

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SENATE BILL 1359

AN ACT

AMENDING SECTIONS 15-761, 15-771, 15-901, 15-943, 15-948 AND 43-1089, ARIZONA
REVISED STATUTES; RELATING TO SCHOOL FINANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-761, Arizona Revised Statutes, is amended to
3 read:

4 15-761. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Autism" means a developmental disability that significantly
7 affects verbal and nonverbal communication and social interaction and that
8 adversely affects educational performance. Characteristics include
9 irregularities and impairments in communication, engagement in repetitive
10 activities and stereotyped movements, resistance to environmental change or
11 change in daily routines and unusual responses to sensory experiences.
12 Autism does not include children with characteristics of emotional disability
13 as defined in this section.

14 2. "Child with a disability":

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

19 (i) Autism.

20 (ii) DEVELOPMENTAL DELAY.

21 (iii) EARLY CHILDHOOD SEVERE DELAY.

22 ~~(iii)~~ (iv) Emotional disability.

23 ~~(iii)~~ (v) Hearing impairment.

24 ~~(iv)~~ (vi) Other health impairments.

25 ~~(v)~~ (vii) Specific learning disability.

26 ~~(vi)~~ (viii) Mild, moderate or severe mental retardation.

27 ~~(vii)~~ (ix) Multiple disabilities.

28 ~~(viii)~~ (x) Multiple disabilities with severe sensory impairment.

29 ~~(ix)~~ (xi) Orthopedic impairment.

30 ~~(x) Preschool moderate delay.~~

31 ~~(xi) Preschool severe delay.~~

32 ~~(xii) Preschool speech/language delay.~~

33 ~~(xiii)~~ (xii) Speech/language impairment.

34 ~~(xiv)~~ (xiii) Traumatic brain injury.

35 ~~(xv)~~ (xiv) Visual impairment.

36 (b) Does not include a child if the determinant factor for the
37 classification is one or more of the following:

38 (i) A lack of appropriate instruction in reading, including essential
39 components of reading instruction.

40 (ii) A lack of appropriate instruction in mathematics.

41 (iii) Difficulty in writing, speaking or understanding the English
42 language due to an environmental background in which a language other than
43 English is primarily or exclusively used.

1 3. "DEVELOPMENTAL DELAY" MEANS PERFORMANCE BY A CHILD WHO IS AGE THREE
2 THROUGH NINE ON A NORM-REFERENCED TEST THAT MEASURES AT LEAST ONE AND
3 ONE-HALF OR MORE STANDARD DEVIATIONS BELOW THE MEAN FOR CHILDREN OF THE SAME
4 CHRONOLOGICAL AGE IN TWO OR MORE OF THE FOLLOWING AREAS:

- 5 (a) COGNITIVE DEVELOPMENT.
- 6 (b) PHYSICAL DEVELOPMENT.
- 7 (c) COMMUNICATION DEVELOPMENT.
- 8 (d) SOCIAL OR EMOTIONAL DEVELOPMENT.
- 9 (e) ADAPTIVE DEVELOPMENT.

10 THE RESULTS OF THE NORM-REFERENCED MEASURE MUST BE CORROBORATED BY
11 INFORMATION FROM A COMPREHENSIVE DEVELOPMENT ASSESSMENT AND FROM PARENTAL
12 INPUT, IF AVAILABLE, AS MEASURED BY A JUDGMENT BASED ASSESSMENT OR SURVEY.
13 IF THERE IS A DISCREPANCY BETWEEN THE MEASURES, THE EVALUATION TEAM SHALL
14 DETERMINE ELIGIBILITY BASED ON A PREPONDERANCE OF THE INFORMATION PRESENTED.

15 ~~3-~~ 4. "Due process hearing" means a fair and impartial administrative
16 hearing conducted by the state educational agency by an impartial
17 administrative law judge in accordance with federal and state law.

18 5. "EARLY CHILDHOOD SEVERE DELAY" MEANS PERFORMANCE BY A PRESCHOOL
19 CHILD ON A NORM-REFERENCED TEST THAT MEASURES MORE THAN THREE STANDARD
20 DEVIATIONS BELOW THE MEAN FOR CHILDREN OF THE SAME CHRONOLOGICAL AGE IN ONE
21 OR MORE OF THE FOLLOWING AREAS:

- 22 (a) COGNITIVE DEVELOPMENT.
- 23 (b) PHYSICAL DEVELOPMENT.
- 24 (c) COMMUNICATION DEVELOPMENT.
- 25 (d) SOCIAL OR EMOTIONAL DEVELOPMENT.
- 26 (e) ADAPTIVE DEVELOPMENT.

27 THE RESULTS OF THE NORM-REFERENCED MEASURE MUST BE CORROBORATED BY
28 INFORMATION FROM A COMPREHENSIVE DEVELOPMENT ASSESSMENT AND FROM PARENTAL
29 INPUT, IF AVAILABLE, AS MEASURED BY A JUDGMENT BASED ASSESSMENT OR SURVEY. IF
30 THERE IS A DISCREPANCY BETWEEN THE MEASURES, THE EVALUATION TEAM SHALL
31 DETERMINE ELIGIBILITY BASED ON A PREPONDERANCE OF THE INFORMATION PRESENTED.

32 ~~4-~~ 6. "Educational disadvantage" means a condition which has limited
33 a child's opportunity for educational experience resulting in a child
34 achieving less than a normal level of learning development.

35 ~~5-~~ 7. "Eligibility for special education" means the pupil must have
36 one of the disabilities contained in paragraph 2 of this section and must
37 also require special education services in order to benefit from an
38 educational program.

39 ~~6-~~ 8. "Emotional disability":

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

- 44 (i) An inability to learn which cannot be explained by intellectual,
45 sensory or health factors.

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

3 (iii) Inappropriate types of behavior or feelings under normal
4 circumstances.

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

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

8 (b) Includes children who are schizophrenic but does not include
9 children who are socially maladjusted unless they are also determined to have
10 an emotional disability as determined by evaluation as provided in section
11 15-766.

12 ~~7.~~ 9. "Hearing impairment" means a loss of hearing acuity, as
13 determined by evaluation pursuant to section 15-766, which interferes with
14 the child's performance in the educational environment and requires the
15 provision of special education and related services.

