL NOT BE DISTRIBUTED FOR MORE THAN TWO
FISCAL YEARS FOR THE SAME PUPIL. NOTHING IN THIS SUBSECTION SHALL BE
CONSTRUED TO PROHIBIT A SCHOOL DISTRICT OR CHARTER SCHOOL FROM RECEIVING
MONIES FROM THE STATEWIDE COMPENSATORY INSTRUCTION FUND ESTABLISHED BY
SECTION 15-756.11 FOR MORE THAN TWO FISCAL YEARS FOR THE SAME PUPIL.

D. THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL ATTEMPT TO OBTAIN
THE MAXIMUM AMOUNT OF FEDERAL FUNDING THAT IS AVAILABLE FOR ENGLISH LANGUAGE
LEARNER PROGRAMS.

E. EACH SCHOOL DISTRICT AND CHARTER SCHOOL SHALL ESTABLISH A LOCAL
LEVEL STRUCTURED ENGLISH IMMERSION FUND TO RECEIVE MONIES DISTRIBUTED FROM
THE ARIZONA STRUCTURED ENGLISH IMMERSION FUND. MONIES IN LOCAL LEVEL
STRUCTURED ENGLISH IMMERSION FUNDS SHALL BE SPENT ONLY TO PROVIDE INSTRUCTION
TO ENGLISH LANGUAGE LEARNERS. THE AUDITOR GENERAL SHALL MODIFY THE BUDGET
FORMAT, FINANCIAL RECORD REQUIREMENTS, ACCOUNTING FORMS AND FINANCIAL REPORT
FORMS IN ACCORDANCE WITH THIS SUBSECTION. IN CONSULTATION WITH THE
DEPARTMENT OF EDUCATION, THE AUDITOR GENERAL SHALL PROVIDE SUPPORT AND
GUIDANCE TO ASSIST SCHOOL DISTRICTS AND CHARTER SCHOOLS IN COMPLYING WITH
THIS SUBSECTION. DOCUMENTS DEVELOPED PURSUANT TO THIS SUBSECTION SHALL BE
REVIEWED BY THE ARIZONA ENGLISH LANGUAGE LEARNERS TASK FORCE ESTABLISHED BY
SECTION 15-756.01 AND THE JOINT LEGISLATIVE BUDGET COMMITTEE.

F. SCHOOL DISTRICTS AND CHARTER SCHOOLS SHALL USE MONIES FROM THE FUND
TO SUPPLEMENT EXISTING PROGRAMS FOR ENGLISH LANGUAGE LEARNERS. MONIES FROM
THE FUND SHALL NOT BE USED TO SUPPLANT AVAILABLE MONIES USED TO PAY FOR THE
NORMAL COSTS OF CONDUCTING PROGRAMS FOR ENGLISH PROFICIENT STUDENTS.

15-756.05. Reassessment and reclassification of English
Language learners

A. THE PROCESS OF REASSESSMENT OF ENGLISH LANGUAGE LEARNERS FOR THE
PURPOSE OF DETERMINING ENGLISH LANGUAGE PROFICIENCY SHALL BE CONDUCTED AT
LEAST ANNUALLY AT THE END OF EACH SCHOOL YEAR IN A MANNER PRESCRIBED BY THE
SUPERINTENDENT OF PUBLIC INSTRUCTION.

B. A PUPIL WHO SCORES AT OR ABOVE THE TEST PUBLISHER’S DESIGNATED
SCORE FOR ENGLISH PROFICIENCY SHALL BE CONSIDERED ENGLISH PROFICIENT. THE
PUPIL SHALL NO LONGER BE CLASSIFIED AS AN ENGLISH LANGUAGE LEARNER AND SHALL
BE RECLASSIFIED AS ENGLISH PROFICIENT.

C. A PUPIL WHO HAS ATTAINED ENGLISH PROFICIENCY PURSUANT TO THIS
SECTION SHALL BE TRANSFERRED TO ENGLISH LANGUAGE MAINSTREAM CLASSROOMS.

15-756.06. Reevaluation of former English language learners

THE ENGLISH LANGUAGE PROFICIENCY OF EACH PUPIL PREVIOUSLY CLASSIFIED AS
AN ENGLISH LANGUAGE LEARNER WITHIN THE LAST TWO YEARS SHALL BE TESTED
ANNUALLY AT THE END OF EACH SCHOOL YEAR, IN THE SAME MANNER AS PROVIDED IN
SECTION 15-756, SUBSECTION B. THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL
PRESCRIBE THE MANNER IN WHICH PUPILS ARE REEVALUATED. PUPILS WHO FAIL TO
DEMONSTRATE ENGLISH PROFICIENCY ON THE REASSESSMENT TEST IN THE TWO YEARS
FOLLOWING THEIR EXIT FROM STRUCTURED ENGLISH IMMERSION, SUBJECT TO PARENTAL
CONSENT, SHALL BE REENROLLED IN STRUCTURED ENGLISH IMMERSION PURSUANT TO
SECTION 15-752 AND MAY BE PROVIDED COMPENSATORY INSTRUCTION AS DEFINED IN
SECTION 15-756.11.

15-756.07. Office of English language acquisition services;
duties

THE OFFICE OF ENGLISH LANGUAGE ACQUISITION SERVICES IS ESTABLISHED IN
THE DEPARTMENT OF EDUCATION. THE DEPARTMENT OF EDUCATION, OFFICE OF ENGLISH
LANGUAGE ACQUISITION SERVICES, SHALL:

1. DEVELOP GUIDELINES FOR MONITORING SCHOOL DISTRICTS AND CHARTER
SCHOOLS TO ENSURE COMPLIANCE WITH ALL FEDERAL AND STATE LAWS REGARDING
ENGLISH LANGUAGE LEARNERS.

2. IN CONSULTATION WITH COUNTY SCHOOL SUPERINTENDENTS, DEVELOP
REGIONAL PROGRAMS TO ENHANCE ALL ASPECTS OF TRAINING FOR TEACHERS AND
ADMINISTRATORS.

3. PUBLISH ENGLISH LANGUAGE LEARNER POLICY GUIDELINES FOR SCHOOL
DISTRICTS AND CHARTER SCHOOLS THAT INCLUDE A LIST OF RELEVANT RULES,
REGULATIONS AND STATUTES RELATING TO ENGLISH LANGUAGE LEARNER PROGRAMS TO
NOTIFY SCHOOL DISTRICTS AND CHARTER SCHOOLS OF THEIR RESPONSIBILITIES.
4. PROVIDE TECHNICAL ASSISTANCE TO SCHOOL DISTRICTS AND CHARTER
SCHOOLS TO IMPLEMENT STRUCTURED ENGLISH IMMERSION PROGRAMS.