16 ~~8.~~ 10. "Home school district" means the school district in which the
17 person resides who has legal custody of the child, as provided in section
18 15-824, subsection B. If the child is a ward of the state and a specific
19 person does not have legal custody of the child, the home school district is
20 the district that the child last attended or, if the child has not previously
21 attended a public school in this state, the school district within which the
22 child currently resides.

23 ~~9.~~ 11. "Impartial administrative law judge" means an administrative
24 law judge of the office of administrative hearings who is knowledgeable in
25 the laws governing special education and administrative hearings.

26 ~~10.~~ 12. "Individualized education program" means a written statement,
27 as defined in 20 United States Code sections 1401 and 1412, for providing
28 special education and related services to a child with a disability.

29 ~~11.~~ 13. "Individualized education program team" means a team whose
30 task is to develop an appropriate educational program for the child and has
31 the same meaning prescribed in 20 United States Code section 1414.

32 ~~12.~~ 14. "Mental retardation" means a significant impairment of general
33 intellectual functioning that exists concurrently with deficits in adaptive
34 behavior and that adversely affects the child's performance in the
35 educational environment.

36 ~~13.~~ 15. "Mild mental retardation" means performance on standard
37 measures of intellectual and adaptive behavior between two and three standard
38 deviations below the mean for children of the same age.

39 ~~14.~~ 16. "Moderate mental retardation" means performance on standard
40 measures of intellectual and adaptive behavior between three and four
41 standard deviations below the mean for children of the same age.

42 ~~15.~~ 17. "Multidisciplinary evaluation team" means a team of persons
43 including individuals described as the individualized education program team
44 and other qualified professionals who shall determine whether a child is
45 eligible for special education.

1 ~~16-~~ 18. "Multiple disabilities" means learning and developmental
2 problems resulting from multiple disabilities as determined by evaluation
3 pursuant to section 15-766 that cannot be provided for adequately in a
4 program designed to meet the needs of children with less complex
5 disabilities. Multiple disabilities include any of the following conditions
6 that require the provision of special education and related services:

7 (a) Two or more of the following conditions:

8 (i) Hearing impairment.

9 (ii) Orthopedic impairment.

10 (iii) Moderate mental retardation.

11 (iv) Visual impairment.

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

15 ~~17-~~ 19. "Multiple disabilities with severe sensory impairment" means
16 multiple disabilities that include at least one of the following:

17 (a) Severe visual impairment or severe hearing impairment in
18 combination with another severe disability.

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

20 ~~18-~~ 20. "Orthopedic impairment" means one or more severe orthopedic
21 impairments and includes those that are caused by congenital anomaly, disease
22 and other causes, such as amputation or cerebral palsy, and that adversely
23 affect a child's performance in the educational environment.

24 ~~19-~~ 21. "Other health impairments" means limited strength, vitality or
25 alertness, including a heightened alertness to environmental stimuli, due to
26 chronic or acute health problems which adversely affect a pupil's educational
27 performance.

28 ~~20-~~ 22. "Out-of-home care" means the placement of a child with a
29 disability outside of the home environment and includes twenty-four hour
30 residential care, group care or foster care on either a full-time or
31 part-time basis.

32 ~~21-~~ 23. "Parent" means:

33 (a) Either a natural or adoptive parent of a child.

34 (b) A guardian, but not this state if the child is a ward of this
35 state.

36 (c) A person acting in the place of a natural or adoptive parent with
37 whom the child lives or a person who is legally responsible for the child's
38 welfare.

39 (d) A surrogate parent.

40 (e) A foster parent to the extent permitted by state law.

41 ~~22-~~ 24. "Preschool child" means a child who is at least three years of
42 age but who has not reached the required age for kindergarten, subject to
43 section 15-771, subsection G.

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

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

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

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

- 19 ~~(a) Cognitive development.~~
- 20 ~~(b) Physical development.~~
- 21 ~~(c) Communication development.~~
- 22 ~~(d) Social or emotional development.~~
- 23 ~~(e) Adaptive development.~~

24 ~~The results of the norm-referenced measure must be corroborated by~~
25 ~~information from a comprehensive developmental assessment and from parental~~
26 ~~input, if available, as measured by a judgment based assessment or survey.~~
27 ~~If there is a discrepancy between the measures, the evaluation team shall~~
28 ~~determine eligibility based on a preponderance of the information presented.~~

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

39 ~~26.~~ 25. "Prior written notice" means written prior notice that a
40 public educational agency is required to send to parents whenever the public
41 educational agency proposes or refuses to initiate or change the
42 identification, evaluation or educational placement of a child with a
43 disability or the provision of a free appropriate public education.

1 ~~27.~~ 26. "Public educational agency" means a school district, a charter
2 school, an accommodation school, a state supported institution or any other
3 political subdivision of this state that is responsible for providing
4 education to children with disabilities.

5 ~~28.~~ 27. "Related services" means those supportive services, as defined
6 in 20 United States Code section 1401, that are required to assist a child
7 with a disability who is eligible to receive special education services in
8 order for the child to benefit from special education.

9 ~~29.~~ 28. "Residential special education placement" means the placement
10 of a child with a disability in a public or private residential program, as
11 provided in section 15-765, subsection G, in order to provide necessary
12 special education and related services as specified in the child's
13 individualized education program.

14 ~~30.~~ 29. "Severe mental retardation" means performance on standard
15 measures of intellectual and adaptive behavior measures at least four
16 standard deviations below the mean for children of the same age.

17 ~~31.~~ 30. "Special education" means specially designed instruction that
18 meets the unique needs of a child with a disability and that is provided
19 without cost to the parents of the child.

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

25 ~~33.~~ 32. "Specially designed instruction" means adapting the content,
26 methodology or delivery of instruction to address the unique needs of a child
27 with a disability and to ensure that child's access to the general curriculum
28 as identified in the academic standards adopted by the state board of
29 education.

30 ~~34.~~ 33. "Specific learning disability" has the same meaning prescribed
31 in 20 United States Code section 1401.