15-756.08. Monitoring; corrective action plan
A. THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL DIRECT THE OFFICE OF
ENGLISH LANGUAGE ACQUISITION SERVICES IN THE DEPARTMENT OF EDUCATION TO:
1. MONITOR EACH YEAR AT LEAST TWELVE SCHOOL DISTRICTS OR CHARTER
SCHOOLS FROM THE FIFTY SCHOOL DISTRICTS OR CHARTER SCHOOLS IN THIS STATE WITH
THE HIGHEST NUMBER OF ENGLISH LANGUAGE LEARNERS. THE DEPARTMENT OF EDUCATION
SHALL MONITOR ALL FIFTY SCHOOL DISTRICTS OR CHARTER SCHOOLS WITH THE HIGHEST
NUMBER OF ENGLISH LANGUAGE LEARNERS IN THIS STATE AT LEAST ONCE EVERY FOUR
YEARS.
2. MONITOR EACH YEAR AT LEAST TEN SCHOOL DISTRICTS OR CHARTER SCHOOLS
THAT ARE NOT INCLUDED IN THE FIFTY SCHOOL DISTRICTS OR CHARTER SCHOOLS
DESCRIBED IN PARAGRAPH 1.
3. MONITOR EACH YEAR AT LEAST TEN SCHOOL DISTRICTS OR CHARTER SCHOOLS
THAT ARE NOT REQUIRED TO PROVIDE INSTRUCTION FOR ENGLISH LANGUAGE LEARNERS
FOR A MAJORITY OF THEIR GRADE LEVELS.
4. CHOOSE, BASED ON THE DEPARTMENT'S REVIEW OF REPORTS SUBMITTED BY
SCHOOL DISTRICTS AND CHARTER SCHOOLS, THE SCHOOL DISTRICTS AND CHARTER
SCHOOLS DESCRIBED IN PARAGRAPHS 1, 2 AND 3.
5. SELECT A RANDOM SAMPLE OF THREE HUNDRED ENGLISH LANGUAGE LEARNERS
EACH MONTH TO DETERMINE:
(a) HOW MANY OF THE SAMPLE CAN READ THE RANDOMLY ORDERED ALPHABET IN
THIRTY SECONDS OR LESS.
(b) HOW MANY OF THE SAMPLE CAN READ A RANDOMLY SORTED LIST OF THIRTY
SINGLE-SYLLABLE WORDS IN ONE MINUTE OR LESS.
B. THE MONITORING REQUIRED BY THIS SECTION SHALL BE ON-SITE MONITORING
AND SHALL INCLUDE CLASSROOM OBSERVATIONS, CURRICULUM REVIEWS, FACULTY
INTERVIEWS, STUDENT RECORDS, A REVIEW OF ENGLISH LANGUAGE LEARNER PROGRAMS
AND AN ANALYSIS OF PROGRAMMATIC EFFECTIVENESS, AT A MINIMUM, TO INCLUDE PRIOR
YEAR DATA THAT ANALYZE THE PROGRESS OF ENGLISH LANGUAGE LEARNERS.
C. BASED ON THE RESULTS OF THE MONITORING, THE DEPARTMENT SHALL
DETERMINE WHETHER Or NOT THE SCHOOL DISTRICT OR CHARTER SCHOOL IS COMPLYING
WITH STATE AND FEDERAL LAWS APPLICABLE TO ENGLISH LANGUAGE LEARNERS.
D. THE DEPARTMENT SHALL ISSUE A REPORT OF THE RESULTS OF THE
MONITORING WITHIN FORTY-FIVE DAYS AFTER COMPLETING THE MONITORING.
E. WITHIN SIXTY DAYS FOLLOWING THE ISSUANCE OF THE DEPARTMENT'S
REPORT, THE SCHOOL DISTRICT OR CHARTER SCHOOL RECEIVING THE REPORT SHALL
PREPARE AND SUBMIT TO THE DEPARTMENT A CORRECTIVE ACTION PLAN, IN A MANNER
PRESCRIBED BY THE STATE BOARD OF EDUCATION, THAT SETS FORTH STEPS THAT WILL
BE TAKEN TO CORRECT THE DEFICIENCIES, IF ANY, NOTED IN THE DEPARTMENT'S
REPORT.
F. Within thirty days after receiving a school district's or charter school's corrective action plan, the department shall review the corrective action plan and may require changes to the corrective action plan.

G. After the department has reviewed a school district's or charter school's corrective action plan and made any changes the department deems necessary, the department shall return the corrective action plan to the school district or charter school.

H. Within thirty days after receiving a corrective action plan back from the department, the school district or charter school shall begin implementing the measures set forth in the corrective action plan.

I. The department shall conduct a follow-up evaluation of the school district or charter school within one year after the department returned the corrective action plan to the school district or charter school.

J. In conducting the follow-up evaluation, if the department finds that the school district or charter school is not in compliance with state and federal laws applicable to English language learners, the department shall refer the school district or charter school to the state board of education for a finding of noncompliance. A school district or charter school found by the board to be noncompliant shall not continue to receive any monies from the Arizona structured English immersion fund established by section 15-756.04 for English language learners and shall not reduce the amount of monies spent on the school district's or charter school's English language learner programs despite the loss of monies caused by the noncompliance.

K. The department shall monitor each school district or charter school that the state board of education has found to be noncompliant and that is not receiving Arizona structured English immersion fund monies pursuant to subsection j of this section to ensure that the school district or charter school does not reduce the amount of monies spent on the school district's or charter school's English language learner programs despite the loss of Arizona structured English immersion fund monies caused by the noncompliance.

15-756.09. Teacher training

A. The state board of education shall determine the qualifications necessary for a provisional and full structured English immersion endorsement.

B. Training may be allowed that is not provided by a college or university to substitute for any of the courses required for a structured English immersion endorsement or a bilingual education endorsement if all of the following conditions apply:

1. The state board of education has reviewed the curricula, textbooks, grading procedures and attendance policies and determined that the training is comparable in amount, scope and quality to a course offered by a college or university for a structured English immersion or bilingual education endorsement.
2. THE TRAINING MEETS THE PROFESSIONAL TEACHING STANDARDS ADOPTED BY
THE STATE BOARD OF EDUCATION.
3. THE STATE BOARD OF EDUCATION HAS REVIEWED THE QUALIFICATIONS OF THE
INSTRUCTOR AND DETERMINED THAT THE INSTRUCTOR HAS SUFFICIENT EXPERIENCE TO
EFFECTIVELY CONDUCT THE TRAINING.
C. THE STATE BOARD OF EDUCATION SHALL REQUIRE ALL APPROVED TEACHER
TRAINING PROGRAMS THAT PROVIDE A DEGREE IN EDUCATION TO REQUIRE COURSES THAT
ARE NECESSARY TO OBTAIN A FULL STRUCTURED ENGLISH IMMERSION ENDORSEMENT.
15-756.10. Reporting
THE OFFICE OF ENGLISH LANGUAGE ACQUISITION SERVICES IN THE DEPARTMENT
OF EDUCATION SHALL:
1. REQUIRE EACH SCHOOL DISTRICT AND CHARTER SCHOOL TO ANNUALLY SUBMIT
A REPORT TO THE DEPARTMENT OF EDUCATION THAT INCLUDES THE FOLLOWING
INFORMATION IDENTIFIED BY GRADE LEVEL AND BY SCHOOL:
(a) THE TOTAL NUMBER OF PUPILS WHO ARE CLASSIFIED AS ENGLISH LANGUAGE
LEARNERS AS VERIFIED BY THE STUDENT ACCOUNTABILITY INFORMATION SYSTEM
ESTABLISHED BY SECTION 15-1041.
(b) THE NUMBER OF PUPILS WHO ARE CLASSIFIED AS ENGLISH LANGUAGE
LEARNERS FOR THE FIRST TIME AS VERIFIED BY THE STUDENT ACCOUNTABILITY
INFORMATION SYSTEM ESTABLISHED BY SECTION 15-1041.
(c) THE NUMBER OF ENGLISH LANGUAGE LEARNERS WHO ACHIEVED ENGLISH
PROFICIENCY IN THE PAST ACADEMIC YEAR AND WHO HAVE BEEN RECLASSIFIED AS
ENGLISH PROFICIENT AS VERIFIED BY THE STUDENT ACCOUNTABILITY INFORMATION
SYSTEM ESTABLISHED BY SECTION 15-1041.
(d) THE NUMBER OF PUPILS WHO ARE ENROLLED IN EACH TYPE OF LANGUAGE
ACQUISITION PROGRAM OFFERED BY THE SCHOOL DISTRICT OR CHARTER SCHOOL AS
VERIFIED BY THE STUDENT ACCOUNTABILITY INFORMATION SYSTEM ESTABLISHED BY
SECTION 15-1041.
(e) IF REQUESTED BY THE DEPARTMENT OF EDUCATION, THE TEST DATA USED TO
DETERMINE ENGLISH PROFICIENCY.
2. DETERMINE THE MOBILITY OF ENGLISH LANGUAGE LEARNERS WITHIN THE SAME
SCHOOL DISTRICT AND THE MOBILITY OF ENGLISH LANGUAGE LEARNERS TO OTHER SCHOOL
DISTRICTS AND CHARTER SCHOOLS THROUGH THE STUDENT ACCOUNTABILITY INFORMATION
SYSTEM ESTABLISHED BY SECTION 15-1041.
3. SUBMIT AN ANNUAL REPORT TO THE JOINT LEGISLATIVE BUDGET COMMITTEE
THAT INCLUDES AN ITEMIZED LIST OF ALL FEDERAL MONIES RECEIVED BY THE
DEPARTMENT FOR ENGLISH LANGUAGE LEARNERS, A LIST OF HOW MUCH OF THESE MONIES
WERE DISTRIBUTED TO SCHOOL DISTRICTS ON A DISTRICT BY DISTRICT BASIS AND THE
PURPOSES FOR WHICH THESE FEDERAL MONIES ARE DESIGNATED. THE DEPARTMENT SHALL
SUBMIT A COPY OF THIS REPORT TO THE SECRETARY OF STATE AND THE DIRECTOR OF
THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS.
4. SUBMIT AN ANNUAL REPORT TO THE GOVERNOR, THE PRESIDENT OF THE
SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE STATE BOARD OF
EDUCATION THAT INCLUDES A DETAILED ANALYSIS OF WHETHER AND TO WHAT EXTENT
PUPILS ARE BENEFITING ACADEMICALLY FROM COMPENSATORY INSTRUCTION AS DEFINED
IN SECTION 15-756.11 AND A COMPARISON OF THE ACADEMIC ACHIEVEMENT OF PUPILS
BEFORE AND AFTER RECEIVING COMPENSATORY INSTRUCTION AS DEFINED IN SECTION
15-756.11. THE DEPARTMENT SHALL SUBMIT A COPY OF THIS REPORT TO THE
SECRETARY OF STATE AND THE DIRECTOR OF THE ARIZONA STATE LIBRARY, ARCHIVES
AND PUBLIC RECORDS.

5. PRESENT A DETAILED ANNUAL SUMMARY OF ALL ENGLISH LANGUAGE LEARNER
PROGRAMS AND FUNDING AT A PUBLIC MEETING OF THE STATE BOARD OF EDUCATION.

6. PRESENT A SUMMARY OF INFORMATION RELATING TO THE DEMONSTRATED
SUCCESS OF SCHOOLS AND SCHOOL DISTRICTS AT ACHIEVING ENGLISH PROFICIENCY FOR
ENGLISH LANGUAGE LEARNERS.

15-756.11. Statewide compensatory instruction fund; reporting;
definition

A. THE STATEWIDE COMPENSATORY INSTRUCTION FUND IS ESTABLISHED. THE
DEPARTMENT OF EDUCATION SHALL ADMINISTER THE FUND.

B. TO BE ELIGIBLE FOR MONIES APPROPRIATED PURSUANT TO THIS SECTION, A
SCHOOL DISTRICT OR CHARTER SCHOOL MUST DEMONSTRATE TO THE DEPARTMENT OF
EDUCATION THAT IT HAS ESTABLISHED A SATISFACTORY COMPENSATORY INSTRUCTION
PROGRAM. THE DEPARTMENT OF EDUCATION SHALL DISTRIBUTE MONIES FROM THE FUND
TO SCHOOL DISTRICTS AND CHARTER SCHOOLS IN AN AMOUNT DETERMINED BY THE
DEPARTMENT FOR COMPENSATORY INSTRUCTION COSTS.

C. SCHOOL DISTRICTS AND CHARTER SCHOOLS SHALL ANNUALLY SUBMIT WRITTEN
COMPENSATORY INSTRUCTION BUDGET REQUESTS TO THE DEPARTMENT ON OR BEFORE JULY
15 FOR MONIES FROM THE FUND ON A FORM DEVELOPED BY THE DEPARTMENT. THE
REQUESTS SHALL INCLUDE AN ANALYSIS OF COMPENSATORY INSTRUCTION EFFECTIVENESS.

D. THE WRITTEN REQUESTS SUBMITTED BY SCHOOL DISTRICTS AND CHARTER
SCHOOLS SHALL BE SIGNED BY THE SUPERINTENDENT OF THE SCHOOL DISTRICT AND THE
CHIEF FINANCIAL OFFICER OF THE SCHOOL DISTRICT OR THE PRINCIPAL OF THE
CHARTER SCHOOL AND THE CHIEF FINANCIAL OFFICER OF THE CHARTER SCHOOL AND
MONIES FROM THE STATEWIDE COMPENSATORY INSTRUCTION FUND SHALL NOT BE USED TO
SUPPLANT ANY FEDERAL, STATE OR LOCAL MONIES, INCLUDING DESEGREGATION MONIES
LEVIED PURSUANT TO SECTION 15-910, USED FOR ENGLISH LANGUAGE LEARNERS THAT
WERE BUDGETED FOR ENGLISH LANGUAGE LEARNERS AS OF FEBRUARY 23, 2006.