32 ~~35.~~ 34. "Speech/language impairment" ~~FOR A CHILD WHO HAS REACHED THE~~
33 ~~REQUIRED AGE FOR KINDERGARTEN~~ means ~~A~~ speech or language impairment as
34 ~~prescribed~~ ~~DEFINED~~ in 34 Code of Federal Regulations section 300.8.
35 ~~SPEECH/LANGUAGE IMPAIRMENT FOR A PRESCHOOL CHILD MEANS PERFORMANCE ON A~~
36 ~~NORM-REFERENCED LANGUAGE TEST THAT MEASURES AT LEAST ONE AND ONE-HALF~~
37 ~~STANDARD DEVIATIONS BELOW THE MEAN FOR CHILDREN OF THE SAME CHRONOLOGICAL AGE~~
38 ~~OR WHOSE SPEECH, OUT OF CONTEXT, IS UNINTELLIGIBLE TO A LISTENER WHO IS~~
39 ~~UNFAMILIAR WITH THE CHILD. ELIGIBILITY FOR A PRESCHOOL CHILD UNDER THIS~~
40 ~~PARAGRAPH IS APPROPRIATE ONLY WHEN A COMPREHENSIVE DEVELOPMENTAL ASSESSMENT~~
41 ~~AND PARENTAL INPUT INDICATE THAT THE PRESCHOOL CHILD IS NOT ELIGIBLE FOR~~
42 ~~SERVICES UNDER ANOTHER PRESCHOOL CATEGORY.~~

43 ~~36.~~ 35. "State educational agency" means the Arizona department of
44 education.

1 under this subsection is appropriate only when a comprehensive developmental
2 assessment ~~or norm-referenced assessment~~ and parental input indicate that the
3 child is not eligible for services under another preschool category.

4 B. The state board of education shall annually distribute to school
5 districts at least ten per cent of the monies it receives under 20 United
6 States Code section 1411(c)(2) for preschool programs for children with
7 disabilities. The state board shall prescribe rules for the distribution of
8 the monies to school districts.

9 C. The governing board of a school district may submit a proposal to
10 the state board of education as prescribed by the state board to receive
11 monies for preschool programs for children with disabilities as provided in
12 this section. A school district which receives monies as provided in this
13 section shall include the monies in the special projects section of the
14 budget as provided in section 15-903, subsection F.

15 D. All school districts shall cooperate, if appropriate, with
16 community organizations that provide services to preschool children with
17 disabilities in the provision of the district's preschool program for
18 children with disabilities.

19 E. A school district may not admit a child to a preschool program for
20 children with disabilities unless the child is evaluated and recommended for
21 placement as provided in sections 15-766 and 15-767.

22 F. For the purpose of allocating monies pursuant to 20 United States
23 Code section 1419(g)(1)(B)(i), "jurisdiction" includes high school pupils
24 whose parents reside within the boundaries of a common school district. The
25 common school district shall ensure such high school pupils are not counted
26 by any other school district.

27 G. For purposes of this section, "preschool child" means a child who
28 is at least three years of age but who has not reached the age required for
29 kindergarten. A preschool child is three years of age as of the date of the
30 child's third birthday. The governing board of a school district may admit
31 otherwise eligible children who are within ninety days of their third
32 birthday, if it is determined to be in the best interest of the individual
33 child. Children who are admitted to programs for preschool children prior to
34 their third birthday are entitled to the same provision of services as if
35 they were three years of age.

36 Sec. 3. Section 15-901, Arizona Revised Statutes, is amended to read:
37 15-901. Definitions

38 A. In this title, unless the context otherwise requires:

39 1. "Average daily attendance" or "ADA" means actual average daily
40 attendance through the first one hundred days or two hundred days in session,
41 as applicable.

42 2. "Average daily membership" means the total enrollment of fractional
43 students and full-time students, minus withdrawals, of each school day
44 through the first one hundred days or two hundred days in session, as
45 applicable, for the current year. Withdrawals include students formally

1 withdrawn from schools and students absent for ten consecutive school days,
2 except for excused absences as identified by the department of education.
3 For computation purposes, the effective date of withdrawal shall be
4 retroactive to the last day of actual attendance of the student.

5 (a) "Fractional student" means:

6 (i) For common schools, until fiscal year 2001-2002, a preschool child
7 who is enrolled in a program for preschool children with disabilities of at
8 least three hundred sixty minutes each week or a kindergarten student at
9 least five years of age prior to January 1 of the school year and enrolled in
10 a school kindergarten program that meets at least three hundred forty-six
11 instructional hours during the minimum number of days required in a school
12 year as provided in section 15-341. In fiscal year 2001-2002, the
13 kindergarten program shall meet at least three hundred forty-eight hours. In
14 fiscal year 2002-2003, the kindergarten program shall meet at least three
15 hundred fifty hours. In fiscal year 2003-2004, the kindergarten program
16 shall meet at least three hundred fifty-two hours. In fiscal year 2004-2005,
17 the kindergarten program shall meet at least three hundred fifty-four hours.
18 In fiscal year 2005-2006 and each fiscal year thereafter, the kindergarten
19 program shall meet at least three hundred fifty-six hours. Lunch periods and
20 recess periods may not be included as part of the instructional hours unless
21 the child's individualized education program requires instruction during
22 those periods and the specific reasons for such instruction are fully
23 documented. In computing the average daily membership, preschool children
24 with disabilities and kindergarten students shall be counted as one-half of a
25 full-time student. For common schools, a part-time student is a student
26 enrolled for less than the total time for a full-time student as defined in
27 this section. A part-time common school student shall be counted as
28 one-fourth, one-half or three-fourths of a full-time student if the student
29 is enrolled in an instructional program that is at least one-fourth, one-half
30 or three-fourths of the time a full-time student is enrolled as defined in
31 subdivision (b) of this paragraph.

32 (ii) For high schools, a part-time student who is enrolled in less
33 than four subjects that count toward graduation as defined by the state board
34 of education in a recognized high school and who is taught in less than
35 twenty instructional hours per week prorated for any week with fewer than
36 five school days. A part-time high school student shall be counted as
37 one-fourth, one-half or three-fourths of a full-time student if the student
38 is enrolled in an instructional program that is at least one-fourth, one-half
39 or three-fourths of a full-time instructional program as defined in
40 subdivision (c) of this paragraph.