E. SCHOOL DISTRICTS AND CHARTER SCHOOLS SHALL USE MONIES FROM THE FUND
TO SUPPLEMENT EXISTING PROGRAMS. MONIES SHALL NOT BE USED TO SUPPLANT ANY
FEDERAL, STATE OR LOCAL MONIES, INCLUDING DESEGREGATION MONIES LEVIED
PURSUANT TO SECTION 15-910, USED FOR COMPENSATORY INSTRUCTION THAT WERE
BUDGETED FOR ENGLISH LANGUAGE LEARNERS AS OF FEBRUARY 23, 2006.

F. EACH SCHOOL DISTRICT AND CHARTER SCHOOL SHALL ESTABLISH A LOCAL
LEVEL COMPENSATORY INSTRUCTION FUND TO RECEIVE MONIES DISTRIBUTED FROM THE
STATEWIDE COMPENSATORY INSTRUCTION FUND. MONIES IN LOCAL LEVEL COMPENSATORY
INSTRUCTION FUNDS SHALL BE SPENT ONLY FOR COMPENSATORY INSTRUCTION. THE
AUDITOR GENERAL SHALL MODIFY THE BUDGET FORMAT, FINANCIAL RECORD
REQUIREMENTS, ACCOUNTING FORMS AND FINANCIAL REPORT FORMS IN ACCORDANCE WITH
THIS SUBSECTION. IN CONSULTATION WITH THE DEPARTMENT OF EDUCATION, THE
AUDITOR GENERAL SHALL PROVIDE SUPPORT AND GUIDANCE TO ASSIST SCHOOL DISTRICTS
AND CHARTER SCHOOLS IN COMPLYING WITH THIS SUBSECTION. DOCUMENTS DEVELOPED
PURSUANT TO THIS SUBSECTION SHALL BE REVIEWED BY THE ARIZONA ENGLISH LANGUAGE
LEARNERS TASK FORCE ESTABLISHED BY SECTION 15-756.01 AND THE JOINT
LEGISLATIVE BUDGET COMMITTEE.

G. FOR THE PURPOSES OF THIS SECTION, "COMPENSATORY INSTRUCTION" MEANS
PROGRAMS IN ADDITION TO NORMAL CLASSROOM INSTRUCTION THAT MAY INCLUDE
INDIVIDUAL OR SMALL GROUP INSTRUCTION, EXTENDED DAY CLASSES, SUMMER SCHOOL OR
INTERSESSION SCHOOL AND THAT ARE LIMITED TO IMPROVING THE ENGLISH PROFICIENCY
OF CURRENT ENGLISH LANGUAGE LEARNERS AND PUPILS WHO WERE ENGLISH LANGUAGE
LEARNERS AND WHO HAVE BEEN RECLASSIFIED AS ENGLISH PROFICIENT WITHIN THE
PREVIOUS TWO YEARS.

15-756.12. Auditor general; duties

THE AUDITOR GENERAL SHALL:

1. MODIFY THE ANNUAL FINANCIAL REPORT PRESCRIBED IN SECTION 15-904 IN
ORDER TO CARRY OUT THIS ARTICLE.

2. BIENNIALLY AUDIT THE OVERALL EFFECTIVENESS OF THE ENGLISH LANGUAGE
LEARNER PROGRAM BASED ON PERFORMANCE BASED OUTCOME MEASUREMENTS AND INCREASED
ENGLISH PROFICIENCY AND REVIEW THE MOBILITY OF ENGLISH PROFICIENT STUDENTS
AND ENGLISH LANGUAGE LEARNERS.

3. CONDUCT FINANCIAL AUDITS ON SCHOOL DISTRICTS MONITORED PURSUANT TO
SECTION 15-756.08. THE FINANCIAL AUDITS SHALL INCLUDE A REVIEW OF THE
STRUCTURED ENGLISH IMMERSION BUDGET REQUESTS SUBMITTED PURSUANT TO SECTIONS
15-756.01 AND 15-756.03 AND OF THE STATEWIDE COMPENSATORY INSTRUCTION BUDGET
REQUESTS SUBMITTED PURSUANT TO SECTION 15-756.11. THE AUDITOR GENERAL MAY
CONDUCT FINANCIAL AUDITS ON RANDOMLY SELECTED SCHOOL DISTRICTS THAT ARE NOT
CURRENTLY MONITORED PURSUANT TO SECTION 15-756.08.

15-756.13. School district and charter schools; responsibility
to comply with state and federal law

NOTHING IN SECTIONS 15-756 AND 15-756.01 THROUGH 15-756.12 RELIEVES A
SCHOOL DISTRICT OR CHARTER SCHOOL OF ITS RESPONSIBILITY TO COMPLY WITH ALL
STATE AND FEDERAL LAWS.

Sec. 5. Section 15-910, Arizona Revised Statutes, is amended to read:

15-910. School district budgets; excess utility costs;
desegregation costs; tuition costs for bond issues;
costs for registering warrants; report

A. The governing board may budget for the district’s excess utility
costs which are specifically exempt from the district’s revenue control
limit. If approved by the qualified electors voting at a statewide general
election, the exemption from the revenue control limit under this subsection
expires at the end of the 2008-2009 budget year. The uniform system of
financial records shall specify expenditure items allowable as excess utility
costs, which are limited to direct operational costs of heating, cooling,
water and electricity, telephone communications and sanitation fees. The
department of education and the auditor general shall include in the
maintenance and operation section of the budget format, as provided in
section 15-903, a separate line for utility expenditures and a special excess utility cost category. The special excess utility cost category shall contain budgeted expenditures for excess utility costs, determined as follows:

1. Determine the lesser of the total budgeted or total actual utility expenditures for fiscal year 1984-1985.
2. Multiply the amount in paragraph 1 of this subsection by the total percentage increase or decrease in the revenue control limit and the capital outlay revenue limit for the budget year over the revenue control limit and the capital outlay revenue limit for fiscal year 1984-1985 excluding monies available from a career ladder program or a teacher compensation program provided for in section 15-952.
3. The sum of the amounts in paragraphs 1 and 2 of this subsection is the amount budgeted in the utility expenditure line.
4. Additional expenditures for utilities are budgeted in the excess utility cost category.

B. The governing board shall apply the same percentage increase or decrease allowed in the revenue control limit and the capital outlay revenue limit as provided in section 15-905, subsection E or section 15-948 to the utility expenditure line of the budget.

C. The governing board may expend from the excess utility cost category only after it has expended for utility purposes the full amount budgeted in the utility expenditure line of the budget.

D. The governing board, after notice is given and a public meeting is held as provided in section 15-905, subsection D, may revise at any time before May 15 the amount budgeted in the excess utility cost category for the current year. Not later than May 18, the budget as revised shall be submitted electronically to the superintendent of public instruction.

E. If the revised excess utility cost category results in an expenditure of monies in excess of school district revenues for the current year, the county school superintendent shall include within the revenue estimate for the budget year monies necessary to meet the liabilities incurred by the school district in the current year in excess of revenues received for the current year.

F. If a school district receives a refund of utility expenditures or a rebate on energy saving devices or services, the refund or rebate shall be applied against utility expenditures for the current year as a reduction of the expenditures, except that the reduction of expenditures shall not exceed the amount of actual utility expenditures.

G. The governing board may budget for expenses of complying with or continuing to implement activities which were required or permitted by a court order of desegregation or administrative agreement with the United States department of education office for civil rights directed toward remediating alleged or proven racial discrimination which are specifically exempt in whole or in part from the revenue control limit and the capital
outlay revenue limit. This exemption applies only to expenses incurred for activities which are begun before the termination of the court order or administrative agreement. IF A DISTRICT IS LEVYING A PRIMARY PROPERTY TAX ON FEBRUARY 23, 2006 AND USING THOSE MONIES TO ADMINISTER AN ENGLISH LANGUAGE LEARNER PROGRAM TO REMEDY ALLEGED OR PROVEN DISCRIMINATION UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 (42 UNITED STATES CODE SECTION 2000d), THE DISTRICT MAY SPEND THOSE MONIES TO REMEDY A VIOLATION OF THE EQUAL EDUCATION ACT OF 1974 (20 UNITED STATES CODE SECTION 1703(f)). NOTHING IN THIS SUBSECTION ALLOWS A SCHOOL DISTRICT TO LEVY A PRIMARY PROPERTY TAX FOR VIOLATIONS OF THE EQUAL EDUCATION ACT OF 1974 (20 UNITED STATES CODE SECTION 1703(f)) IN THE ABSENCE OF AN ALLEGED OR PROVEN DISCRIMINATION UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 (42 UNITED STATES CODE SECTION 2000d).

H. If a governing board chooses to budget monies outside of the revenue control limit as provided in subsection G of this section, the governing board may do one of the following:

1. Use monies from the maintenance and operation fund equal to any excess desegregation or compliance expenses beyond the revenue control limit before June 30 of the current year.

2. Notify the county school superintendent to include the cost of the excess expenses in the county school superintendent's estimate of the additional amount needed for the school district from the primary property tax as provided in section 15-991.

3. Employ the provisions of both paragraphs 1 and 2 of this subsection provided that the total amount transferred and included in the amount needed from property taxes does not exceed the total amount budgeted as prescribed in subsection J, paragraph 1 of this section.

I. Through fiscal year 2003-2004, the maximum amount which a governing board may budget outside of the capital outlay revenue limit as provided in subsection G of this section is twelve per cent of the maintenance and operation desegregation budget as provided in subsection J of this section or the amount that it budgeted pursuant to this subsection for fiscal year 2001-2002, whichever is less. If a governing board chooses to budget monies outside of the capital outlay revenue limit as provided in subsection G of this section, the governing board may notify the county school superintendent to include the cost of the excess expenses in the county school superintendent's estimate of the additional amount needed for the school district from the primary property tax as provided in section 15-991.

J. A governing board using subsections G, H and I of this section:

1. Shall prepare and employ a separate maintenance and operation desegregation budget and capital outlay desegregation budget on a form prescribed by the superintendent of public instruction in conjunction with the auditor general. The budget format shall be designed to allow a school district to plan and provide in detail for expenditures to be incurred solely as a result of compliance with or continuing to implement activities which were required or permitted by a court order of desegregation or
administrative agreement with the United States department of education office for civil rights directed toward remediating alleged or proven racial discrimination.

2. Shall prepare as a part of the annual financial report a detailed report of expenditures incurred solely as a result of compliance with or continuing to implement activities which were required or permitted by a court order of desegregation or administrative agreement with the United States department of education office for civil rights directed toward remediating alleged or proven racial discrimination, in a format prescribed by the auditor general in conjunction with the department of education as provided by section 15-904.

3. On or before July 15, 2006 and each year thereafter, shall collect and report data regarding activities related to a court order of desegregation or an administrative agreement with the United States department of education office for civil rights directed toward remediating alleged or proven racial discrimination in a format prescribed by the department of education. The department shall compile and submit copies of the reports to the governor, the president of the senate, the speaker of the house of representatives and the chairpersons of the education committees of the senate and the house of representatives. A school district that becomes subject to a new court order of desegregation or a party to an administrative agreement with the United States department of education office for civil rights directed toward remediating alleged or proven racial discrimination shall submit these reports on or before July 15 or within ninety days of the date of the court order or administrative agreement, whichever occurs first. The department of education, in consultation with the auditor general, shall develop reporting requirements to ensure that school districts submit at least the following information and documentation to the department of education beginning in fiscal year 2006-2007:

(a) A district-wide budget summary and a budget summary on a school by school basis for each school in the school district that lists the sources and uses of monies that are designated for desegregation purposes.

(b) A detailed list of desegregation activities on a district-wide basis and on a school by school basis for each school in the school district.

(c) The date that the school district was determined to be out of compliance with title VI of the civil rights act of 1964 (42 United States Code section 2000d) and the basis for that determination.

(d) The initial date that the school district began to levy property taxes to provide funding for desegregation expenses and any dates that these property tax levies were increased.

(e) If applicable, a current and accurate description of all magnet type programs that are in operation pursuant to the court order during the current school year on a district-wide basis and on a school by school basis. This information shall contain the eligibility and attendance criteria of each magnet type program, the capacity of each magnet type
program, the ethnic composition goals of each magnet type program, the actual
attending ethnic composition of each magnet type program and the specific
activities offered in each magnet type program.

(f) The number of pupils who participate in desegregation activities
on a district-wide basis and on a school by school basis for each school in
the school district.

(g) A detailed summary of the academic achievement of pupils on a
district-wide basis and on a school by school basis for each school in the
school district.

(h) The number of employees, including teachers and administrative
personnel, on a district-wide basis and on a school by school basis for each
school in the school district that are necessary to conduct desegregation
activities.

(i) The number of employees, including teachers and administrative
personnel, on a district-wide basis and on a school by school basis for each
school in the school district and the number of employees at school district
administrative offices that are funded in whole or in part with desegregation
monies received pursuant to this section.

(j) The amount of monies that are not derived through a primary or
secondary property tax levy and that are budgeted and spent on desegregation
activities on a district-wide basis and on a school by school basis for each
school in the school district.

(k) Verification that the desegregation funding will supplement and
not supplant funding for other academic and extracurricular activities.

(l) Verification that the desegregation funding is educationally
justifiable.