41 (b) "Full-time student" means:

42 (i) For common schools, a student who is at least six years of age
43 prior to January 1 of a school year, who has not graduated from the highest
44 grade taught in the school district and who is regularly enrolled in a course
45 of study required by the state board of education. Until fiscal year

1 2001-2002, first, second and third grade students, ungraded students at least
2 six, but under nine, years of age by September 1 or ungraded group B children
3 with disabilities who are at least five, but under six, years of age by
4 September 1 must be enrolled in an instructional program that meets for a
5 total of at least six hundred ninety-two hours during the minimum number of
6 days required in a school year as provided in section 15-341. In fiscal year
7 2001-2002, the program shall meet at least six hundred ninety-six hours. In
8 fiscal year 2002-2003, the program shall meet at least seven hundred hours.
9 In fiscal year 2003-2004, the program shall meet at least seven hundred four
10 hours. In fiscal year 2004-2005, the program shall meet at least seven
11 hundred eight hours. In fiscal year 2005-2006 and in each fiscal year
12 thereafter, the program shall meet at least seven hundred twelve hours.
13 Until fiscal year 2001-2002, fourth, fifth and sixth grade students or
14 ungraded students at least nine, but under twelve, years of age by September
15 1 must be enrolled in an instructional program that meets for a total of at
16 least eight hundred sixty-five hours during the minimum number of school days
17 required in a school year as provided in section 15-341. In fiscal year
18 2001-2002, the program shall meet at least eight hundred seventy hours. In
19 fiscal year 2002-2003, the program shall meet at least eight hundred
20 seventy-five hours. In fiscal year 2003-2004, the program shall meet at least
21 eight hundred eighty hours. In fiscal year 2004-2005, the program shall meet
22 at least eight hundred eighty-five hours. In fiscal year 2005-2006 and each
23 fiscal year thereafter, the program shall meet at least eight hundred ninety
24 hours. Until fiscal year 2001-2002, seventh and eighth grade students or
25 ungraded students at least twelve, but under fourteen, years of age by
26 September 1 must be enrolled in an instructional program that meets for a
27 total of at least one thousand thirty-eight hours during the minimum number
28 of days required in a school year as provided in section 15-341. In fiscal
29 year 2001-2002, the program shall meet at least one thousand forty-four
30 hours. In fiscal year 2002-2003, the program shall meet at least one
31 thousand fifty hours. In fiscal year 2003-2004, the program shall meet at
32 least one thousand fifty-six hours. In fiscal year 2004-2005, the program
33 shall meet at least one thousand sixty-two hours. In fiscal year 2005-2006
34 and each fiscal year thereafter, the program shall meet at least one thousand
35 sixty-eight hours. Lunch periods and recess periods may not be included as
36 part of the instructional hours unless the student is a child with a
37 disability and the child's individualized education program requires
38 instruction during those periods and the specific reasons for such
39 instruction are fully documented.

40 (ii) For high schools, except as provided in section 15-105, a student
41 not graduated from the highest grade taught in the school district, or an
42 ungraded student at least fourteen years of age by September 1, and enrolled
43 in at least a full-time instructional program of subjects that count toward
44 graduation as defined by the state board of education in a recognized high

1 school. A full-time student shall not be counted more than once for
2 computation of average daily membership.

3 (iii) For homebound or hospitalized, a student receiving at least four
4 hours of instruction per week.

5 (c) "Full-time instructional program" means:

6 (i) Through fiscal year 2000-2001, at least four subjects, each of
7 which, if taught each school day for the minimum number of days required in a
8 school year, would meet a minimum of one hundred twenty hours a year, or the
9 equivalent, or one or more subjects taught in amounts of time totaling at
10 least twenty hours per week prorated for any week with fewer than five school
11 days.

12 (ii) For fiscal year 2001-2002, an instructional program that meets at
13 least a total of seven hundred four hours during the minimum number of days
14 required and includes at least four subjects each of which, if taught each
15 school day for the minimum number of days required in a school year, would
16 meet a minimum of one hundred twenty-two hours a year, or the equivalent, or
17 one or more subjects taught in amounts of time totaling at least twenty hours
18 per week prorated for any week with fewer than five school days.

19 (iii) For fiscal year 2002-2003, an instructional program that meets
20 at least a total of seven hundred eight hours during the minimum number of
21 days required and includes at least four subjects each of which, if taught
22 each school day for the minimum number of days required in a school year,
23 would meet a minimum of one hundred twenty-two hours a year, or the
24 equivalent, or one or more subjects taught in amounts of time totaling at
25 least twenty hours per week prorated for any week with fewer than five school
26 days.

27 (iv) For fiscal year 2003-2004, an instructional program that meets at
28 least a total of seven hundred twelve hours during the minimum number of days
29 required and includes at least four subjects each of which, if taught each
30 school day for the minimum number of days required in a school year, would
31 meet a minimum of one hundred twenty-three hours a year, or the equivalent,
32 or one or more subjects taught in amounts of time totaling at least twenty
33 hours per week prorated for any week with fewer than five school days.

34 (v) For fiscal year 2004-2005, an instructional program that meets at
35 least a total of seven hundred sixteen hours during the minimum number of
36 days required and includes at least four subjects each of which, if taught
37 each school day for the minimum number of days required in a school year,
38 would meet a minimum of one hundred twenty-three hours a year, or the
39 equivalent, or one or more subjects taught in amounts of time totaling at
40 least twenty hours per week prorated for any week with fewer than five school
41 days.

42 (vi) For fiscal year 2005-2006 and each fiscal year thereafter, an
43 instructional program that meets at least a total of seven hundred twenty
44 hours during the minimum number of days required and includes at least four
45 subjects each of which, if taught each school day for the minimum number of

1 days required in a school year, would meet a minimum of one hundred
2 twenty-three hours a year, or the equivalent, or one or more subjects taught
3 in amounts of time totaling at least twenty hours per week prorated for any
4 week with fewer than five school days.

5 3. "Budget year" means the fiscal year for which the school district
6 is budgeting and which immediately follows the current year.

7 4. "Common school district" means a political subdivision of this
8 state offering instruction to students in programs for preschool children
9 with disabilities and kindergarten programs and grades one through eight.

10 5. "Current year" means the fiscal year in which a school district is
11 operating.

12 6. "Daily attendance" means:

13 (a) For common schools, days in which a pupil:

14 (i) Of a kindergarten program or ungraded, but not group B children
15 with disabilities, and at least five, but under six, years of age by
16 September 1 attends at least three-quarters of the instructional time
17 scheduled for the day. If the total instruction time scheduled for the year
18 is at least three hundred forty-six hours but is less than six hundred
19 ninety-two hours such attendance shall be counted as one-half day of
20 attendance. If the instructional time scheduled for the year is at least six
21 hundred ninety-two hours, "daily attendance" means days in which a pupil
22 attends at least one-half of the instructional time scheduled for the day.
23 Such attendance shall be counted as one-half day of attendance.