(m) Any documentation that supports the proposition that the requested
desegregation funding is intended to result in equal education opportunities
for all pupils in the school district.

(n) Verification that the desegregation funding will be used to
promote systemic and organizational changes within the school district.

(o) Verification that the desegregation funding will be used in
accordance with the academic standards adopted by the state board of
education pursuant to sections 15-701 and 15-701.01.

(p) Verification that the desegregation funding will be used to
accomplish specific actions to remediate proven discrimination pursuant to
title VI of the civil rights act of 1964 (42 United States Code section
2000d) as specified in the court order or administrative agreement.

(q) An evaluation by the school district of the effectiveness of the
school district's desegregation measures.

(r) An estimate of when the school district will be in compliance with
the court order or administrative agreement and a detailed account of the
steps that the school district will take to achieve compliance.

(s) Any other information that the department of education deems
necessary to carry out the purposes of this paragraph.
K. If a school district governing board budgets for expenses of complying with a court order of desegregation or an administrative agreement with the United States department of education office for civil rights directed toward remediating alleged or proven racial discrimination, the governing board shall ensure that the desegregation expenses will:

1. Be educationally justifiable.
2. Result in equal education opportunities for all pupils in the school district.
3. Be used to promote systemic and organizational changes within the school district.
4. Be used in accordance with the academic standards adopted by the state board of education pursuant to sections 15-701 and 15-701.01.
5. Be used to accomplish specific actions to remediate proven discrimination pursuant to title VI of the civil rights act of 1964 (42 United States Code section 2000d) as specified in the court order or administrative agreement.
6. Be used in accordance with a plan submitted to the department of education that includes an estimate of the amount of monies that will be required to bring the school district into compliance with the court order or administrative agreement and an estimate of when the school district will be in compliance with the court order or administrative agreement.

L. The governing board may budget for the bond issues portion of the cost of tuition charged the district as provided in section 15-824 for the pupils attending school in another school district, except that if the district is a common school district not within a high school district, the district may only include that part of tuition which is excluded from the revenue control limit and district support level as provided in section 15-951. The bond issues portion of the cost of tuition charged is specifically exempt from the revenue control limit of the school district of residence, and the primary property tax rate set to fund this amount shall not be included in the computation of additional state aid for education as provided in section 15-972, except as provided in section 15-972, subsection E. The department of education and the auditor general shall include in the maintenance and operation section of the budget format, as provided in section 15-903, a separate category for the bond issues portion of the cost of tuition.

M. The governing board may budget for interest expenses it incurred for registering warrants drawn against a fund of the school district or net interest expense on tax anticipation notes as prescribed in section 35-465.05, subsection C for the fiscal year preceding the current year if the county treasurer pooled all school district monies for investment as provided in section 15-996 for the fiscal year preceding the current year and, in those school districts that receive state aid, the school districts applied for an apportionment of state aid before the date set for the apportionment as provided in section 15-973 for the fiscal year preceding the current year.
The governing board may budget an amount for interest expenses for registering warrants or issuing tax anticipation notes equal to or less than the amount of the warrant interest expense or net interest expense on tax anticipation notes as prescribed in section 35-465.05, subsection C for the fiscal year preceding the current year as provided in this subsection which is specifically exempt from the revenue control limit. For the purposes of this subsection, "state aid" means state aid as determined in sections 15-971 and 15-972.

Sec. 6. Section 15-943, Arizona Revised Statutes, is amended to read:

15-943. Base support level

The base support level for each school district shall be computed as follows:

1. The following support level weights shall be used in paragraph 2, subdivision (a) for the following school districts:
   (a) For school districts whose student count in kindergarten programs and grades one through eight is classified in column 1 of this subdivision, the support level weight for kindergarten programs and grades one through eight is the corresponding support level weight prescribed in column 2 or 3 of this subdivision, whichever is appropriate:

<table>
<thead>
<tr>
<th>Student Count</th>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Support Level Weight</td>
<td>Support Level Weight For Small Isolated School Districts</td>
<td></td>
</tr>
<tr>
<td>1-99</td>
<td>1.559</td>
<td>1.399</td>
<td></td>
</tr>
<tr>
<td>100-499</td>
<td>1.358 + [0.0005 x (500 - student count)]</td>
<td>1.278 + [0.0003 x (500 - student count)]</td>
<td></td>
</tr>
<tr>
<td>500-599</td>
<td>1.158 + [0.002 x (600 - student count)]</td>
<td>1.158 + [0.0012 x (600 - student count)]</td>
<td></td>
</tr>
</tbody>
</table>
   (b) For school districts whose student count in grades nine through twelve is classified in column 1 of this subdivision, the support level weight for grades nine through twelve is the corresponding support level weight prescribed in column 2 or 3 of this subdivision, whichever is appropriate:

<table>
<thead>
<tr>
<th>Student Count</th>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Support Level Weight</td>
<td>Support Level Weight For Small Isolated School Districts</td>
</tr>
<tr>
<td>1-99</td>
<td>1.669</td>
<td>1.559</td>
</tr>
<tr>
<td>100-499</td>
<td>1.468 + [0.0005 x (500 - student count)]</td>
<td>1.398 + [0.0004 x (500 - student count)]</td>
</tr>
<tr>
<td>500-599</td>
<td>1.268 + [0.002 x (600 - student count)]</td>
<td>1.268 + [0.0013 x (600 - student count)]</td>
</tr>
</tbody>
</table>

2. Subject to paragraph 1, determine the weighted student count as follows, EXCEPT THAT FUNDING FOR THE SAME ELL PUPIL SHALL NOT BE PROVIDED FOR MORE THAN TWO FISCAL YEARS:
(a) Support Level Student Base Group A Weight Count Student Count

<table>
<thead>
<tr>
<th>Grade</th>
<th>Base</th>
<th>Group A</th>
<th>Weight</th>
<th>Count</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>PSD</td>
<td>1.000</td>
<td>0.450</td>
<td>1.450</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>K-8</td>
<td>1.000</td>
<td>0.158</td>
<td>1.158</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>9-12</td>
<td>1.163</td>
<td>0.105</td>
<td>1.268</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Subtotal A</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(b) Support Level Student Category Weight Count Student Count

<table>
<thead>
<tr>
<th>Category</th>
<th>Weight</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>HI</td>
<td>4.771</td>
<td>x</td>
</tr>
<tr>
<td>K-3</td>
<td>0.060</td>
<td>x</td>
</tr>
<tr>
<td>ELL</td>
<td>0.115</td>
<td>0.140</td>
</tr>
<tr>
<td>MD-R, A-R and SMR-R</td>
<td>6.024</td>
<td>x</td>
</tr>
<tr>
<td>MD-SC, A-SC and SMR-SC</td>
<td>5.833</td>
<td>x</td>
</tr>
<tr>
<td>MD-SSI</td>
<td>6.531</td>
<td>x</td>
</tr>
<tr>
<td>OI-R</td>
<td>3.158</td>
<td>x</td>
</tr>
<tr>
<td>OI-SC</td>
<td>5.576</td>
<td>x</td>
</tr>
<tr>
<td>P-SD</td>
<td>3.595</td>
<td>x</td>
</tr>
<tr>
<td>ED, MIMR, SLD, SLI and OHI</td>
<td>0.003</td>
<td>x</td>
</tr>
<tr>
<td>ED-P</td>
<td>4.647</td>
<td>x</td>
</tr>
<tr>
<td>MOMR</td>
<td>4.421</td>
<td>x</td>
</tr>
<tr>
<td>VI</td>
<td>4.806</td>
<td>x</td>
</tr>
<tr>
<td>Subtotal B</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(c) Total of subtotals A and B:

3. Multiply the total determined in paragraph 2 by the base level.
4. Multiply the teacher experience index of the district or 1.00, whichever is greater, by the product obtained in paragraph 3.