24 (ii) Of the first, second or third grades, ungraded and at least six,
25 but under nine, years of age by September 1 or ungraded group B children with
26 disabilities and at least five, but under six, years of age by September 1
27 attends more than three-quarters of the instructional time scheduled for the
28 day.

29 (iii) Of the fourth, fifth or sixth grades or ungraded and at least
30 nine, but under twelve, years of age by September 1 attends more than
31 three-quarters of the instructional time scheduled for the day, except as
32 provided in section 15-797.

33 (iv) Of the seventh or eighth grades or ungraded and at least twelve,
34 but under fourteen, years of age by September 1 attends more than
35 three-quarters of the instructional time scheduled for the day, except as
36 provided in section 15-797.

37 (b) For common schools, the attendance of a pupil at three-quarters or
38 less of the instructional time scheduled for the day shall be counted as
39 follows, except as provided in section 15-797 and except that attendance for
40 a fractional student shall not exceed the pupil's fractional membership:

41 (i) If attendance for all pupils in the school is based on quarter
42 days, the attendance of a pupil shall be counted as one-fourth of a day's
43 attendance for each one-fourth of full-time instructional time attended.

44 (ii) If attendance for all pupils in the school is based on half days,
45 the attendance of at least three-quarters of the instructional time scheduled

1 for the day shall be counted as a full day's attendance and attendance at a
2 minimum of one-half but less than three-quarters of the instructional time
3 scheduled for the day equals one-half day of attendance.

4 (c) For common schools, the attendance of a preschool child with
5 disabilities shall be counted as one-fourth day's attendance for each
6 thirty-six minutes of attendance not including lunch periods and recess
7 periods, except as provided in paragraph 2, subdivision (a), item (i) of this
8 subsection for children with disabilities up to a maximum of three hundred
9 sixty minutes each week.

10 (d) For high schools or ungraded schools in which the pupil is at
11 least fourteen years of age by September 1, the attendance of a pupil shall
12 not be counted as a full day unless the pupil is actually and physically in
13 attendance and enrolled in and carrying four subjects, each of which, if
14 taught each school day for the minimum number of days required in a school
15 year, would meet a minimum of one hundred twenty hours a year, or the
16 equivalent, that count toward graduation in a recognized high school except
17 as provided in section 15-797 and subdivision (e) of this paragraph.
18 Attendance of a pupil carrying less than the load prescribed shall be
19 prorated.

20 (e) For high schools or ungraded schools in which the pupil is at
21 least fourteen years of age by September 1, the attendance of a pupil may be
22 counted as one-fourth of a day's attendance for each sixty minutes of
23 instructional time in a subject that counts toward graduation, except that
24 attendance for a pupil shall not exceed the pupil's full or fractional
25 membership.

26 (f) For homebound or hospitalized, a full day of attendance may be
27 counted for each day during a week in which the student receives at least
28 four hours of instruction.

29 (g) For school districts which maintain school for an approved
30 year-round school year operation, attendance shall be based on a computation,
31 as prescribed by the superintendent of public instruction, of the one hundred
32 eighty days' equivalency or two hundred days' equivalency, as applicable, of
33 instructional time as approved by the superintendent of public instruction
34 during which each pupil is enrolled.

35 7. "Daily route mileage" means the sum of:

36 (a) The total number of miles driven daily by all buses of a school
37 district while transporting eligible students from their residence to the
38 school of attendance and from the school of attendance to their residence on
39 scheduled routes approved by the superintendent of public instruction.

40 (b) The total number of miles driven daily on routes approved by the
41 superintendent of public instruction for which a private party, a political
42 subdivision or a common or a contract carrier is reimbursed for bringing an
43 eligible student from the place of his residence to a school transportation
44 pickup point or to the school of attendance and from the school
45 transportation scheduled return point or from the school of attendance to his

1 residence. Daily route mileage includes the total number of miles necessary
2 to drive to transport eligible students from and to their residence as
3 provided in this paragraph.

4 8. "District support level" means the base support level plus the
5 transportation support level.

6 9. "Eligible students" means:

7 (a) Students who are transported by or for a school district and who
8 qualify as full-time students or fractional students, except students for
9 whom transportation is paid by another school district or a county school
10 superintendent, and:

11 (i) For common school students, whose place of actual residence within
12 the school district is more than one mile from the school facility of
13 attendance or students who are admitted pursuant to section 15-816.01 and who
14 meet the economic eligibility requirements established under the national
15 school lunch and child nutrition acts (42 United States Code sections 1751
16 through 1785) for free or reduced price lunches and whose actual place of
17 residence outside the school district boundaries is more than one mile from
18 the school facility of attendance.

19 (ii) For high school students, whose place of actual residence within
20 the school district is more than one and one-half miles from the school
21 facility of attendance or students who are admitted pursuant to section
22 15-816.01 and who meet the economic eligibility requirements established
23 under the national school lunch and child nutrition acts (42 United States
24 Code sections 1751 through 1785) for free or reduced price lunches and whose
25 actual place of residence outside the school district boundaries is more than
26 one and one-half miles from the school facility of attendance.

27 (b) Kindergarten students, for purposes of computing the number of
28 eligible students under subdivision (a), item (i) of this paragraph, shall be
29 counted as full-time students, notwithstanding any other provision of law.

30 (c) Children with disabilities, as defined by section 15-761, who are
31 transported by or for the school district or who are admitted pursuant to
32 chapter 8, article 1.1 of this title and who qualify as full-time students or
33 fractional students regardless of location or residence within the school
34 district or children with disabilities whose transportation is required by
35 the pupil's individualized education program.

36 (d) Students whose residence is outside the school district and who
37 are transported within the school district on the same basis as students who
38 reside in the school district.

39 10. "Enrolled" or "enrollment" means when a pupil is currently
40 registered in the school district.

41 11. "GDP price deflator" means the average of the four implicit price
42 deflators for the gross domestic product reported by the United States
43 department of commerce for the four quarters of the calendar year.

1 12. "High school district" means a political subdivision of this state
2 offering instruction to students for grades nine through twelve or that
3 portion of the budget of a common school district which is allocated to
4 teaching high school subjects with permission of the state board of
5 education.

6 13. "Revenue control limit" means the base revenue control limit plus
7 the transportation revenue control limit.

8 14. "Student count" means average daily membership as prescribed in
9 this subsection for the fiscal year prior to the current year, except that
10 for the purpose of budget preparation student count means average daily
11 membership as prescribed in this subsection for the current year.

12 15. "Submit electronically" means submitted in a format and in a manner
13 prescribed by the department of education.

14 16. "Total bus mileage" means the total number of miles driven by all
15 buses of a school district during the school year.

16 17. "Total students transported" means all eligible students
17 transported from their place of residence to a school transportation pickup
18 point or to the school of attendance and from the school of attendance or
19 from the school transportation scheduled return point to their place of
20 residence.

21 18. "Unified school district" means a political subdivision of the
22 state offering instruction to students in programs for preschool children
23 with disabilities and kindergarten programs and grades one through twelve.

24 B. In this title, unless the context otherwise requires:

25 1. "Base" means the revenue level per student count specified by the
26 legislature.

27 2. "Base level" means:

28 (a) For fiscal year 2006-2007, three thousand one hundred thirty-three
29 dollars fifty-three cents.

30 (b) For fiscal year 2007-2008, three thousand two hundred twenty-six
31 dollars eighty-eight cents.

32 3. "Base revenue control limit" means the base revenue control limit
33 computed as provided in section 15-944.

34 4. "Base support level" means the base support level as provided in
35 section 15-943.

36 5. "Certified teacher" means a person who is certified as a teacher
37 pursuant to the rules adopted by the state board of education, who renders
38 direct and personal services to school children in the form of instruction
39 related to the school district's educational course of study and who is paid
40 from the maintenance and operation section of the budget.

41 6. "DD" MEANS PROGRAMS FOR CHILDREN AGED THREE THROUGH NINE WITH
42 DEVELOPMENTAL DELAYS. A PRESCHOOL CHILD WHO IS CATEGORIZED UNDER THIS
43 PARAGRAPH IS NOT ELIGIBLE TO RECEIVE FUNDING PURSUANT TO SECTION 15-943,
44 PARAGRAPH 2, SUBDIVISION (b).

1 7. "ECSD" MEANS PROGRAMS FOR CHILDREN WITH EARLY CHILDHOOD SEVERE
2 DELAYS AS PRESCRIBED BY SECTION 15-771.

3 ~~6-~~ 8. "ED, MIMR, SLD, SLI and OHI" means programs for children with
4 emotional disabilities, mild mental retardation, a specific learning
5 disability, a speech/language impairment and other health impairments. A
6 PRESCHOOL CHILD WHO IS CATEGORIZED AS SLI UNDER THIS PARAGRAPH IS NOT
7 ELIGIBLE TO RECEIVE FUNDING PURSUANT TO SECTION 15-943, PARAGRAPH 2,
8 SUBDIVISION (b).

9 ~~7-~~ 9. "ED-P" means programs for children with emotional disabilities
10 who are enrolled in private special education programs as prescribed in
11 section 15-765, subsection D, paragraph 1 or in an intensive school district
12 program as provided in section 15-765, subsection D, paragraph 2.

13 ~~8-~~ 10. "ELL" means English learners who do not speak English or whose
14 native language is not English, who are not currently able to perform
15 ordinary classroom work in English and who are enrolled in an English
16 language education program pursuant to sections 15-751, 15-752 and 15-753.

17 ~~9-~~ 11. "Full-time equivalent certified teacher" or "FTE certified
18 teacher" means for a certified teacher the following:

19 (a) If employed full time as defined in section 15-501, 1.00.

20 (b) If employed less than full time, multiply 1.00 by the percentage
21 of a full school day, or its equivalent, or a full class load, or its
22 equivalent, for which the teacher is employed as determined by the governing
23 board.

24 ~~10-~~ 12. "Group A" means educational programs for career exploration, a
25 specific learning disability, an emotional disability, mild mental
26 retardation, remedial education, a speech/language impairment, DEVELOPMENT
27 DELAY, homebound, bilingual, ~~preschool—moderate—delay,—preschool~~
28 ~~speech/language delay,~~ other health impairments and gifted pupils.

29 ~~11-~~ 13. "Group B" means educational improvements for pupils in
30 kindergarten programs and grades one through three, educational programs for
31 autism, a hearing impairment, moderate mental retardation, multiple
32 disabilities, multiple disabilities with severe sensory impairment,
33 orthopedic impairments, ~~preschool~~ EARLY CHILDHOOD severe delay, DEVELOPMENTAL
34 DELAY, severe mental retardation and emotional disabilities for school age
35 pupils enrolled in private special education programs or in school district
36 programs for children with severe disabilities or visual impairment and
37 English learners enrolled in a program to promote English language
38 proficiency pursuant to section 15-752.

39 ~~12-~~ 14. "HI" means programs for pupils with hearing impairment.

40 ~~13-~~ 15. "Homebound" or "hospitalized" means a pupil who is capable of
41 profiting from academic instruction but is unable to attend school due to
42 illness, disease, accident or other health conditions, who has been examined
43 by a competent medical doctor and who is certified by that doctor as being
44 unable to attend regular classes for a period of not less than three school
45 months or a pupil who is capable of profiting from academic instruction but

1 is unable to attend school regularly due to chronic or acute health problems,
2 who has been examined by a competent medical doctor and who is certified by
3 that doctor as being unable to attend regular classes for intermittent
4 periods of time totaling three school months during a school year. The
5 medical certification shall state the general medical condition, such as
6 illness, disease or chronic health condition, that is the reason that the
7 pupil is unable to attend school. Homebound or hospitalized includes a
8 student who is unable to attend school for a period of less than three months
9 due to a pregnancy if a competent medical doctor, after an examination,
10 certifies that the student is unable to attend regular classes due to risk to
11 the pregnancy or to the student's health.

12 ~~14.~~ 16. "K" means kindergarten programs.

13 ~~15.~~ 17. "K-3" means kindergarten programs and grades one through
14 three.

15 ~~16.~~ 18. "MD-R, A-R and SMR-R" means resource programs for pupils with
16 multiple disabilities, autism and severe mental retardation.