Sec. 7. Section 41-1279.03, Arizona Revised Statutes, is amended to read:

41-1279.03. **Powers and duties**
A. The auditor general shall:
1. Prepare an audit plan for approval by the committee and report to the committee the results of each audit and investigation and other reviews conducted by the auditor general.
2. Conduct or cause to be conducted at least biennial financial and compliance audits of financial transactions and accounts kept by or for all state agencies subject to the single audit act of 1984 (P.L. 98-502). The audits shall be conducted in accordance with generally accepted governmental auditing standards and accordingly shall include tests of the accounting
records and other auditing procedures as may be considered necessary in the circumstances. The audits shall include the issuance of suitable reports as required by the single audit act of 1984 (P.L. 98-502) so the legislature, federal government and others will be informed as to the adequacy of financial statements of the state in compliance with generally accepted governmental accounting principles and to determine whether the state has complied with laws and regulations that may have a material effect on the financial statements and on major federal assistance programs.

3. Perform procedural reviews for all state agencies at times determined by the auditor general. These reviews may include evaluation of administrative and accounting internal controls and reports on such reviews.

4. Perform special research requests, special audits and related assignments as designated by the committee and conduct performance audits, special audits, special research requests and investigations of any state agency, whether created by the constitution or otherwise, as may be requested by the committee.

5. Annually on or before the fourth Monday of December, prepare a written report to the governor and to the committee which contains a summary of activities for the previous fiscal year.

6. In the tenth year and in each fifth year thereafter in which a transportation excise tax is in effect in a county as provided in section 42-6104, 42-6106 or 42-6107, conduct a performance audit that:

   (a) Reviews past expenditures and future planned expenditures of the transportation excise revenues and determines the impact of the expenditures in solving transportation problems within the county and, for a transportation excise tax in effect in a county as provided in section 42-6107, determines whether the expenditures of the transportation excise revenues comply with section 28-6392, subsection B.

   (b) Reviews projects completed to date and projects to be completed during the remaining years in which a transportation excise tax is in effect. Within six months after each review period the auditor general shall present a report to the speaker of the house of representatives and the president of the senate detailing findings and making recommendations. If the parameters of the performance audit are set by the citizens transportation oversight committee, the auditor general shall also present the report to the citizens transportation oversight committee.

   (c) Reviews, determines, reports and makes recommendations to the speaker of the house of representatives and the president of the senate whether the distribution of highway user revenues complies with title 28, chapter 18, article 2. If the parameters of the performance audit are set by the citizens transportation oversight committee, the auditor general shall also present the report to the citizens transportation oversight committee.

7. If requested by the committee, conduct performance audits of counties and incorporated cities and towns receiving highway user revenue
fund monies pursuant to title 28, chapter 18, article 2 to determine if the monies are being spent as provided in section 28-6533, subsection B.

8. Perform special audits designated pursuant to law if the auditor general determines that there are adequate monies appropriated for the auditor general to complete the audit. If the auditor general determines the appropriated monies are inadequate, the auditor general shall notify the committee.

9. Beginning on July 1, 2001, establish a school-wide audit team in the office of the auditor general to conduct performance audits and monitor school districts to determine the percentage of every dollar spent in the classroom by a school district. THE PERFORMANCE AUDITS SHALL DETERMINE WHETHER SCHOOL DISTRICTS THAT RECEIVE MONIES FROM THE ARIZONA STRUCTURED ENGLISH IMMERSION FUND ESTABLISHED BY SECTION 15-756.04 AND THE STATEWIDE COMPENSATORY INSTRUCTION FUND ESTABLISHED BY SECTION 15-756.11 ARE IN COMPLIANCE WITH TITLE 15, CHAPTER 7, ARTICLE 3.1. The auditor general shall determine, through random selection, the school districts to be audited each year, subject to review by the joint legislative audit committee. A school district that is subject to an audit pursuant to this paragraph shall notify the auditor general in writing as to whether the school district agrees or disagrees with the findings and recommendations of the audit and whether the school district will implement the findings and recommendations, implement modifications to the findings and recommendations or refuse to implement the findings and recommendations. The school district shall submit to the auditor general a written status report on the implementation of the audit findings and recommendations every six months for two years after an audit conducted pursuant to this paragraph. The auditor general shall review the school district's progress toward implementing the findings and recommendations of the audit every six months after receipt of the district's status report for two years. The auditor general may review a school district's progress beyond this two-year period for recommendations that have not yet been implemented by the school district. The auditor general shall provide a status report of these reviews to the joint legislative audit committee. The school district shall participate in any hearing scheduled during this review period by the joint legislative audit committee or by any other legislative committee designated by the joint legislative audit committee.

B. The auditor general may:

1. Subject to approval by the committee, adopt rules necessary to administer the duties of the office.

2. Hire consultants to conduct the studies required by subsection A, paragraphs 6 and 7 of this section.

C. If approved by the committee the auditor general may charge a reasonable fee for the cost of performing audits or providing accounting services for auditing federal funds, special audits or special services
requested by political subdivisions of the state. Monies collected pursuant to this subsection shall be deposited in the audit services revolving fund.

D. The department of transportation, the board of supervisors of a county that has approved a county transportation excise tax as provided in section 42-6104, 42-6106 or 42-6107 and the governing bodies of counties, cities and towns receiving highway user revenue fund monies shall cooperate with and provide necessary information to the auditor general or the auditor general's consultant.

E. The department of transportation shall reimburse the auditor general as follows, and the auditor general shall deposit the reimbursed monies in the audit services revolving fund:

1. For the cost of conducting the studies or hiring a consultant to conduct the studies required by subsection A, paragraph 6, subdivisions (a) and (b) of this section, from monies collected pursuant to a county transportation excise tax levied pursuant to section 42-6104, 42-6106 or 42-6107.

2. For the cost of conducting the studies or hiring a consultant pursuant to subsection A, paragraph 6, subdivision (c) and paragraph 7 of this section, from the Arizona highway user revenue fund.