17 ~~17.~~ 19. "MD-SC, A-SC and SMR-SC" means self-contained programs for
18 pupils with multiple disabilities, autism and severe mental retardation.

19 ~~18.~~ 20. "MDSSI" means a program for pupils with multiple disabilities
20 with severe sensory impairment.

21 ~~19.~~ 21. "MOMR" means programs for pupils with moderate mental
22 retardation.

23 ~~20.~~ 22. "OI-R" means a resource program for pupils with orthopedic
24 impairments.

25 ~~21.~~ 23. "OI-SC" means a self-contained program for pupils with
26 orthopedic impairments.

27 ~~22.~~ 24. "PSD" means preschool programs for children with disabilities
28 as provided in section 15-771.

29 ~~23. "P-SD" means programs for children who meet the definition of~~
30 ~~preschool severe delay as provided in section 15-771.~~

31 ~~24.~~ 25. "Qualifying tax rate" means the qualifying tax rate specified
32 in section 15-971 applied to the assessed valuation used for primary property
33 taxes.

34 ~~25.~~ 26. "Small isolated school district" means a school district which
35 meets all of the following:

36 (a) Has a student count of fewer than six hundred in kindergarten
37 programs and grades one through eight or grades nine through twelve.

38 (b) Contains no school which is fewer than thirty miles by the most
39 reasonable route from another school, or, if road conditions and terrain make
40 the driving slow or hazardous, fifteen miles from another school which
41 teaches one or more of the same grades and is operated by another school
42 district in this state.

43 (c) Is designated as a small isolated school district by the
44 superintendent of public instruction.

1 ~~26.~~ 27. "Small school district" means a school district which meets
2 all of the following:

3 (a) Has a student count of fewer than six hundred in kindergarten
4 programs and grades one through eight or grades nine through twelve.

5 (b) Contains at least one school which is fewer than thirty miles by
6 the most reasonable route from another school which teaches one or more of
7 the same grades and is operated by another school district in this state.

8 (c) Is designated as a small school district by the superintendent of
9 public instruction.

10 ~~27.~~ 28. "Transportation revenue control limit" means the
11 transportation revenue control limit computed as prescribed in section
12 15-946.

13 ~~28.~~ 29. "Transportation support level" means the support level for
14 pupil transportation operating expenses as provided in section 15-945.

15 ~~29.~~ 30. "VI" means programs for pupils with visual impairments.

16 ~~30.~~ 31. "Voc. Ed." means career and technical education and vocational
17 education programs, as defined in section 15-781.

18 Sec. 4. Section 15-943, Arizona Revised Statutes, is amended to read:

19 ~~15-943.~~ Base support level

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

22 1. The following support level weights shall be used in paragraph 2,
23 subdivision (a) for the following school districts:

24 (a) For school districts whose student count in kindergarten programs
25 and grades one through eight is classified in column 1 of this subdivision,
26 the support level weight for kindergarten programs and grades one through
27 eight is the corresponding support level weight prescribed in column 2 or 3
28 of this subdivision, whichever is appropriate:

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>
	Support Level Weight For Small Isolated School Districts	Support Level Weight For Small School Districts
<u>Student Count</u>	<u>School Districts</u>	<u>School Districts</u>
1-99	1.559	1.399
100-499	1.358 + [0.0005 x (500 - student count)]	1.278 + [0.0003 x (500 - student count)]
500-599	1.158 + [0.002 x (600 - student count)]	1.158 + [0.0012 x (600 - student count)]

38 (b) For school districts whose student count in grades nine through
39 twelve is classified in column 1 of this subdivision, the support level
40 weight for grades nine through twelve is the corresponding support level
41 weight prescribed in column 2 or 3 of this subdivision, whichever is
42 appropriate:

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>
	Support Level Weight	Support Level Weight
	For Small Isolated	For Small
	<u>School Districts</u>	<u>School Districts</u>
1-99	1.669	1.559
100-499	1.468 + [0.0005 x (500 - student count)]	1.398 + [0.0004 x (500 - student count)]
500-599	1.268 + [0.002 x (600 - student count)]	1.268 + [0.0013 x (600 - student count)]

2. Subject to paragraph 1, determine the weighted student count as follows:

(a)

<u>Grade Base</u>	<u>Group A</u>	<u>Support Level Weight</u>	<u>Student Count</u>	<u>Weighted Student Count</u>
PSD 1.000 + 0.450 =		1.450	x _____	= _____
K-8 1.000 + 0.158 =		1.158	x _____	= _____
9-12 1.163 + 0.105 =		1.268	x _____	= _____
			Subtotal	A _____

(b)

<u>Funding Category</u>	<u>Support Level Weight</u>	<u>Student Count</u>	<u>Weighted Student Count</u>
HI	4.771	x _____	= _____
K, for fiscal year 2006-2007	0.835	x _____	= _____
K, for fiscal year 2007-2008 and each fiscal year thereafter	1.352	x _____	= _____
K-3	0.060	x _____	= _____
ELL	0.115	x _____	= _____
MD-R, A-R and SMR-R	6.024	x _____	= _____
MD-SC, A-SC and SMR-SC	5.833	x _____	= _____
MD-SSI	7.947	x _____	= _____
OI-R	3.158	x _____	= _____
OI-SC	6.773	x _____	= _____
P-SB ECSD	3.595	x _____	= _____
DD, ED, MIMR, SLD, SLI and OHI	0.003	x _____	= _____
ED-P	4.822	x _____	= _____
MOMR	4.421	x _____	= _____
VI	4.806	x _____	= _____
		Subtotal	B _____

1 (c) Total of subtotals A and B: _____
2 3. Multiply the total determined in paragraph 2 by the base level.
3 4. Multiply the teacher experience index of the district or 1.00,
4 whichever is greater, by the product obtained in paragraph 3.
5 Sec. 5. Section 15-948, Arizona Revised Statutes, is amended to read:
6 15-948. Adjustment for growth in student count
7 A. Any school district may, after the first one hundred days or two
8 hundred days in session, as applicable, of the current year, determine if it
9 is eligible to increase its revenue control limit and district support level
10 for the current year due to growth in the student population as follows:
11 1. Determine the student count used for calculating the base support
12 level for the current year.
13 2. Determine the average daily membership or adjusted average daily
14 membership, whichever is applicable, through the first one hundred days or
15 two hundred days in session, as applicable, of the current year.
16 3. Subtract the amount determined in paragraph 1 of this subsection
17 from the amount determined in paragraph 2 of this subsection.
18 4. If the amount determined in paragraph 2 of this subsection is
19 greater than the amount determined in paragraph 1 of this subsection, the
20 governing board of the school district may compute an increase to its revenue
21 control limit and district support level for the current year.
22 B. A school district may, after the first one hundred days or two
23 hundred days in session, as applicable, of the current year, determine if it
24 is eligible to compute an increase to its revenue control limit for the
25 current year due to growth in the number of pupils in the group B categories
26 of moderate or severe mental retardation, visual impairment, hearing
27 impairment, multiple disabilities, multiple disabilities with severe sensory
28 impairment, orthopedic impairment, ~~preschool~~ EARLY CHILDHOOD severe delay,
29 DEVELOPMENTAL DELAY and emotionally disabled pupils enrolled in private
30 special education programs or in school district programs for pupils with
31 severe disabilities as follows:
32 1. Determine the weighted student count for all group B children with
33 disabilities used for calculating the base support level for the current
34 year.
35 2. Determine the weighted average daily membership for all group B
36 children with disabilities through the first one hundred days or two hundred
37 days in session, as applicable, of the current year.
38 3. Subtract the amount determined in paragraph 1 of this subsection
39 from the amount determined in paragraph 2 of this subsection.
40 4. If the amount determined in paragraph 2 of this subsection is
41 greater than the amount determined in paragraph 1 of this subsection, the
42 governing board of the school district may compute an increase to its revenue
43 control limit and district support level for the current year by using the
44 amount determined in paragraph 3 of this subsection for the weighted student
45 count and the base level for the district for the current year.

1 C. If a school district meets the criteria specified in subsection A
2 or B of this section, or both, the governing board of the school district
3 may, after notice is given and a public hearing held as provided in section
4 15-905, subsection D, at any time prior to May 15 revise its budget to
5 include the increase in its revenue control limit and district support level
6 for the current year utilizing the procedure prescribed in subsection A or B
7 of this section, or both. Not later than May 18, the budget as revised shall
8 be submitted electronically to the superintendent of public instruction.

9 D. If the revised budget is adopted by the governing board at the
10 public hearing and submitted electronically as provided in subsection C of
11 this section, the school district shall receive state aid based upon the
12 adjusted revenue control limit or the adjusted district support level in the
13 manner specified in section 15-971, except that in no event shall the school
14 district receive less state aid than it would have received if it had not
15 used this section.

16 E. If the adjusted revenue control limit results in an expenditure of
17 funds in excess of school district revenues for the current year, the county
18 school superintendent shall include within the revenue estimate for the
19 budget year funds necessary to meet the liabilities incurred by the school
20 district in the current year in excess of revenues received for the current
21 year.

22 Sec. 6. Section 43-1089, Arizona Revised Statutes, is amended to read:
23 43-1089. Credit for contributions to school tuition
24 organization; definitions

25 A. A credit is allowed against the taxes imposed by this title for the
26 amount of voluntary cash contributions made by the taxpayer during the
27 taxable year to a school tuition organization, but not exceeding:

28 1. Five hundred dollars in any taxable year for a single individual or
29 a head of household.

30 2. Eight hundred twenty-five dollars in taxable year 2005 for a
31 married couple filing a joint return.

32 3. One thousand dollars in taxable year 2006 and any subsequent
33 **TAXABLE** year for a married couple filing a joint return.

34 B. A husband and wife who file separate returns for a taxable year in
35 which they could have filed a joint return may each claim only one-half of
36 the tax credit that would have been allowed for a joint return.

37 C. If the allowable tax credit exceeds the taxes otherwise due under
38 this title on the claimant's income, or if there are no taxes due under this
39 title, the taxpayer may carry the amount of the claim not used to offset the
40 taxes under this title forward for not more than five consecutive taxable
41 years' income tax liability.

42 D. The credit allowed by this section is in lieu of any deduction
43 pursuant to section 170 of the internal revenue code and taken for state tax
44 purposes.

1 E. The tax credit is not allowed if the taxpayer designates the
2 taxpayer's contribution to the school tuition organization for the direct
3 benefit of any dependent of the taxpayer.

4 F. A school tuition organization that receives a voluntary cash
5 contribution pursuant to subsection A shall report to the department, in a
6 form prescribed by the department, by February 28 of each year the following
7 information:

8 1. The name, address and contact name of the school tuition
9 organization.

10 2. The total number of contributions received during the previous
11 calendar year.

12 3. The total dollar amount of contributions received during the
13 previous calendar year.

14 4. The total number of children awarded educational scholarships or
15 tuition grants during the previous calendar year.

16 5. The total dollar amount of educational scholarships and tuition
17 grants awarded during the previous calendar year.

18 6. For each school to which educational scholarships or tuition grants
19 were awarded:

20 (a) The name and address of the school.

21 (b) The number of educational scholarships and tuition grants awarded
22 during the previous calendar year.

23 (c) The total dollar amount of educational scholarships and tuition
24 grants awarded during the previous calendar year.

25 G. For the purposes of this section:

26 1. "Handicapped student" means a student who has any of the following
27 conditions:

28 (a) Hearing impairment.

29 (b) Visual impairment.

30 (c) ~~Preschool moderate~~ DEVELOPMENTAL delay.

31 (d) ~~Preschool~~ EARLY CHILDHOOD severe delay.

32 (e) ~~Preschool~~ Speech ~~or~~ language ~~delay~~ IMPAIRMENT.

33 2. "Qualified school" means a nongovernmental primary school or
34 secondary school or a preschool for handicapped students that is located in
35 this state, that does not discriminate on the basis of race, color, handicap,
36 familial status or national origin and that satisfies the requirements
37 prescribed by law for private schools in this state on January 1, 1997.

38 3. "School tuition organization" means a charitable organization in
39 this state that is exempt from federal taxation under section 501(c)(3) of
40 the internal revenue code and that allocates at least ninety per cent of its
41 annual revenue for educational scholarships or tuition grants to children to
42 allow them to attend any qualified school of their parents' choice. In
43 addition, to qualify as a school tuition organization the charitable
44 organization shall provide educational scholarships or tuition grants to
45 students without limiting availability to only students of one school.