Sec. 8. Budget request deadlines

A. Notwithstanding section 15-756.03, Arizona Revised Statutes, as added by this act, for fiscal year 2007-2008, school districts and charter schools shall submit structured English immersion budget requests to the department of education on or before December 1, 2006.

B. Notwithstanding section 15-756.11, Arizona Revised Statutes, as added by this act, for fiscal year 2006-2007, school districts and charter schools shall submit compensatory instruction budget requests to the department of education on or before July 15, 2006.

Sec. 9. Appropriation; compensatory instruction; exemption

A. The sum of $10,000,000 is appropriated from the state general fund in fiscal year 2006-2007 to the department of education for deposit in the statewide compensatory instruction fund established by section 15-756.11, Arizona Revised Statutes, as added by this act, for distribution to school districts and charter schools.

B. The appropriation made in subsection A of this section is exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations.

Sec. 10. Appropriation; English language acquisition services; exemption

A. The sum of $2,555,000 is appropriated from the state general fund in fiscal year 2005-2006 to the department of education to provide English language acquisition services for the purposes of section 15-756.07, Arizona Revised Statutes, as added by this act, for the costs of providing English language proficiency assessments, scoring and ancillary materials as prescribed by the department of education to school districts and charter
schools for the purposes of title 15, chapter 7, article 3.1, Arizona Revised Statutes, as amended by this act, and for the purposes contained within subsection C of this section.

B. The department of education may use the monies appropriated pursuant to subsection A of this section to hire staff or contract with a third party to carry out the purposes of section 15-756.07, Arizona Revised Statutes, as added by this act.

C. Notwithstanding section 41-192, Arizona Revised Statutes, the superintendent of public instruction may use a portion of the monies appropriated pursuant to subsection A of this section to contract with one or more private attorneys to provide legal services in connection with the case of Flores v. State of Arizona, No. CIV 92-596-TUC-RCC.

D. The appropriation made in subsection A of this section is exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations.

Sec. 11. Appropriation; English language acquisition services; exemption

A. The sum of $4,610,000 is appropriated from the state general fund in fiscal year 2006-2007 to the department of education to provide English language acquisition services for the purposes of section 15-756.07, Arizona Revised Statutes, as added by this act, for the costs of providing English language proficiency assessments, scoring and ancillary materials as prescribed by the department of education to school districts and charter schools for the purposes of title 15, chapter 7, article 3.1, Arizona Revised Statutes, as amended by this act, and for the purposes contained within subsection C of this section.

B. The department of education may use the monies appropriated pursuant to subsection A of this section to hire staff or contract with a third party to carry out the purposes of section 15-756.07, Arizona Revised Statutes, as added by this act, and for the purposes contained within subsection C of this section.

C. Notwithstanding section 41-192, Arizona Revised Statutes, the superintendent of public instruction may use a portion of the monies appropriated pursuant to subsection A of this section to contract with one or more private attorneys to provide legal services in connection with the case of Flores v. State of Arizona, No. CIV 92-596-TUC-RCC.

D. The appropriation made in subsection A of this section is exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations.

Sec. 12. Appropriation; auditor general; evaluation and compliance; exemption

A. The sum of $2,500,000 is appropriated from the state general fund in fiscal year 2006-2007 to the office of the auditor general for the purposes prescribed in section 15-756.12, Arizona Revised Statutes, as added by this act.
B. The appropriation made in subsection A of this section is exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations.

Sec. 13. Appropriation; ELL funding category

The sum of $14,300,000 is appropriated from the state general fund to the department of education in fiscal year 2006-2007 for distribution to schools and charter schools for the increased support level weight for pupils that qualify for the ELL funding category as prescribed in section 15-943, Arizona Revised Statutes, as amended by this act.

Sec. 14. Intent

A. The legislature declares that even though the legislature has never been named as a party in the litigation in Flores v. State of Arizona, No. CIV 92-596-TUC-RCC, the legislature has substantially increased funding for English language learners since 2000 by increasing the ELL weight by 233 per cent.

B. The legislature declares that because of the unique geographic and demographic characteristics of this state, it is impossible to compare language acquisition education models and solutions adopted by other states to the needs of this state and inappropriate to automatically adopt such models and solutions.

C. The legislature declares that it has grave concerns regarding the validity and reliability of the cost study performed by the National Conference of State Legislatures pursuant to Laws 2001, second special session, chapter 9, section 8. The cost study used what it referred to as the "professional judgment approach" to determine incremental costs for English language learners, yet acknowledged that this kind of approach "depends on the judgments of educational professionals in identifying strategies rather than research that actually shows a linkage between the strategy and student performance".

D. Beginning in fiscal year 2006-2007, the legislature intends to enact a comprehensive, efficient and cost-effective program of developing research based models of structured English immersion that comply with all state and federal laws for use by school districts and charter schools and funding the incremental costs of the research based models that are in addition to the normal costs of conducting programs for English proficient students. Furthermore, classification of a pupil as an English language learner is fundamentally different than the classification of a pupil as qualified for any other group B weight category.

E. The legislature declares that the costs of implementing the new English language learner programs cannot be determined until the Arizona English language learners task force develops the research based models, as required by this act, due to the unique characteristics and demographics of more than two hundred school districts and more than five hundred charter schools in this state.
F. The legislature is appropriating additional monies to fund English language learner programs in an effort to provide additional resources to school districts and charter schools for enhanced effectiveness of English language learner programs that comply with all state and federal laws.

G. The legislature believes that although the amount of monies spent on English language learners is important, equally important is the way the monies will be spent. For this reason, the legislature appropriated monies for model development, district support and monitoring, and intends that structured English immersion programs be subject to enhanced monitoring and compliance requirements, including effective audit and reporting requirements. The court referred to the three-fold inquiry cited in Castaneda v. Pickard, 648 F.2d 989, 1009-1010 (5th Cir. Unit A June 1981). This inquiry was that the educational theory is recognized as sound, that it was reasonably calculated to implement effectively the educational theory, but finally that the program produces results “indicating that the language barriers confronting students are actually being overcome”.

Sec. 15. Conditional enactment; English language learner assistance; appropriations; notice

A. Section 15-943, Arizona Revised Statutes, as amended by this act, and section 13 of this act, relating to appropriations to the department of education, do not become effective unless the United States District court for the district of Arizona in the case of Flores v. State of Arizona, No. CIV 92-596-TUC-RCC, issues an order that, by this act, the state has taken appropriate action to establish a program that addresses the orders in the case and, at least on an interim basis, the court will permit this act to be fully implemented to determine whether the resulting ELL plans and available funding to implement the plans bear a rational relationship to the cost of implementing appropriate language acquisition programs.

B. The superintendent of public instruction shall notify the executive director of the Arizona legislative council in writing if the condition prescribed in subsection A of this section is met. This notice shall include the date on which the condition is met.